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T H E   C A B I N E T  
S T A T E   O F   F L O R I D A

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Representing:

DIVISION OF BOND FINANCE

FINANCIAL SERVICES COMMISSION, OFFICE OF  
INSURANCE REGULATION

BOARD OF TRUSTEES, DEPARTMENT OF  
AGRICULTURE AND CONSUMER SERVICES

BOARD OF TRUSTEES, INTERNAL IMPROVEMENT TRUST FUND

STATE BOARD OF ADMINISTRATION

The above agencies came to be heard before  
THE FLORIDA CABINET, Honorable Governor Crist  
presiding, in the Cabinet Meeting Room, LL-03, The  
Capitol, Tallahassee, Florida, on Tuesday, March 13,  
2007, commencing at 9:05 a.m.

Reported by:  
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Notary Public

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Representing the Florida Cabinet:

CHARLIE CRIST  
Governor

CHARLES H. BRONSON  
Commissioner of Agriculture

BILL McCOLLUM  
Attorney General

ALEX SINK  
Chief Financial Officer

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P R O C E E D I N G S

(Agenda items commenced at 9:40 a.m.)

GOVERNOR CRIST: Division of Bond Finance. Oh, wait, first, next Cabinet meeting, Tuesday, April 3rd, 2007. Ben, good morning.

MR. WATKINS: Good morning, Governor, Cabinet members. Item 1 is the minutes from the -- approval of

8 the minutes from the February 13th meeting.  
9 GOVERNOR CRIST: Is there a motion on the minutes?  
10 CFO SINK: Move it.  
11 COMMISSIONER BRONSON: Second.  
12 GOVERNOR CRIST: Moved and seconded. Without  
13 objection the minutes are approved.  
14 MR. WATKINS: Item Number 2 is a resolution  
15 authorizing the competitive sale of up to 98 million in  
16 Florida Facilities Pool Revenue Bonds for financing the  
17 construction of 480,000 square feet out at the  
18 Southwood Office Complex for the relocation and  
19 consolidation of the Department of Revenue operations.  
20 COMMISSIONER BRONSON: Motion on Item 2.  
21 GOVERNOR CRIST: Is there a second?  
22 ATTORNEY GENERAL McCOLLUM: Second.  
23 GOVERNOR CRIST: Moved and seconded. Without  
24 objection Item 2 is approved.  
25 MR. WATKINS: Item Number 3 is a resolution

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1 authorizing the issuance and competitive sale of up to  
2 \$49 million in Alligator Alley Revenue Refunding Bonds.  
3 ATTORNEY GENERAL McCOLLUM: I move it.  
4 COMMISSIONER BRONSON: Second.  
5 GOVERNOR CRIST: Moved and seconded. Without  
6 objection Item 3 is approved.  
7 MR. WATKINS: Item Number 4 is a report of award  
8 of the competitive sale of \$136,750,000 in PECO bonds.  
9 The bonds were awarded to the low bidder at a true

10 interest cost of approximately 4.41 percent.

11 CFO SINK: Move it.

12 GOVERNOR CRIST: This is to build schools?

13 MR. WATKINS: Yes, sir.

14 GOVERNOR CRIST: There's a motion. Second?

15 COMMISSIONER BRONSON: Second.

16 GOVERNOR CRIST: Show Item 4 approved without  
17 objection.

18 MR. WATKINS: And Item 5 is the report of award on  
19 the competitive sale of \$142,350,000 of Florida Forever  
20 Revenue Bonds. The bonds were awarded to the low  
21 bidder at a true interest cost of approximately 4.16  
22 percent.

23 COMMISSIONER BRONSON: Motion on Item 5.

24 GOVERNOR CRIST: Is there a second?

25 ATTORNEY GENERAL McCOLLUM: Second.

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1 GOVERNOR CRIST: Moved and seconded. Show Item 5  
2 approved without objection. Thank you, Ben.

3 MR. WATKINS: Thank you, sir.

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1           GOVERNOR CRIST: Insurance Regulation. Good  
2 morning, Kevin.

3           MR. McCARTY: Good morning, Governor, members of  
4 the Commission. First agenda item is for adoption of  
5 the minutes for December 19th, 2006, and January 30,  
6 2007.

7           COMMISSIONER BRONSON: Motion on Item 1.

8           GOVERNOR CRIST: Is there a second?

9           ATTORNEY GENERAL McCOLLUM: Second.

10          GOVERNOR CRIST: Moved and seconded. Show the  
11 minutes approved.

12          MR. McCARTY: Next agenda item, Governor, is a  
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13 presentation of office initiatives for legislative  
14 priorities for 2007. There are three areas of  
15 substantive insurance issues we'd like to examine. The  
16 first one is the authority the office has to do  
17 financial examinations.

18 Florida is one of the few states in the country  
19 with severe limitation on its ability to use outside  
20 resources in its examination process. This is critical  
21 for us to maintain our accreditation with the National  
22 Association of Insurance Commissioners.

23 Moreover, I think it's important for the sound and  
24 safety of the Florida policyholders to ensure that we  
25 have adequate resources available, to use those

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1 resources to make sure that the financial solvency of  
2 the companies are ensured.

3 The second issue we'd like to talk about is title  
4 insurance. Current law requires the Financial Service  
5 Commission to set the rates for title insurance.  
6 However, neither the office nor the FSC has the  
7 necessary data to adequately formulate the rates  
8 charged by title insurance.

9 Florida is only one of three states that does a  
10 promulgated title insurance rates. Many other states  
11 have other models. We would like to suggest a  
12 competitive model in the future where each title  
13 insurance company would have to justify their rates



14 based upon their own losses and their own expenses, to  
15 inject some competition with regard to title insurance.  
16 We have among the highest cost of title insurance in  
17 the nation.

18 And the last area of inquiry we'd like to talk  
19 about is Healthy Florida. I know that General Milligan  
20 is very committed, as is the CFO, to ensuring that we  
21 investigate all of the issues out there concerning the  
22 variety of plans to deal with providing quality health  
23 care for all Floridians.

24 Last year we supported an initiative that was  
25 supported in New York, which was called Healthy New

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1 York, which provides for subsidies for small employers  
2 in a reinsurance program. But that's only one piece of  
3 the whole puzzle.

4 And I think one of the things that -- one of our  
5 challenges is to make sure that we look at all of the  
6 opportunities we have to ensure that the three million  
7 Floridians who are currently uninsured have access to  
8 quality health care.

9 And that concludes that. We do have one speaker  
10 here, Mr. Lee Huszagh, who would like to speak with  
11 regard to modernizing the title insurance.

12 GOVERNOR CRIST: Good morning.

13 MR. HUSZAGH: Good morning, Governor Crist,  
14 Cabinet members. My name is Lee Huszagh. I serve as  
15 the secretary/treasurer of the Florida Land Title

16 Association, representing the title insurance industry  
17 in Florida. And we just wanted to point out to you  
18 that some of the figures that Commissioner McCarty has  
19 given you really indicate, rather than a defect in the  
20 title insurance industry in Florida, it's really a  
21 plus.

22 Florida has one of the lowest claims-paid ratios  
23 in the entire United States. And that's because we do  
24 an excellent job protecting the property of homeowners  
25 and property owners in Florida. We don't sell a policy

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1 and hope nothing bad happens. We research it ahead of  
2 time to ensure that nothing bad will happen.

3 We feel like that the attempt to use a file and  
4 use rate for title insurance is putting a casualty mold  
5 on an industry that is not casualty insurance. We  
6 would urge the Commissioner -- we have spoken with  
7 CFO Sink -- to work with her office to improve the  
8 cooperative relationship between our industry and the  
9 OIR and DFS.

