

**AGENDA**  
**BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND**  
**OCTOBER 31, 2006**

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**Item 1      Minutes**

Submittal of the Minutes from the September 19, 2006 Cabinet Meeting.

(See Attachment 1, Pages 1-15)

**RECOMMEND APPROVAL**

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**Item 2      Blackwater River Foundation, Inc. Option Agreement/DACS/DOF  
Blackwater River State Forest Additions and Inholdings Project**

**DEFERRED FROM THE OCTOBER 17, 2006 AGENDA**

**REQUEST:** Consideration of an option agreement to acquire 77.6 acres within the Department of Agriculture and Consumer Services' Division of Forestry's Blackwater River State Forest Additions and Inholdings project from Blackwater River Foundation, Inc.

**COUNTY:** Santa Rosa

**APPLICANT:** Department of Agriculture and Consumer Services' Division of Forestry (DOF)

**LOCATION:** Section 36, Township 03 North, Range 27 West

**CONSIDERATION:** \$360,000

<u>PARCEL</u>	<u>ACRES</u>	APPRAISED BY Tallahassee Appraisal (06/26/06)	APPROVED <u>VALUE</u>	SELLER'S <u>PURCHASE</u> <u>PRICE</u>	TRUSTEES' <u>PURCHASE</u> <u>PRICE</u>	OPTION <u>DATE</u>
Blackwater Foundation	77.6	\$475,000	\$475,000	\$100*	\$360,000** (76%)	120 days after BOT Approval

\* Regarded as a donation from Jelks Family Foundation in September 2005. The last market transaction appears to have been in 1999 and was a sale to Jelks Family Foundation for \$200,000.

\*\* \$4,639 per acre.

**NOTED FEATURES:**

- 77.6 acres = 63.5 uplands and 14.1 wetlands.
- Access is via a 25-foot-wide strip along Indian Ford Road.
- Zoning is Agricultural.
- Land Use Classification is Agricultural.
- Highest and Best Use - Future subdivision development with an interim use as silviculture.
- Present Use - Unimproved.

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**Item 2, cont.**

**STAFF REMARKS:** This acquisition was negotiated by DOF under its Florida Forever Additions and Inholdings Program.

All mortgages and liens will be satisfied at the time of closing. The property is encumbered by an outstanding oil, gas, and mineral reservation in favor of a third party. The appraiser considered this interest in its valuation of the property, and the future managing agency, DOF, can manage the property with this outstanding interest in place. Additional due diligence has determined that the surface right of entry has been barred by the Marketable Records Title Act. Therefore, Department of Environmental Protection staff will review, evaluate, and implement an appropriate resolution for any title issues that arise prior to closing. On June 22, 1999, the Board of Trustees approved a staff recommendation to delegate to DEP the authority to review and evaluate marketability issues as they arise on all chapter 259, F.S., acquisitions and to resolve them appropriately.

A title insurance policy, a survey, and an environmental site assessment of the property will be provided by DOF prior to closing.

This parcel is surrounded on three sides by the Blackwater River State Forest with Juniper Creek flowing through the east side of the property. This acquisition will improve the overall ability to manage the Blackwater River State Forest and will provide important protection for Juniper Creek. This acquisition also affords natural resource conservation and expanded outdoor recreational opportunities, such as hiking and horseback riding under the multiple-use management regime practiced by DOF.

The parcel will be managed by DOF as an addition to the Blackwater River State Forest.

This acquisition is consistent with section 187.201(22), F.S., the Agriculture section of the State Comprehensive Plan.