10 GOVERNOR CRIST: What is all that?

11 MR. HUSZAGH: Our industry is the only one that  
12 pays an administrative surcharge that's to fund --

13 GOVERNOR CRIST: Lee, you're not going to tell our  
14 audience what those initials stand for?

15 MR. HUSZAGH: Department of Financial Services --

16 GOVERNOR CRIST: And what was the other one?

17 MR. HUSZAGH: -- and Office of Insurance  
18 Regulation.

19 GOVERNOR CRIST: I really don't like acronyms.  
20 The only ones I like are UF, FSU, FAMU, those are  
21 acceptable but --

22 MR. HUSZAGH: I'm sorry.

23 GOVERNOR CRIST: That's okay. It's not really for  
24 my benefit.

25 MR. HUSZAGH: So, anyway, and I don't want to

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1 plead the case too strong here in front of you. I know  
2 that's a matter for the Legislature. But he thought it  
3 important enough to mention it to you, and we do, too,  
4 that we have a good system in Florida. We do an  
5 excellent job, and we want to continue to be able to do  
6 that. And thank you very much.

7 GOVERNOR CRIST: Thank you.

8 MR. HUSZAGH: What, no picture?

9 GOVERNOR CRIST: I don't think so. We don't need  
10 a motion on this one then; do we?

11 MR. McCARTY: No, sir. There's no motion.

12 CFO SINK: Governor, could I just ask a couple  
13 more question?

14 GOVERNOR CRIST: Please.

15 CFO SINK: On the issue of the title insurance,  
16 describe what the new process would then be, Kevin.

17 MR. McCARTY: The process would be each of the  
18 title insurance companies would use their own data.

19 They are the repositories of their own data. As was  
20 mentioned by the previous speaker, they have their own  
21 losses. The losses in title insurance are very, very  
22 small, two or three percent. As the previous speaker  
23 said, most of the cost of this goes to the reduction.  
24 You don't want to have a claim with regard to title.

25 What we're suggesting is to use a model that each

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1 company makes their own filing, so they can look at  
2 their own losses as well as their own expenses. And in  
3 doing so, that will generate competition.

4 Right now there is no competition. When you go to  
5 close on your land sale contract, you don't say, "Could  
6 I speak to another title company? Perhaps I could get  
7 a lower premium." And what we'd like to see is inject  
8 some competition.

9 Land sales contracts are critically important to  
10 the economy of Florida. And any way we can to lower  
11 the cost of property insurance, lower the cost of  
12 property tax, lower the cost of the title insurance  
13 will help us in our very, very vital part of the  
14 Florida economy.

15 CFO SINK: And are most of the other states, are  
16 they file and use, use and file, are you aware, of the  
17 47 states that don't do it this way?

18 MR. McCARTY: There is a variety of things that  
19 are out there. Florida, New Mexico and Texas are the

20 only ones that have a state-promulgated rate, which is  
21 a single rate that everyone charges.

22 CFO SINK: Okay. Just one other question, please,  
23 Governor. On the Healthy Florida, would this be a  
24 prefunded reinsurance? Are there dollars attached to  
25 setting up a program like Healthy Florida and the

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1 others that we heard about?

2 MR. McCARTY: Yes, there is. And that, I think,  
3 is the real critical issue. I think, when you were  
4 talking with the General about one of the things we  
5 need to look at, we really need to take this  
6 opportunity to look at all the dollars in the system,  
7 both the private sector and the public sector, and  
8 where those dollars are going.

9 And before we embark on any kind of program in  
10 Florida, we really need to follow the dollars to see  
11 where they're going, to make sure that whatever we do  
12 that is going to use taxpayers' dollars or private  
13 sector dollars, that we're doing it to provide -- to  
14 ensure that it's doing it in the most efficient manner  
15 as possible to ensure quality health care.

16 And perhaps what we need to do as a condition  
17 precedent to a Healthy Florida or opening a risk pool  
18 plan or expansion of any program is to really get our  
19 arms around where the dollars are currently being  
20 spent. And then we can then evaluate whether we want  
21 to have a universal access plan like Massachusetts or

22 mandatory coverage like California.

23 CFO SINK: Okay. I agree. Thank you.

24 GOVERNOR CRIST: General?

25 ATTORNEY GENERAL McCOLLUM: Kevin, I'd like to

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1 explore one other aspect of Healthy Florida with you.  
2 I chaired Healthy Florida Foundation, and a few years  
3 ago we had a retreat with delegates, and they made  
4 recommendations to the Governor and the Cabinet and the  
5 Legislature.

6 And among those that they were making had to do  
7 with reduction of the mandates that are on the health  
8 insurance policies. I think Florida has 50-some-odd  
9 mandates, probably still do. It's a very difficult  
10 political issue, I know, because everybody wants to be  
11 included in what's required.

12 Is what you're going to look at with this, if you  
13 get your opportunity and get funded for this, would it  
14 include a reexamination of those mandates and the  
15 possibility that if we reduce the number of those, we  
16 might be able to make insurance more affordable?

17 MR. McCARTY: You're absolutely correct. Florida  
18 does have a significant number of mandates. And one  
19 person's mandate is another person's necessary health  
20 care. So it's always a very divisive issue with regard  
21 to mandates.

22 We're really more exploring the number of mandates

23 or the cost of mandates in this. Although I think any  
24 approach to looking at a comprehensive health plan, we  
25 really need to look at the cost drivers in the system,

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1 which may very well include those mandates.

2 ATTORNEY GENERAL McCOLLUM: I appreciate that. I  
3 just personally think that's a very big issue. And I  
4 remember Governor Bush, Governor Crist, told me once  
5 that was the most intractable one but yet the most  
6 significant one with respect to how we might be able to  
7 better provide affordable insurance in this state in  
8 health care.

9 MR. McCARTY: I think one of the things we want to  
10 emphasize, Governor Bush had an affordable health care  
11 initiative a few years ago, and we've done a number of  
12 these in Florida. I know leadership grows weary of  
13 another study of something. But what we really haven't  
14 done is we haven't done a comprehensive analysis of  
15 where the money in the system is going.

16 We look at -- there's a lot of public dollars on  
17 the local levels, on the state level and the federal  
18 level and the private sector. And I think having an  
19 analysis of a comprehensive system would do us a lot of  
20 good in terms of looking at how to reallocate those in  
21 the future.

22 ATTORNEY GENERAL McCOLLUM: Kevin, if we had a  
23 system much like you have when you buy your cable TV  
24 and you get to pick and choose the channels and pay the

25 premiums for whatever package you have, I'm sure that

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1 would reduce those costs. But that's a difficult thing  
2 to get to.

3 MR. McCARTY: I would agree, sir.

4 GOVERNOR CRIST: Thank you, General.

5 MR. McCARTY: The next agenda item, sir, we're  
6 requesting to be withdrawn.

7 GOVERNOR CRIST: Is there a motion to withdraw?

8 COMMISSIONER BRONSON: So move.

9 ATTORNEY GENERAL McCOLLUM: Second.

10 GOVERNOR CRIST: Moved and seconded. Show Item 3  
11 withdrawn.

12 MR. McCARTY: Our last agenda item, sir, is for a  
13 good cause item. As you know, Citizens Property  
14 Insurance is required to develop a multi-peril business  
15 plan to outline how they'll implement offering a  
16 multi-peril policy in their high-risk accounts. That's  
17 the coastal plan involved in Citizens Property  
18 Insurance.

19 And we are pleased to have the chairman of the  
20 board of Citizens to discuss that multi-peril plan.  
21 Mr. Bruce Douglas.

22 GOVERNOR CRIST: Good morning.

23 MR. DOUGLAS: Good morning.

24 GOVERNOR CRIST: Good morning.

25 MR. DOUGLAS: Before I get started, Governor, if I



1           may, mostly for the CFO's benefit, we are in the  
2           process of revamping our Web site to make it totally  
3           consumer friendly. We're adding a single or a separate  
4           page just for the consumer, and that will be completed  
5           within the next 30 days, just wanted to let you know  
6           that.

7           GOVERNOR CRIST: Are the pages for anybody else  
8           but the consumer?

9           MR. DOUGLAS: Only the consumer.

10          GOVERNOR CRIST: There you go.

11          MR. DOUGLAS: As the commissioner pointed out, we  
12          are required to present for your consideration and  
13          hopefully your approval a business plan to allow us to  
14          sell multi-peril policies in the wind pool area.

15          I must tell you at the outset that if in fact you  
16          approve this plan, it will strengthen the consumer by  
17          reducing premiums. It will allow Citizens, who has the  
18          knowledge, the experience and the strength in this  
19          area, to sell one policy wherever possible, instead of  
20          two.

21          It will allow us to compete with the voluntary  
22          market. It will in no way enable -- or excuse me -- in  
23          no way weaken our financial position. It will not  
24          jeopardize our tax-exempt status, and it will, in fact,  
25          reduce our costs.

1           But more importantly, it will allow reduction in  
2           premiums, not for everyone initially, but for over 40  
3           percent of all of the policyholders in the current wind  
4           pool area there will be at least a ten percent  
5           reduction. Statewide there will be about a 6.9 percent  
6           reduction.

7           And I must emphasize, since we rescinded or rolled  
8           back the 20 percent increase that was previously  
9           approved, there's quite a savings here for the  
10          individual policyholder going forward.

11          And because insurance is a fluid issue in the  
12          state of Florida, it will allow us over time to offer  
13          more reduction in premium through lots of different  
14          programs. But this is not something that's new. This  
15          is an extension of what we do and have been doing for  
16          over 900,000 policyholders. We're now rolling it into  
17          an area and offering it to 400,000 policyholders.

18          So I hopefully and strongly endorse your  
19          consideration and your approval of this business plan.

20          GOVERNOR CRIST: Thank you. It's a great report  
21          and looks to me to be a very solid, prudent plan. And  
22          just for the benefit of our audience and some of our  
23          friends in the journalistic world, when you talk about  
24          a reduction, that this would be at least ten percent,  
25          you also referenced -- the legislation that passed

1 during the special session called for the other  
2 rollbacks. Could you compile what the total reduction  
3 would be for some?

4 MR. DOUGLAS: If the legislation had not occurred,  
5 Governor, you're looking at two rate increases, one  
6 that was already approved --

7 GOVERNOR CRIST: No. I'm looking on the positive  
8 side. The legislation did occur. So I was asking if  
9 you would be kind enough to explain how much of a total  
10 reduction would be represented, not only with this  
11 plan, by coupling it with the legislation rollback.

12 MR. DOUGLAS: All right. The total would be two  
13 different figures. One would be in excess of 80  
14 percent, in excess of 80 percent. The second one would  
15 be around 85 to 86 percent for those in the wind pool  
16 area that choose the one policy.

17 GOVERNOR CRIST: Could you explain the difference  
18 between those that would receive 80 percent reduction  
19 versus 85 percent, please?

20 MR. DOUGLAS: The wind pool policyholders receive  
21 a larger percentage of the reduction than those in  
22 outlying areas, central state of Florida. Everyone  
23 will participate.

24 There's another potential on the horizon. Once we  
25 implement this program, we will then be going against

1 some major insurance companies who --

2 GOVERNOR CRIST: I hope so.  
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3 MR. DOUGLAS: -- who right now are from zero to 49  
4 percent higher than we are. And so I think we'll see  
5 some significant growth. As I told you earlier, we're  
6 going to get bigger before we get smaller, but we're  
7 going to do it the right way.

8 GOVERNOR CRIST: If you're big and good, that's  
9 fine with me.

10 MR. DOUGLAS: We're going to do it the right way.

11 GOVERNOR CRIST: Great. CFO, I think you had  
12 some --

13 CFO SINK: Yeah, I have a few questions. Would  
14 you explain, these are -- just bear with me, just a  
15 couple of little nits because I was out over the  
16 weekend. Four hundred thousand policies is what this  
17 program potentially applies to. But there's a split  
18 between -- Citizens writes some X-wind policies. Is  
19 that correct? I was not aware of that.

20 MR. DOUGLAS: We write X-wind policies?

21 CFO SINK: Uh-huh.

22 MR. DOUGLAS: Oh, absolutely.

23 CFO SINK: And how does that occur, that Citizens  
24 is writing policies X-wind? I mean, wouldn't the -- I  
25 guess I'm under the impression that people come into

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1 Citizens because they can't find insurance other  
2 places.

3 MR. DOUGLAS: Well, we write two policies, one

4 with wind, one without wind, very often to the same  
5 customer.

6 CFO SINK: Okay. And you're proposing that --  
7 MR. DOUGLAS: We combine that.

8 CFO SINK: -- obviously, for those customers, they  
9 can be combined and they'll receive --

10 MR. DOUGLAS: Into one policy.

11 CFO SINK: Into one policy --

12 MR. DOUGLAS: And save money doing so.

13 CFO SINK: -- very customer friendly. So  
14 basically there are 285,000 policies out there in which  
15 a customer is doing business with a private insurer and  
16 then has Citizens for wind.

17 MR. DOUGLAS: That is correct.

18 CFO SINK: So those are -- and under your  
19 assumptions, what percentage, when you put your numbers  
20 together, your business plan, what percentage of those  
21 285,000 did you project would potentially be electing  
22 to use Citizens for all perils or for multi-peril  
23 policies?

24 MR. DOUGLAS: We haven't projected it for the  
25 following reason. A number of those policyholders have

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1 policies that earn a multi-policy discount from the  
2 voluntary market. We don't know the specifics of those  
3 numbers. They may, with that multi-policy discount,  
4 not offer enough savings to go to Citizens in those  
5 cases.

6           But I would expect, looking at the competitive  
7 rates of Citizens with the whole policy versus the  
8 voluntary market, that a significant number, more than  
9 half of those 285,000 will be Citizens policyholders  
10 within the next 12 months.

11           CFO SINK: So if you didn't do it that way, then  
12 I guess -- you know, I'm looking back here on page 36.  
13 How did you -- you have here what you project your net  
14 underwriting income to be as a result of offering these  
15 multi-peril policies. Or am I not reading it  
16 correctly?

17           MR. DOUGLAS: Well, I'll bet you are reading it  
18 correctly. Let me catch up with you on 36. So you're  
19 asking what is the assumption used of the number of  
20 policies that would swing to us to justify that  
21 underwriting figure.

22           CFO SINK: Uh-huh.

23           MR. DOUGLAS: Hold on one second. Fortunately I  
24 brought my technical group with me.

25           CFO SINK: I figured you did.

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1           MR. DOUGLAS: I'd like to introduce Christine  
2 Turner.

3           CFO SINK: Because, I mean, obviously as a part of  
4 doing the business plan, you had to figure out whether  
5 or not this was a good business proposition for  
6 Citizens and whether or not you can be profitable and

7 make money, because the whole basis is to be able to --  
8 to enable you to sell these additional policies so that  
9 we could bring more money into Citizens to build  
10 surplus, et cetera. So you had to -- go ahead.

11 MS. TURNER: Yes, Madam CFO, Governor, Cabinet,  
12 thank you. We made two -- there are two separate  
13 charts financially, if I'm still looking at this  
14 correctly. We looked at both -- at two scenarios. If  
15 just the 118,000 policyholders that had both with  
16 Citizens opted to take multi-peril, what that would do  
17 financially. And then we also looked at if a hundred  
18 percent, best case scenario, everyone took the  
19 multi-peril option of the 400,000, what the financial  
20 impact was.

21 As it relates to the impact on the need for  
22 employees, we looked at it from the best or worst case  
23 scenario of if everyone decided to take multi-peril,  
24 what would we need to make this happen on the claims  
25 side and underwriting side. And I believe the answer

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1 to that one is ten total employees. So that is if  
2 everyone opts to multi-peril of the 400,000.