(See Attachment 2, Pages 1-19)

**RECOMMEND APPROVAL**

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**Item 3 Florida Keys National Marine Sanctuary Annual Status Report**

**REQUEST:** Acceptance of the ninth annual status report of the Florida Keys National Marine Sanctuary.

**COUNTY:** Monroe

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**Item 3, cont.**

**STAFF REMARKS:** On January 28, 1997, the Governor and Cabinet, sitting as the Board of Trustees of the Internal Improvement Trust Fund, approved the Florida Keys National Marine Sanctuary (FKNMS) management plan for implementation in state waters and adopted a resolution containing conditions for that approval. The annual submission of a report of the activities and conditions of the sanctuary to the Board is one of those requirements. This is the ninth of those annual reports covering the period of July 1, 2005 through June 30, 2006. The following items describe the condition of the resources and the most significant sanctuary activities during this period.

**Site Profile:** Florida Keys National Marine Sanctuary was designated in 1990 and encompasses 2,900 square nautical miles around the Florida Keys. The sanctuary supports a diverse assemblage of underwater plants and animals in coral reef habitat, fringing mangroves, seagrass meadows and hard bottom areas. This complex ecosystem that abuts Everglades National Park, Biscayne National Park and surrounds Dry Tortugas National Park as well as three National Wildlife Refuges is the foundation for the tourism and fishing based economies that sustain Monroe County.

**Corals:** Coral reefs declined globally between 1996 and 1999 due to global coral bleaching. In the FKNMS, there was a 38% decline in overall coral cover in the sanctuary from 1996 (12%) through 1999 (7.4%). From 1999 through 2003, overall coral cover did not significantly change, and coral cover varied between 7.2% and 7.5%. Between 2003 and 2004, however, there was a significant decrease in stony coral cover from 7.2% to 6.8%. The reason for the drop is not clear, but is probably due to multiple stressors, such as degraded water quality, coral diseases, physical impacts, and over-fishing. The Florida Reef Tract was impacted by four hurricanes and extensive coral bleaching during 2005; preliminary reports indicate that storm damage and losses were widespread, but not severe. This monitoring is conducted as part of the sanctuary's long-term Water Quality Program established in 1995.

Surveys of coral bleaching were conducted in 2005 and 2006 using a protocol developed by the Florida Reef Resilience Program, a partnership between the State of Florida, The Nature Conservancy, NOAA, and the Great Barrier Reef Marine Park Authority (GBRMPA). The results indicate that bleaching was most severe at nearshore patch reef in the Upper Keys; recovery from bleaching appears to have been high generally. The passage of Hurricane Katrina appears to have ameliorated bleaching effects in the Florida Keys; sea surfaces temperatures dropped substantially and stagnating waters were stirred up.

**Seagrass:** The benthic communities at the 27 sampling sites in the Keys remain relatively stable in overall abundance of seagrasses. The monitoring of the permanent stations continues to indicate that the nearshore marine communities are changing in ways that suggest that nutrients are increasing in the system. This monitoring is conducted as part of the sanctuary's long-term Water Quality Program established in 1995.

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**Item 3, cont.**

**Water Quality:** The FKNMS Water Quality Monitoring Project has completed eleven years of long-term status and trends monitoring of water quality. In general, water quality is good sanctuary-wide; however, several significant trends of elevated nutrients continue in the nearshore waters and the 'back country' areas. In addition, elevated concentrations of fecal bacteria have been documented in canals and other nearshore waters. Sources for these elevated pollutant levels are thought to be land based, vessel discharges, influence from the southwestern Florida Shelf, and some natural influences.

**Tortugas Ecological Reserve:** To determine the status of grouper and snapper populations in the Tortugas North Ecological Reserve, 42 fish-identification experts conducted an extensive survey in the summer of 2004. For 20 days, the team made 1,594 scientific dives covering 500 square miles in the reserve and unprotected areas. Results were compared to surveys of the same areas in 1999 and 2000. In 2004, divers saw 5.5 times more black grouper, and a greater number of legal sized snapper and grouper than in 1999 and 2000. A report on this work was prepared and will be published in a scientific journal. Another survey was conducted in June 2006 and results of that effort are in preparation.