3 CFO SINK: All right. Thank you. Would you talk  
4 to me a little bit about what your -- what kind of --  
5 have you implemented any customer satisfaction measures  
6 in the current Citizens, about how you're measuring  
7 customer satisfaction, because clearly you're getting  
8 ready to expand your business and we want to be sure

9           that the current customer -- the processes are in place  
10           to be responsive to questions that come in and customer  
11           satisfaction measures.

12           MR. DOUGLAS: Let me respond in a number of ways.  
13           First of all, we are conducting all throughout the  
14           state meetings with our policyholders. The first major  
15           meeting will be held in May in the Fort Lauderdale  
16           area.

17           We are meeting every day, almost every day with  
18           agent associations and individual groups of agents to  
19           get their input from our customers because they are our  
20           marketing conduit, as to what is the level of service  
21           that we're giving, where are we falling down.

22           Thirdly, as you know, we get thousands of phone  
23           calls a day, and we measure our response to those and  
24           the comments from our policyholders in those phone  
25           calls to see how we're doing.

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1           And most importantly, at least I feel, the  
2           settlement of claims, which in the last analysis is why  
3           people have insurance, has risen so dramatically in our  
4           solving the claim, settling the claim and in a very  
5           timely manner.

6           And we were at a meeting yesterday with one of the  
7           major agent associations, and the comments were so  
8           favorable to what Citizens is today, where we are and  
9           where we're going, as opposed to the historical



10 Citizens, which seemed to be a darling of the media.

11 So I'm pleased to tell you that every aspect of  
12 consumer satisfaction is either in place or about to be  
13 in place no later than May.

14 CFO SINK: And, Governor, just two more questions.

15 GOVERNOR CRIST: Of course.

16 CFO SINK: One is, I was surprised to read that  
17 you said that your policy count in the high-risk  
18 accounts were flat, and I guess I've been under the  
19 impression that as these private insurers are dumping  
20 policies, they're dumping them mostly out of the  
21 high-risk accounts. So what is the explanation for not  
22 having any growth in the wind pool part of it?

23 MR. DOUGLAS: I think the facts will support that  
24 we are so dominant in the wind pool, they are not in  
25 fact dropping in the wind pool.

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1 CFO SINK: We already have all of them.

2 MR. DOUGLAS: We have them.

3 CFO SINK: Okay. Thank you. And the last  
4 question is, it would seem to me that y'all have been  
5 engaged in a pretty aggressive marketing plan. You're  
6 entering into a new line of business for these  
7 customers. And how are you going to put together a  
8 marketing plan for these new prospects that you have?

9 MR. DOUGLAS: Well, again, the agents are  
10 critical. And so we are putting together an  
11 educational program for the agents: Here is what we're

12 offering. Here is how you do it, very simplified. Now  
13 go out and do it.

14 GOVERNOR CRIST: So you're not going to have like  
15 some lizard that will be on TV and say, "My job is to  
16 save you money. I love my job"?

17 MR. DOUGLAS: We are not going to advertise.

18 GOVERNOR CRIST: I guess there would be a  
19 trademark problem with that.

20 MR. DOUGLAS: One last comment, Governor, if I  
21 may, particularly because the CFO introduced the new  
22 consumer advocate and because the seven-eleven test is  
23 so important, the word "mitigation" is not understood  
24 by a vast number of people. And it would seem to me  
25 that we should consider talking about reinforcement of

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1 existing homes rather than the word "mitigation." Our  
2 policyholders understand it. Our agents begin to  
3 understand it. And we would like to promote that.

4 GOVERNOR CRIST: I think that's a great idea,  
5 Bruce. Thank you. Any other questions?

6 CFO SINK: No.

7 GOVERNOR CRIST: Is there a motion?

8 CFO SINK: I move it.

9 COMMISSIONER BRONSON: Second.

10 GOVERNOR CRIST: Moved and seconded. Show the  
11 report approved. Next item is --

12 MR. DOUGLAS: Thank you.

13 GOVERNOR CRIST: Thank you, Mr. Chairman.  
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1 GOVERNOR CRIST: Board of Trustees. Sherman  
2 Wilhelm. Good morning.  
3 MR. WILHELM: Good morning.  
4 GOVERNOR CRIST: From the Department of  
5 Agriculture and Consumer Services.  
6 MR. WILHELM: Yes, sir. Item Number 1, staff is  
7 requesting permission to publish in the Florida  
8 Administrative Weekly a notice of rule development for  
9 Chapter 18-21.  
10 ATTORNEY GENERAL McCOLLUM: So moved.  
11 COMMISSIONER BRONSON: Second.  
12 GOVERNOR CRIST: Moved and seconded. Without  
13 objection, Item 1 is approved.  
14 MR. WILHELM: Thank you very much.  
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15 GOVERNOR CRIST: Thank you.

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1 GOVERNOR CRIST: Board of Trustees, Internal  
2 Improvement Trust Fund. Secretary Sole, good morning,  
3 sir, again.

4 MR. SOLE: Good morning, Governor, Cabinet. We  
5 recommend withdrawal of Item Number 1.

6 GOVERNOR CRIST: Is there a motion to withdraw  
7 Item Number 1?

8 COMMISSIONER BRONSON: So moved.

9 GOVERNOR CRIST: Second?

10 ATTORNEY GENERAL McCOLLUM: Second.

11 GOVERNOR CRIST: Moved and seconded. Without  
12 objection Item Number 1 is withdrawn.

13 MR. SOLE: Thank you. Item Number 2 is a proposed  
14 settlement agreement, the case of William C. Saba and  
15 William Conrad Saba Trust versus the Board of Trustees

16 of the Internal Improvement Trust Fund. This  
17 settlement is a result of a dispute of ownership of  
18 submerged real property adjacent to Longboat Key in  
19 Manatee County.

20 Saba, the plaintiffs, filed suit for a quiet title  
21 of three lots that they allege became partially  
22 submerged due to the Department permitted shore  
23 protection measures.

24 And on the attached picture -- I'm going to adjust  
25 it here. Let me see if I can do this correctly. I

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1 didn't do it correctly. There I did. The subject  
2 property is this area here, and the erosion or the loss  
3 of land is considered to be this region here. While  
4 the Board of Trustees prevailed on a motion for summary  
5 judgment, the Sabas did appeal that motion or that  
6 ruling, and the case is still in litigation as we  
7 speak.

8 Staff believes the proposed settlement agreement  
9 is in the public interest and would recommend it even  
10 if the parties weren't in litigation today. The terms  
11 of the settlement agreement include the following. The  
12 Board of Trustees would deliver a quitclaim deed to the  
13 remaining .2 acres adjacent to the upland portion.

14 And I'm not sure you can see it. It is the  
15 triangular shape area that's blue in color on the  
16 photo. Upon approval to fill that .2-acre parcel, Saba  
17 will deliver a special warranty deed to the Board of

18 Trustees for the western portion .14 acre of the  
19 disputed parcel, and that's the red portion of the  
20 property.

21 A deed restriction would be placed on the parcel  
22 that would be provided to Saba with the limits to  
23 construction of no greater than a single family  
24 dwelling and a single family dock.

25 Saba will purchase and deliver, in addition to

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1 this, a warranty deed and title insurance policy to the  
2 Board of Trustees for a three-acre parcel of uplands  
3 located near Perico Bayou within the boundaries of the  
4 Sarasota Bay Estuarine System. This is an Outstanding  
5 Florida Water.

6 There's one speaker on this item that would like  
7 to speak, Mr. Bill Hyde.

8 GOVERNOR CRIST: Mr. Hyde, good morning.

9 MR. HYDE: Good morning, Governor and Cabinet. My  
10 name is William Hyde. I'm with the Tallahassee office  
11 of Fowler, White, Boggs & Banker. And I'm here today  
12 on behalf of Zachary and Ada Mae Abuza. The Abuzas are  
13 a retired couple who are owners of the townhouse that  
14 is immediately to the east of the subject disputed  
15 property.

16 The Abuzas would love to have been here today, but  
17 Mr. Abuza had serious leg surgery to save one of his  
18 legs last Thursday and consequently was unable to

19 attend.

20 Before I get into my arguments, I would like to  
21 note that there are a few pictures that I think really  
22 need to be taken into consideration. These have been  
23 previously provided to your aides, but I'd like to take  
24 you through them very quickly. They're a little bit  
25 different.

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1 CFO SINK: Could you also point out the residence  
2 of your clients, please.

3 MR. HYDE: Yes, I'd be glad to do so. It is right  
4 there. So it is --

5 CFO SINK: Is that a -- that must be a condo  
6 building? Is that what we're looking at?

7 MR. HYDE: It's a small townhouse structure.

8 CFO SINK: Small townhouse community, okay.

9 MR. HYDE: There's five or seven units in it.

10 CFO SINK: All right. Thank you.

11 GOVERNOR CRIST: How many stories is it?

12 MR. HYDE: Two stories, I believe. And I would  
13 note, since it hasn't been pointed out to you already,  
14 that the area immediately offshore of this property is  
15 a very dense seagrass bed. So if you're talking about  
16 putting a single family boat dock out there, I'm  
17 wondering where it's going to go.

18 I guess you might have to extend it all the way  
19 across the seagrass bed to what looks to be slightly  
20 deeper water there. I can tell you from my own

21 personal experience -- my parents have a townhouse just  
22 around the corner of the beach from this property --  
23 that this area has been gradually filling in for a  
24 number of years, colloquially known as Beer Can Island.

25 And I would suggest to you that there has never

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1 been established that this, whatever erosion occurred  
2 here -- and I think it's a debatable proposition -- was  
3 artificially induced erosion or avulsion, which would  
4 be sudden erosion.

5 My clients are avid bird watchers and are very  
6 concerned about this particular piece of property being  
7 lost to the environment. It has significant habitat  
8 qualities, as I'm sure these photographs will  
9 demonstrate to you.

10 This is a photograph of the area that is proposed  
11 for swap and which would, I think, evidently be filled  
12 at some point if the applicants are able to obtain an  
13 environmental resource permit, which is a problematic  
14 assumption in its own right.

15 As you can see here, it's kind of hard, but you  
16 have seen these pictures before, I hope. Here in one  
17 photograph is a roseate spoonbill, a snowy egret and a  
18 little blue heron. I think many wildlife photographers  
19 would be absolutely delighted to get these three birds  
20 in one photograph in a natural setting. As you can see  
21 there's --



22 GOVERNOR CRIST: Then maybe you'll give it to  
23 them.

24 MR. HYDE: And that's another photograph, again  
25 showing the emergent seagrass vegetation and wetland

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1 vegetation, with a greater common egret in the  
2 foreground. Again, all of these birds that I've  
3 mentioned so far are species of special concern.

4 Another photograph, again, this is a particularly  
5 good one, in my opinion. Maybe you could blow it up  
6 just a little bit. It shows emergent seagrasses in  
7 this shallow area, where white ibis and snowy egrets  
8 are feeding. This is an active feeding habitat area.  
9 White ibis and snowy egrets are both species of special  
10 concern.

11 A similar photograph here, again, you can see the  
12 emergent vegetation, the shallow nature of the area,  
13 making it ideal feeding habitat for not only white ibis  
14 that you see in white here, but also -- it's kind of  
15 hard to see -- an osprey that is feeding in the area.

16 A final picture about, I think, the birds, or  
17 second one, a white ibis again feeding on an oyster  
18 bed. That would be -- is right at the edge of what  
19 would be filled. So we're going to lose that oyster  
20 bed as feeding habitat, too.

21 A final picture of birds, again showing emergent  
22 vegetation, mangroves in the background, a  
23 yellow-crowned night heron. All of the birds that I've

24 mentioned so far are species of special concern and  
25 deserve special protection under Florida law.

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1 A final photograph is of a wood stork utilizing  
2 this area. As you all know, wood stork is an  
3 endangered species. I think we should be very careful  
4 about eliminating feeding habitat for an endangered  
5 species.

6 This is my favorite photograph of the entire lot.  
7 It is dated April 26, 2002, shows two manatees which  
8 frequent the area in the act of mating. So it's  
9 obviously a romantic habitat as well.

10 Now, what we're dealing with here are three small  
11 lots that are deemed by the Town of Longboat Key to be  
12 unbuildable, quote, lot remnants, end quote. What the  
13 Sabas want to do is acquire this additional property,  
14 to backfill it and create one buildable lot.

15 Now, they have said that the shoreline in this  
16 area is artificially eroded, but they've never proved  
17 that nor was that established as a matter of fact and  
18 law in the circuit court proceedings below.

19 I would note that the shoreline -- when I refer to  
20 the shoreline, I mean the mean high water line -- in  
21 this location has been in its approximate configuration  
22 since about at least 1959, as evidenced by a survey  
23 which I have provided to everyone. It was done by a  
24 Mr. Moseby. And it shows that upland and a submerged

25 division to be roughly the same then, almost 50 years

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1 ago, as it is today.

2 I think that would suggest to you one thing, that  
3 this claim is a very stale claim about erosion  
4 occurring or whether it's artificial in nature. I  
5 think that it's also worth noting that the Sabas  
6 acquired at least two of these three lots in the year  
7 2000. So if there was erosion that occurred, whether  
8 artificially induced or not, it obviously occurred well  
9 prior to the date of their acquisition.

10 I would emphasize, as Secretary Sole just noted,  
11 that the State prevailed in the trial court on summary  
12 proceedings, where the Court ruled as a matter of law  
13 that the plaintiffs, the Sabas, were not entitled to  
14 recover. So I wonder why at this stage there is such  
15 an urgency on the Department's part to settle the  
16 appeal. It's, frankly, a mystery to me and my clients.

17 I want to just ask you the question. What are you  
18 asked to give to the Sabas through this sale? And I  
19 think it is a sale because you're effectively swapping  
20 property and you're getting consideration in value.

21 You're being asked to give up .2 acres of  
22 submerged lands. That doesn't sound like much to most  
23 people, but it is important within this particular  
24 environmental context. It's densely vegetated with  
25 mangroves, seagrasses and other wetland vegetation.

1           There is submerged -- I forget the exact name, but  
2           aquatic community within the soils, the benthic soils,  
3           that underlie this area. It's very shallow. It's  
4           superb feeding habitat for the birds that I noted,  
5           again, all of which are species of special concern or,  
6           in the case of the wood stork, an endangered species,  
7           and it is also utilized by manatees.

8           What are you getting in return? Three acres of  
9           submerged lands. Again, the comparison at first blush  
10          sounds pretty good. But I would suggest that it's not  
11          that great of a comparison. That three acres is almost  
12          entirely jurisdictional wetlands, high quality,  
13          adjacent to an Outstanding Florida Water, for which any  
14          dredge and fill permit application, otherwise known as  
15          an environmental resource permit application, would  
16          require a demonstration that the filling would be  
17          clearly in the public interest.

18          I would submit to you and I think the Department  
19          would probably agree with me that that area is  
20          essentially and effectively unpermittable and  
21          undevelopable. In other words, it's already more than  
22          adequately protected by Florida law, and you're not  
23          really getting much in the way of an environmental  
24          value or benefit that you don't already have.

25          Since we are dealing with the sale of the State

1 lands here, I think you need to consider the  
2 consideration you're getting; three acres of submerged  
3 land, which has been appraised by Manatee County as  
4 being worth less than \$6,000.

5 Now, I suspect that the applicants in this case,  
6 the Sabas, have paid a bit more than that. But even if  
7 it's five or ten times more than that, it's a paltry  
8 sum in comparison to what they're getting. They are  
9 getting a buildable bayfront lot on the northern end of  
10 Longboat Key on Longboat Pass.