While not a part of the sanctuary, an important complementary effort is underway in the Dry Tortugas National Park. On August 9, 2005, the State of Florida Board of Trustees of the Internal Improvement Trust Fund (the "Board of Trustees") approved a Management Agreement between the Board of Trustees and the National Park Service ("Service") for management of the Dry Tortugas National Park (the "Park"). Pursuant to the Management Agreement, the Service submitted the draft implementing regulations to the FWC for its review and concurrence. On February 2, 2006 the FWC approved the Service's draft implementing regulations including the special regulations as related to fishing. In the proposed regulations, fifty-four square nautical miles would be in a "Natural/Cultural Zone." Appropriate activities in this zone would include scuba diving, snorkeling, boating, wildlife viewing and recreational fishing. Forty-six square nautical miles of the Park would be in a "Research Natural Area." Activities within this zone would be restricted to non-manipulative research, education and other activities that do not detract from the area's research values. Non-consumptive activities such as scuba diving, snorkeling, wildlife viewing, and boating would be allowed. Recreational fishing would not be allowed. The draft regulations were put out for public comment by the Service and final regulations are expected to be ready for approval by the Board of Trustees in fall 2006.

**Hurricane Season 2005:** Post-storm surveys were conducted along the Lower Keys reefs from Big Pine Shoal to Rock Key throughout the hurricane season in order to document impacts resulting from storm-driven wave energy. In general, sand that typically buries the unconsolidated, relict coral rubble in the 'spur and groove' reefs had been washed away and shifted to the northwest. Much of this unconsolidated rubble was both pushed into the terminal ends of the grooves, and scattered throughout the reef area. Whole coral colonies and a great

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**Item 3, cont.**

deal of coral rubble also tumbled throughout the reef crest and back reef, littering these areas with "debris" piles of broken, toppled corals. Remnant stands of *Acropora palmata* in these areas were greatly impacted (i.e. fragmented and scattered, or otherwise sandblasted) as a result of the wave energy and tumbling debris. At least eight navigational aids delineating Lower Keys reefs needed repair or replacement as a result of the 2005 hurricane season.

Five sites in the Upper Keys showed similar impacts to the Upper Keys from Hurricane Wilma on the shallow reef crest (where the reef comes nearest to the water's surface) of the offshore reefs and the shallow inshore patch reefs. Other reef areas showed a "sandblasting" effect from Hurricane Dennis.

**Enforcement:** As a result of the 2005 hurricanes, approximately 226 derelict vessels were scattered throughout the waters of the sanctuary. The Florida Fish and Wildlife Conservation Commission's (FWC) Sanctuary Enforcement Team (SET) have been working diligently with NOAA's General Counsel, the United States Coast Guard, the Florida Department of Environmental Protection, Monroe County Marine projects Division and State's Attorney's Office, as well as the vessels' owners to facilitate their removal; over 200 man hours have been expended thus far in this effort. The FWC SET Offshore Crew received a tremendous boost in their enforcement capabilities for the Tortugas Ecological Reserve in March of this year, by way of the patrol vessel *Peter Gladding*; the first vessel commissioned by NOAA solely for Law Enforcement missions. SET and FWC officers from Monroe County contributed twice as many hours as the previous year. A total of 2665 hours of disaster response occurred under the State of Emergencies declared by President George W. Bush and Governor Jeb Bush.

**Groundings:** During the 2005/2006 state fiscal year, there were 348 vessel groundings within the sanctuary; these groundings continue to be a high priority issue. More than half of these groundings occurred in the Upper Keys. Of the total, 47 were turned over to State DEP Park Patrol Officers, 11 were turned over to Everglades National Park Rangers, and 48 reported grounded vessels were gone before the officer's arrival. This represents a decrease in the number of reported groundings for the same period last year however, officers reported more actual onsite views of grounding damage during that period.

**Damage Assessment and Restoration:** Of 348 reported vessel groundings in FKNMS in FY 05/06, 40 of those resulted in either a seagrass or coral enforcement action requiring some form of injury assessment. FKNMS staff, contractors, and volunteers conducted restoration at 8 coral injury locations and 16 seagrass injury sites.