11 Longboat Key, as many of you know, is one of the  
12 most upscale communities in the state of Florida. I  
13 would suggest to you that a conservative valuation for  
14 that bayfront lot would be at least a million dollars,  
15 if not one and a half million or more dollars.

16 So whatever you're getting in terms of value, if  
17 you look at it in terms of financial consideration,  
18 pales in comparison to what the State -- what the Sabas  
19 are getting, an extremely valuable bayfront property.

20 Your Rule 18-21.09, Subsection 5, is what governs  
21 this situation. And it does require, at the beginning,  
22 artificial erosion or avulsion in order for that to  
23 take place, for this kind of a land swap or quitclaim  
24 to take place. I would submit to you again that it has  
25 not been demonstrated as a matter of fact and law that

1 artificial erosion has taken place.

2 I know the Sabas have claimed that. They've never  
3 demonstrated that in a court of law. It was decided on  
4 other bases. And as a matter of fact, it's not  
5 established and I don't think you should accept that  
6 fact as an established fact for purposes of your  
7 evaluation.

8 The sale, according to the rule, must also be in  
9 the public interest. And I would suggest to you that  
10 for the reasons I've just given, it's not in the public  
11 interest.

12 And, finally, I would note -- and it just came to  
13 me as I was watching here -- there will be an impact of  
14 the inevitable dock on the adjacent remaining seagrass  
15 beds. It's got to cross them to get to deep water, and  
16 the shading will have an effect on those seagrass beds,  
17 which are clearly and will remain in the title of the  
18 State of Florida. And it, I presume, would get out to  
19 some deeper navigable water. And if it does that,  
20 there will be the impacts of boats in that shallow  
21 area, again, where there are substantial seagrass beds.

22 For all these reasons, I don't think this case or  
23 this settlement is in the public interest. I don't  
24 think the Department should stampede to a settlement of  
25 a case in which they have such a strong position. And

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1 on behalf of my clients, I would urge you to reject it.  
2 And I thank you very much. If you have any questions,

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I'm here to answer them.

GOVERNOR CRIST: Thank you. Any questions? Thank you. Mr. Secretary, would you like to respond?

MR. SOLE: Yes, sir. There's a couple of things, I think. Can I keep one of those pictures, please? Thank you. Governor and Cabinet, I think it's pertinent to point out that the case is not resolved. We really are still in a property dispute as to whether or not an avulsion, slash, an erosional condition has occurred on the property.

And there is not an urgency to address settlement of this issue. We have been negotiating, as we do with all petitioners, to see if there's an amicable solution. When it comes to whether or not there is erosion, there are two things that I think are worthwhile to point out.

If you look at the picture provided on the screen now, you can see the root mass associated with the tree in the background, and you can see a fairly significant exposed provision of root mass. And I'll point to it, in this area. It's unfortunately a poor picture. But as you look, there's a significant amount of exposed roots.

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I'm going to change to go back to the overview of the -- yeah, could you zoom in? A little bit out. Perfect. The other thing that's pertinent is we do have hardened structures, shoreline armoring here. And

5 you can see a fairly significant harsh return wall in  
6 this area, as well as armoring that goes along this  
7 area of shoreline. So it is, I'll say, not unusual to  
8 see erosional stresses in those conditions. So I think  
9 it's pertinent to point out those two things.

10 Another note that I think is also worthy of  
11 pointing out is Mr. Hyde has addressed the concern  
12 about the single family dock. I need to be clear. We  
13 are not permitting or authorizing a single family dock  
14 in this case. We are merely restricting the use of the  
15 property to no more than a single family dock in a deed  
16 restriction.

17 So it's a condition in which, if a request for a  
18 single family dock comes back to the Department or the  
19 Board of Trustees, it will require subsequent approval.  
20 Any questions on this?

21 CFO SINK: Governor.

22 GOVERNOR CRIST: Yes.

23 CFO SINK: It says that they're going to be  
24 permitted to build one minimum size residence. You  
25 know, Sarasota minimum size residence might not be the

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1 same standards as other places. What does this mean?

2 MR. SOLE: Beyond a single family dwelling that  
3 will fit the property, I don't think there is a design  
4 yet that's been provided. I think the minimum size  
5 residence relates to the fact that there's minimum



6 property available for building, even after the  
7 quitclaim and subsequent filling. So I think the deed  
8 restriction is specific to a single family dwelling.

9 CFO SINK: Okay. Thank you.

10 ATTORNEY GENERAL McCOLLUM: If I might ask a  
11 question, Governor.

12 GOVERNOR CRIST: General, please.

13 ATTORNEY GENERAL McCOLLUM: What about the point  
14 as far as the value of the property is concerned that  
15 was just made? If in fact this property is that  
16 valuable, are we getting a fair return in terms of all  
17 of this?

18 MR. SOLE: General McCollum, I understand the  
19 question. I think it's, again, relevant to note that  
20 we're in a dispute as to the existing property alone.  
21 And in this case the Sabas are conveying to the Board  
22 of Trustees .14 acres of property, which is the red  
23 triangle, which is part of the dispute. And the Board  
24 of Trustees is quitclaiming .2 acres of property. So  
25 there's close to an equitable swap in this issue alone,

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1 by just looking at the subject disputed property.

2 In addition, we are getting the three acres of a  
3 submerged, partially upland, partially submerged lands  
4 in the Perico Bay area. And I think that the bottom  
5 line, the Department does consider that to be an  
6 equitable solution in this case.

7 CFO SINK: Governor.

8 GOVERNOR CRIST: CFO Sink.

9 CFO SINK: Mike, how did it come about that this  
10 particular Perico Bay parcel got in the mix? Is it  
11 something that you had identified that --

12 MR. SOLE: Yes, ma'am. The Department identified  
13 this as a possible area that we could get value in  
14 trade for as part of this settlement.

15 CFO SINK: Okay. Thank you.

16 GOVERNOR CRIST: Commissioner.

17 COMMISSIONER BRONSON: Governor, yes.

18 GOVERNOR CRIST: Get in this thing.

19 COMMISSIONER BRONSON: The original picture -- and  
20 I'm having a little problem here trying to figure out,  
21 on one I see this little island sitting off the side  
22 here, and I'm trying to figure out how that water flows  
23 in and out during tide and whether or not there was  
24 some erosion of water coming around that.

25 It appears the island was much bigger at one time,

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1 and now you're left with a strip of trees. I would  
2 assume mangos. Not mangos.

3 GOVERNOR CRIST: Mangrove?

4 COMMISSIONER BRONSON: Mangroves. I've got fruit  
5 on the brain instead of --

6 GOVERNOR CRIST: The Commissioner is hungry.

7 COMMISSIONER BRONSON: But I was trying to get a  
8 picture of what the original title of that property

9 looked like as far as a surveyor's description of that  
10 property. Was the red area, the one you have in red  
11 now, was it on the original property description as  
12 being non-submerged land at one time?

13 MR. SOLE: Give me a second, Commissioner.

14 COMMISSIONER BRONSON: Well, and I'll tell you  
15 why, Governor, just so you'll know why I'm bringing  
16 this up -- and I do -- as you know, I'm a historian of  
17 sorts myself. And I've gone to lakes where I couldn't  
18 figure out why I was seeing things in dry times that  
19 basically should not have been there, except only to  
20 find out that the lake may have been three or four  
21 hundred yards further out at one time, and over years  
22 all of that action of the water and the storms and so  
23 forth have eroded areas.

24 And I do know, I remember -- and I believe you  
25 were in the Senate at the time that we did this. We

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1 voted on some armoring just so we didn't have people  
2 losing huge amounts of property and washing out a lot  
3 of detrital material back out into the waterway. So we  
4 did approve that as a matter of law.

5 And I would assume, my question about how much  
6 action, wave action and water action do you get on  
7 rising and falling tide, as to whether that part  
8 flushed away that they say was originally there but now  
9 is not.

10 Now, the gentleman before said that in the latest  
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11 pictures, at the time of this property being bought, it  
12 wasn't there. So it had to -- if it was there, it was  
13 there some time ago. And it would have to show up  
14 somewhere on a description, a legal description by a  
15 surveyor as to how many acres and where that property  
16 was, if it really was above water at one time. And  
17 that's what I'm trying to figure out.

18 If it was above water and it was lost, I tend to  
19 want to lean toward going ahead with this. If it's  
20 never been above water, which means it was submerged  
21 land, that makes a big difference.

22 MR. SOLE: Commissioner, what I've put on the  
23 screen for you is a mean high water line survey plat  
24 locating the properties. These are the three  
25 properties that are subject to this item. You can see

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1 the seawall that's superimposed on the adjacent  
2 parcel's location, as well as the existing mean high  
3 water line. I'm trying to get the date on this.

4 UNIDENTIFIED SPEAKER: 1927.

5 MR. SOLE: Say again.

6 UNIDENTIFIED SPEAKER: 1927.

7 MR. SOLE: So this is -- even though the -- the  
8 1927 is the original plat. The four -- excuse me.  
9 This condition is located, is based upon a 1985, I  
10 think it's April 3rd, 1985 survey. And you can see  
11 that -- and I'm going to change figures.

12           You can see that the condition today, here is the  
13           drawing of the proposed condition. Here is the seawall  
14           on the adjacent property, the existing mean high water  
15           line and the connection between the two armoring  
16           structures being proposed by the petitioners. Does  
17           that help, Commissioner?

18           COMMISSIONER BRONSON: I think so.

19           GOVERNOR CRIST: Any other questions?

20           MR. HYDE: May I respond briefly at some point?

21           GOVERNOR CRIST: Briefly. General, did you have a  
22           question? Yes, sir.

23           MR. HYDE: I'd like to point out a few things  
24           about this particular piece of property, this area  
25           here, with which I'm very familiar. I've been going

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1           down to Longboat Key since I was a child, literally,  
2           and I'm very familiar, from walking this area all my  
3           life, and I just went there a couple of weeks ago.

4           This area has been gradually filling in over time  
5           as Beer Can Island wraps around. This area has been  
6           getting shallower. Seagrass beds are expanding. This  
7           area where you see the seagrasses and the sandbar,  
8           which I think it is here, plus this area out here,  
9           didn't exist there 20 years ago.

10           This area is gradually filling in. This is a  
11           bayou back to the west. There is no opening to the  
12           Gulf of Mexico. So whatever tidal flow comes in from  
13           this area and goes back out, there's not a lot of

14 scouring that occurs. It's a very small tidal shift  
15 that occurs in this area. And I would suggest to you,  
16 if anything, this area is getting gradually shallower  
17 over time, that there is not erosion occurring.

18 And I would emphasize to you again something I  
19 mentioned earlier. This is a survey from 1959 which  
20 shows the same area. Again, this is the north/south  
21 axis here. The property begins right in this area  
22 here. And as you can see, this is the mean high water  
23 line in 1959, and it curves right back in here, and  
24 it's almost completely congruous with what Secretary  
25 Sole showed you with the 1985 survey.

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1 So this condition has been here for many, many  
2 years, more than half a century. And this condition,  
3 by the way, predated any of the construction of the  
4 seawalls, so I don't think you can blame the seawalls  
5 on this particular set of circumstances where the mean  
6 high water line has already largely intruded into these  
7 remnants.

8 GOVERNOR CRIST: General.

9 ATTORNEY GENERAL McCOLLUM: I do have a question.

10 GOVERNOR CRIST: Sure.

11 ATTORNEY GENERAL McCOLLUM: First of all, the plat  
12 that you showed us a minute ago from 1927 would  
13 indicate that there was a lot that did go all the way  
14 out beyond where the mean high water mark is here now.

15 But there's no evidence, from just looking at that,  
16 other than the fact that they chose to plat it, that  
17 that was high and dry at that point in time, in 1927,  
18 that I could determine from looking at it. Is there?

19 MR. SOLE: General, I apologize. I did not leave  
20 the plat up sufficiently to give you and point out that  
21 this was actually a mean high water line by record plat  
22 survey.

23 ATTORNEY GENERAL McCOLLUM: In 1927, that outside  
24 line was --

25 MR. SOLE: Yes, sir. This is identified on this

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1 as the mean high water line.

2 ATTORNEY GENERAL McCOLLUM: In other words, back  
3 then, the area of dispute would have been in -- on high  
4 dry ground.

5 MR. SOLE: Correct.

6 COMMISSIONER BRONSON: If I could, Governor, then  
7 to follow up with the General's question, my original  
8 question to you was, what was the original plat of land  
9 that was sold and subsequently, down through the years,  
10 was resold with the same identifying marker for that  
11 property, which would have included the land that we're  
12 talking about? It would have been high dry land  
13 originally and was sold as part of the property title  
14 as if it was still above water. Isn't that correct?

15 MR. SOLE: Well, let me -- before I answer  
16 incorrectly, Commissioner, let me ask Mr. Richard

17 Brightman, who represents the Sabas, to better answer  
18 that question.

19 MR. BRIGHTMAN: Governor, members of the Board of  
20 Trustees, Richard Brightman from Hopping, Green & Sams.  
21 I represent the Sabas. The answer to the question is  
22 the deeds refer to the plat that is shown there. Lot  
23 number such and such of plat such and such is the legal  
24 description in the deed.

25 So you're correct. The plat showed the mean high

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1 water line in 1927, and through the chain of title,  
2 after all these years, the deeds, the legal  
3 descriptions still refer to that plat. Obviously the  
4 shoreline has changed over the years.

5 ATTORNEY GENERAL McCOLLUM: One follow-up  
6 question.

7 GOVERNOR CRIST: General, please.

8 ATTORNEY GENERAL McCOLLUM: If we go into  
9 litigation further, in other words, let's assume that  
10 we reject this today.

11 MR. SOLE: Yes, sir.

12 ATTORNEY GENERAL McCOLLUM: Where are we in the  
13 litigation now? What happens next? What's the time  
14 frame? What's the cost to the State to pursue this?

15 MR. SOLE: General, if this is rejected, on March  
16 16th we'll be filing our briefs on the actual appeal,  
17 which is on this Friday. So litigation is very active



18 in this case.

19 ATTORNEY GENERAL McCOLLUM: So we have an appeal  
20 going on right now. That's the status we're in at the  
21 present time.

22 MR. SOLE: Yes, sir.

23 ATTORNEY GENERAL McCOLLUM: And who won in the  
24 lower court?

25 MR. SOLE: The Board of Trustees won in the lower

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1 court.

2 ATTORNEY GENERAL McCOLLUM: So we won in the lower  
3 court. And if we prevail on the appeal, then --

4 MR. SOLE: The issue is resolved.

5 ATTORNEY GENERAL McCOLLUM: The issue is resolved  
6 in favor of the State, meaning that they don't get --  
7 the Sabas don't get their way on this.

8 MR. SOLE: That's correct. Governor --

9 GOVERNOR CRIST: Do you recommend to us, though,  
10 that we enter into this settlement? And if so, what's  
11 the most compelling reason?

12 MR. SOLE: The most compelling reason is a  
13 condition like this throughout the state, our rules  
14 actually provide for what I'll call a  
15 closing-of-the-gap provision in which -- and if you  
16 look at two armoring structures --

17 GOVERNOR CRIST: Two what?

18 MR. SOLE: If you look at the two armoring  
19 structures --

20 GOVERNOR CRIST: What does that mean?

21 MR. SOLE: The bulkheads, the seawall.

22 GOVERNOR CRIST: Mike, you're speaking in  
23 governmentese. Seawalls. Thank you. Armoring  
24 structures.

25 MR. SOLE: If you look at the two seawalls, the

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1 provisions of the Board of Trustees rules do actually  
2 provide for the potential to connect the terminal ends  
3 of those seawalls, to close the gap between those  
4 seawalls, because it is a common coastal engineering  
5 aspect that in between those structures you're going to  
6 exacerbate or increase erosional stresses. It's just  
7 wave and water action that's going to cause that.