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**Item 3, cont.**

**Maritime Heritage Resources:** Accomplishments for FY 05/06 include issuance of six new Survey/Inventory Permits and one new Research/Recovery Permit. Presently there are eight active Survey/Inventory Permits and three active Research/Recovery Permits. Mini-grants provided by NOAA's Maritime Heritage Program supported the following two projects: 1. A joint State of Florida / NOAA archaeological survey in June 2006 to document and detail the history of the "Brick Wreck" off Marathon, Florida. 2. Surveys and/or remote sensing of three wrecks: the *Alligator*, *Guerro*, and HMS *Nimble*. FKNMS staff and volunteers supported these efforts. The Submerged Resource Inventory team, consisting of sanctuary volunteers, spent 606 hours in survey and inventory of submerged cultural resources within the sanctuary.

**Mooring Buoys:** Over 770 mooring buoys, boundary buoys, and marker buoys are maintained in the FKNMS, with the majority in state waters. During FY 05/06 mooring buoys were available for public use approximately 97% of the time, an increase of 2% over last year.

**Management Plan Status:** The five-year FKNMS management plan review process began in 2001 with public scoping meetings throughout the Florida Keys. The revised draft management plan has undergone review by NOAA headquarters, DEP, and a two month public comment period from February – April 2005. The Revised Management Plan is being reviewed by NOAA and targeted for final release late 2006/early 2007.

**Dr. Nancy Foster Florida Keys Environmental Complex (Foster Complex):** Construction on the three-building Foster Complex at the Truman Annex in Key West was substantially complete in May 2006. Staff moved into the maintenance and administrative buildings at the end of June. The move combined staff and offices of the Key West-based FKNMS Lower Region and the Marathon-based Headquarters units. Exhibits were installed in August and September with a "soft opening" planned for mid - October. A grand opening celebration will be held on January 13, 2007.

**Sanctuary Advisory Council (SAC):** Established in 1991, the FKNMS SAC is the oldest of the NMS councils and has 20 members covering a wide spectrum of interests in the Florida Keys community, including boating, conservation, diving, education, Everglades restoration, fishing (commercial and recreational), government, maritime heritage, research, tourism and the community-at-large. The SAC meets bimonthly and currently has five Working Groups: Education and Outreach, Water Quality, Ecosystem Restoration, Diadema Restoration, and Ballyhoo. Ad hoc committees are formed to deal with one-time issues.

**Education and Outreach:** Highlights in FY 05/06 include: in partnership with the Florida Keys Community College and researchers from various organizations and agencies the sanctuary offered a non-credit college course about the Florida Keys National Marine Sanctuary, the nearshore resources, and research within the sanctuary. The six-week course was attended by 41 students and included a fieldtrip to the reef on a local charter snorkel boat; additional funding was secured to expand the Seagrass Outreach Partnership throughout the state and to begin a Queen Conch and Bahama Sea Star outreach program.

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**Item 3, cont.**

**Volunteers:** FKNMS volunteers supported over a dozen projects including research, stewardship, restoration, and environmental education. Volunteers dedicated to resource protection in the Florida Keys contributed 8198 hours during calendar year 2005, at an estimated value of \$147,892. FKNMS volunteer Jan Blackmon was the FKNMS nominee for the National Marine Sanctuary Foundation Volunteer of the Year award. The FKNMS volunteer coordinator in conjunction with the Damage and Restoration Program manager expanded the Reef Medics volunteer program. FKNMS and Mote Marine Laboratory created BleachWatch, a volunteer program for detecting and reporting coral bleaching.

**Zoning:** The marine zoning plan implemented in the sanctuary provides a common sense approach to protect sensitive resources while restricting commercial and recreational uses to the minimum extent necessary to protect the ecosystem. The results to date have shown that some heavily exploited, mobile species of fish have increased in population density and body size without any indication of adverse socio-economic impact. Increases in abundance have found for spiny lobsters while increases in density have been found for Gray Snapper, Black Grouper, grouper species combined, and Yellowtail Snapper.

(See Attachment 3, Pages 1-29)

**RECOMMEND APPROVAL**

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**Substitute Item 4 Patrick Murphy Recommended Consolidated Intent**

**REQUEST:** Consideration of an application for a five-year sovereignty submerged lands lease containing 3,561 square feet, more or less, for the construction of a private residential single-family dock.

**COUNTY:** St. Johns  
Lease No. 550339842  
Application No. 55-216874-003-ES

**APPLICANT:** Patrick Murphy

**LOCATION:** Section 44, Township 05 South, Range 26 East, in the St. John's River, Class III Waters, near the city of Jacksonville, within the local jurisdiction of St. Johns County  
Aquatic Preserve: No  
Outstanding Florida Waters: No  
Designated Manatee County: No  
Manatee Aggregation Area: No  
Manatee Protection Speed Zone: No

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Substitute Item 4, cont.

**CONSIDERATION:** \$612.05 representing the initial annual lease fee computed at the base rate of \$0.1375 per square foot, and including the initial 25 percent surcharge payment. Sales tax and county discretionary sales surtax will be assessed pursuant to sections 212.031 and 212.054, F.S., if applicable. Fees may be revised upon receipt of an acceptable survey.

**STAFF REMARKS:** In accordance with rules adopted pursuant to sections 373.427(2) and 253.77(2), F.S., the attached "Recommended Consolidated Notice" contains a recommendation for issuance of both the permit required under part IV of chapter 373, F.S., and the authorization to use sovereignty submerged lands under chapter 253, F.S. The Board of Trustees is requested to act on those aspects of the activity, which require authorization to use sovereignty-submerged lands. If the Board of Trustees approves the request to use sovereignty submerged lands and the activity also qualifies for a permit, the Department of Environmental Protection (DEP) will issue a "Consolidated Notice of Intent to Issue" that will contain general and specific conditions. If the Board of Trustees denies the use of sovereignty submerged lands, whether or not the activity qualifies for a permit, DEP will issue a "Consolidated Notice of Denial."

The applicant is proposing to construct a 1,512-square-foot addition to an existing, 2,049-square-foot private residential single-family dock and removing the existing terminal platform (which will no longer be terminal upon adding the extension) for a total preempted area of 3,561 square feet. The addition will consist of a 78-foot-long by 5-foot-wide access pier extension, a new 20-foot-long by 16.1-foot-wide terminal platform, and a new 40-foot-long by 20-foot-wide covered boat slip. The existing dock includes a 278-foot-long by 5-foot-wide access pier; a 20-foot-long by 10-foot-wide terminal platform (to be removed); a 9-foot-long by 6-foot-wide jet ski lift; and a 27-foot-long by 15-foot-wide covered boat slip, which will remain. The jet ski lift will be relocated to the new terminal platform. The dock, including the proposed addition, will extend approximately 388 feet into the St. Johns River. The applicant applied for the additional structure to provide mooring for, and access to, a larger vessel with a deeper draft. The dock is riparian to the applicant's single-family residence. The surrounding area is a residential neighborhood. Other private residential single-family docks of similar size and length as the applicant's existing dock, including the proposed addition, exist along the St. Johns River in this area; however, none have two separate covered boat slips, one well short of the terminus. DEP staff have evaluated the project site and did not identify any submerged aquatic vegetation or other wetland resources which will be impacted by the project.

The subject property contains approximately 86 linear feet of shoreline on the St. Johns River. The existing and proposed structures will preempt approximately 3,561 square feet of sovereignty submerged lands. The proposed structure does not qualify for a Letter of Consent as it preempts an area of sovereignty submerged lands that exceeds the 10 to 1 ratio pursuant to section 18-21.005(1)(c)2, F.A.C., and also exceeds the criteria for what is considered to be a minimum-size private residential single-family dock pursuant to section 18-21.005(1)(c)1, F.A.C. The project requires a sovereignty submerged lands lease pursuant to section 18-21.005(1)(d)1, F.A.C.