8 GOVERNOR CRIST: And the settlement would provide  
9 for that armored structure.

10 MR. SOLE: The settlement provides for -- the  
11 reason why the Department, on behalf of the Board of  
12 Trustees, did not originally approve that request is  
13 there is a small gap -- I think it's about a foot -- of  
14 armoring on this area that would actually preclude us  
15 implementing the rule originally as written.

16 It is something that I would say is probably a  
17 common sense question, whether we applied appropriate  
18 common sense in the original decision, because it  
19 really is, I think, just one foot that disconnects the  
20 adjacent armoring.

21           Otherwise, normally, this project would have  
22           probably, under existing rule, been allowed to -- and  
23           I'll use the term -- close the gap of the two armoring  
24           structures in a very straight-line fashion, which is  
25           exactly what is being proposed in this settlement

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1           agreement.

2           COMMISSIONER BRONSON: Governor, one more  
3           question, please.

4           GOVERNOR CRIST: Sure, of course.

5           COMMISSIONER BRONSON: For the last -- maybe this  
6           is the distinct question I need to ask you and I should  
7           have asked you from the beginning. The piece of  
8           property in question which is under the red triangular  
9           area, that land that's under water right now, is that  
10          land submerged land that belongs to the State of  
11          Florida or is that land that under the plat says  
12          belongs to the landholder?

13          MR. SOLE: I understand the question,  
14          Commissioner. The land both in the blue triangle and  
15          the red triangle under the plat identify it to belong  
16          to the petitioners, the Saba and Saba Trust.

17          COMMISSIONER BRONSON: Governor, I move that we  
18          accept DEP's proposal.

19          CFO SINK: I second.

20          GOVERNOR CRIST: Is there any objection? Show it  
21          approved. Thank you. That was very interesting.

22          MR. SOLE: The next item, Item Number 3, requests  
                Page 51

23 modifications of deed restrictions for two Board of  
24 Trustees deeds to Palm Beach County, to further allow  
25 the property be used for municipal well sites and

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1 utility lines.

2 This property was conveyed by the Board of  
3 Trustees in 1939 to Palm Beach County for use as a  
4 park. Unfortunately, as part of that, it did not allow  
5 for the provisions of utility services, or in this case  
6 the City of Lake Worth has requested to install  
7 municipal supply wells.

8 And the good news is these wells happen to be to  
9 the Floridan Aquifer, which is an alternative water  
10 supply. So it's very consistent with the State's water  
11 resources plan.

12 GOVERNOR CRIST: Is there a motion on 3?

13 ATTORNEY GENERAL McCOLLUM: So moved.

14 COMMISSIONER BRONSON: Second.

15 GOVERNOR CRIST: Moved and seconded. Show it  
16 approved without objection. Item 4.

17 MR. SOLE: Thank you. Item 4, we're requesting  
18 approval of the articles of incorporation and bylaws  
19 for Babcock Ranch, Incorporated. This is a nonprofit  
20 organization to manage the Babcock Ranch in Charlotte  
21 and Lee Counties.

22 The nine-member board held its initial meeting on  
23 February 23rd, 2007, at the Edison College and elected

24 a chairperson, Mr. Sandy Safley, a vice-chair,  
25 Dr. Hilary Swain, and a treasurer, Mr. Manley Fuller.

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1 The board then voted on and adopted the articles of  
2 incorporation and bylaws as provided in Florida  
3 Statute.

4 COMMISSIONER BRONSON: Motion on Item 4.

5 GOVERNOR CRIST: Is there a second?

6 CFO SINK: Second.

7 GOVERNOR CRIST: Moved and seconded. Show it  
8 approved. Mr. Secretary, thank you.

9 MR. SOLE: Governor, Cabinet, thank you.

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1           GOVERNOR CRIST: State Board of Administration.  
2           Coleman.

3           MR. STIPANOVICH: Good morning, Governor and  
4           members.

5           GOVERNOR CRIST: Morning, Coleman.

6           MR. STIPANOVICH: Item Number 1 is request for  
7           approval of the minutes of the February 13, 2007  
8           meeting.

9           CFO SINK: Move approval.

10          GOVERNOR CRIST: Is there a second? Is there a  
11          second on the minutes?

12          ATTORNEY GENERAL McCOLLUM: Second.

13          GOVERNOR CRIST: Moved and seconded. Show the  
14          minutes approved.

15          MR. STIPANOVICH: Item Number 2 is request for  
16          approval of fiscal sufficiency of an amount not  
17          exceeding 98 million State of Florida Department of  
18          Management Services Florida Facilities Pool Revenue  
19          Bonds.

20          ATTORNEY GENERAL McCOLLUM: So move.

21          CFO SINK: Second.

22          GOVERNOR CRIST: Moved and seconded. Show Item 2  
23          approved without objection. Item 3.

24          MR. STIPANOVICH: Item 3 is the request for  
25          approval of fiscal sufficiency of an amount not

1 exceeding 49 million State of Florida Department of  
2 Transportation Alligator Alley Revenue Refunding Bonds.

3 ATTORNEY GENERAL McCOLLUM: Move it.

4 CFO SINK: Second.

5 GOVERNOR CRIST: Moved and seconded. Item 3, show  
6 it approved without objection.

7 Before we conclude the meeting, I understand that  
8 a recent Standard & Poors report has ranked Florida's  
9 pension fund as number one in America?  
10 Congratulations.

11 MR. STIPANOVICH: That's correct, Governor. They  
12 did a survey of states in the nation. And based on  
13 funded ratio, which is really what we're all about --  
14 and that is paying our future liabilities and having  
15 the money to do so -- we were identified as being  
16 number one in the country.

17 And it's quite a -- considering that the mean of  
18 states' funding status is somewhere around about 83  
19 percent and we're at 107 percent, I think you've got a  
20 lot to be proud of.

21 GOVERNOR CRIST: Well, we're proud of your work  
22 and your team. Thank you very much, Coleman.

23 MR. STIPANOVICH: Governor, thank you very much.  
24 On behalf of the staff, first of all, thank you for the  
25 compliment and the recognition. But most of the credit

1 goes to you, the trustees of the State Board of  
2 Administration.

3 Without the leadership from you three trustees,  
4 this wouldn't be possible. You all set policy, and  
5 it's policy that is our guiding light as to how we  
6 conduct ourselves and make our investment decisions.  
7 And you-all are famous for always acting solely in the  
8 best interest of the 970,000 members of the Florida  
9 Retirement System.

10 And we don't get into political agendas and social  
11 agendas and these kind of things that detract from good  
12 investment performance. So it's your leadership, and  
13 we want to thank you for your leadership. And we're  
14 proud to serve you.

15 GOVERNOR CRIST: Thank you, sir. And we are  
16 adjourned.

17 (Whereupon, the proceedings were concluded at  
18 10:40 a.m.)

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STATE OF FLORIDA )  
COUNTY OF LEON )

I, Jo Langston, Registered Professional Reporter,  
do hereby certify that the foregoing pages 1 through 59,  
both inclusive, comprise a true and correct transcript of  
the proceeding; that said proceeding was taken by me  
stenographically and transcribed by me as it now appears;  
that I am not a relative or employee or attorney or counsel  
of the parties, or a relative or employee of such attorney  
or counsel, nor am I interested in this proceeding or its  
outcome.

IN WITNESS WHEREOF, I have hereunto set my hand  
this 30th day of March, 2007.

\_\_\_\_\_  
JO LANGSTON  
Registered Professional Reporter

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