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**Substitute Item 4, cont.**

The existing structure was permitted in 2004 and designed to reach a water depth of 3.3 feet mean low water (MLW) for the location of the terminal platform and covered boat slip as shown on drawings in the application. Upon completion of construction it was determined that the water depth at that terminal location was less than 3.3 feet MLW. However, the covered boat slip location has suitable depth for the pontoon boat owned by the applicant and therefore may be allowed to remain in this location subject to the following special lease conditions: (1) prior to completion of construction of the expansion of the dock, terminal platform, and covered boat slip, the existing nearshore 20-foot-long by 10-foot-wide terminal platform shall be removed; (2) vessels moored in the existing covered boat slip shall be limited in draft to no more than 1 foot; and (3) if for any reason the nearshore covered boat slip must be repaired or rebuilt, it shall be rebuilt at the final terminus of the dock. These conditions will allow continuing use of the existing structure by the pontoon boat or vessels with a similar draft while ensuring that any reconstruction or rebuilding of this structure in the future is shifted to an area where water depths are more consistent with those of the original design proposal.

Pursuant to section 253.115, F.S., the proposed project was specifically noticed to property owners within 500 feet of the proposed project area. Five notices were sent via certified mail. Two objections were received in response to the noticing. The objections pertain to the following:

1. block riparian view;
2. not conform to the environmental usage of the St. Johns River;
3. pose an increase in water and noise pollution that will endanger the wildlife in the area by increased recreational activity;
4. pose an increased threat to aquatic life in the area by increased recreational activity;
5. violate the spirit of the neighborhood;
6. the applicant does not own sufficient upland property to warrant a larger dock; and
7. the applicant has applied to construct a dock larger than what the complainants and neighboring docks were themselves permitted by DEP to build.

In regard to the points raised in the objections, section 18-21.004(3)(c) and (d), F.A.C., requires that an applicant's proposed activity not encroach within 25 feet from the applicant's riparian rights lines. The applicant's existing dock and the proposed addition to the dock will not violate this setback requirement. DEP does not otherwise have any rule based criteria or limitations on activities which pertain to riparian view. DEP staff did not identify any wetland resources that would either be directly or indirectly impacted by the proposed dock addition nor would the proposed addition appear to exceed the typical size or configuration of similar private residential single-family docks in the area. The additional structure, which includes a second boat slip and terminal platform, is not expected to increase recreational activity to an extent that would create a violation of state water quality standards nor an unacceptable level of noise pollution. Furthermore the Florida Fish and Wildlife Conservation Commission did not object to the project with the inclusion of standard manatee construction conditions in the permit.

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**Substitute Item 4, cont.**

In further addressing the objections raised, DEP staff do not believe, as the objections imply, that the proposed addition is contrary to the traditional use of the St. Johns River in this area. Further, while the applicant does not own upland property with a sufficient length of shoreline to qualify for a letter of consent, the applicant may request appropriate authorization from the Board of Trustees for a private residential single-family dock that does not qualify for a consent by rule or letter of consent. The appropriate form of authorization for the applicant's proposed project is a sovereignty submerged lands lease. On the final point raised in the objections the adjacent property owners applied for and received letters of consent to use sovereignty submerged lands as their docks were determined to be the minimum size pursuant to section 18-21.003(34), F.A.C. They are not precluded from applying for a similar submerged lands lease as the applicant has.

A local government comprehensive plan has been adopted for this area pursuant to section 163.3167, F.S.; however, the Department of Community Affairs (DCA) determined that the plan was not in compliance. In accordance with a compliance agreement between DCA and the local government, an amendment has been adopted which brought the plan into compliance. The proposed activity is consistent with the adopted plan as amended according to a letter received from St. Johns County dated May 1, 2006.

(See Attachment 4, Pages 1-23)

**RECOMMEND WITHDRAWAL**