

**AGENDA**  
**BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND**  
**AUGUST 11, 2009**

Attachments to the items below can be viewed at the following link:

[http://www.dep.state.fl.us/secretary/cab/public\\_notices.htm](http://www.dep.state.fl.us/secretary/cab/public_notices.htm)

\*\*\*\*\*

**Item 1 Minutes**

Submittal of the Minutes from the June 9, 2009 Cabinet Meeting.

(See Attachment 1, Pages 1-13)

**RECOMMEND APPROVAL**

\*\*\*\*\*

**Item 2 North Fork St. Lucie River Aquatic Preserve Management Plan**

**REQUEST:** Consideration of the North Fork St. Lucie River Aquatic Preserve Management Plan.

**COUNTY:** St. Lucie and Martin

**APPLICANT:** Department of Environmental Protection's (DEP) Office of Coastal and Aquatic Managed Areas (CAMA)

**LOCATION:** The North Fork St. Lucie River Aquatic Preserve (Preserve) is located in southeast Florida, approximately 40 miles northwest of West Palm Beach. Most of the Preserve is within St. Lucie County and continues south into Martin County.

**STAFF REMARKS:**

**Background**

The Preserve was designated by the Florida Legislature on March 30, 1972. The Preserve Management Plan (Management Plan) was approved by the Board of Trustees on May 22, 1984.

Under Chapter 258, Part II, F.S., aquatic preserves are set aside to be maintained in essentially natural condition for the benefit of future generations. The Preserve boundary encompasses 2,972 acres of state-owned sovereign submerged lands occurring below the mean high water line; therefore, no land was purchased for the Preserve through the Florida Forever program or its predecessors.

The St. Lucie River is recognized on the state and federal levels through its connection to the Indian River Lagoon, Lake Okeechobee, nearshore coral reefs and its designation as an aquatic preserve. As the largest tributary of the Indian River Lagoon, one of the most biodiverse estuaries in North America, the St. Lucie River has been integrated into the Indian River Lagoon National Estuary Program. Due to the connection to Lake Okeechobee, the restoration projects in the Preserve and its watershed are the northernmost component of the Comprehensive Everglades Restoration Plan. The mouth of the St. Lucie River is adjacent to St. Lucie Inlet, the northernmost extent of tropical coral reefs on Florida's east coast which are incorporated into Florida's Coral Reef Conservation Program. The Preserve is designated as an Outstanding Florida Water pursuant to section 62-302.700(9)(h), F.A.C.

\*\*\*\*\*

**Item 2, cont.**

The wide salinity range (fresh upper reaches and saline lower reaches) and associated habitats in the North Fork St. Lucie River are unique to the region and serve as a productive nursery and spawning ground for recreationally and commercially important species of fish and wildlife. Several rare fish species (including the opossum pipefish [*Microphis brachyurus lineatus*] and the fat snook [*Centropomus parallelus*])) that rely on a tidal system with wide salinity ranges for one or more phases of their lifecycle are limited to the tributaries of the Indian River Lagoon, such as the St. Lucie River.

**Public Involvement**

This Management Plan is the result of almost two years of work. The following opportunities for public participation were offered:

- three Advisory Committee Meetings on June 27, 2007, August 15, 2007, and November 15, 2007;
- public scoping meeting on July 18, 2007 to receive input on the issues facing the Preserve; and
- formal public meeting on March 20, 2007 to receive public comment on the Management Plan.

All comments received from the Advisory Committee and the public were considered. No significant or consistently supported issues were raised with this Management Plan.

**Management Plan Overview**

The hallmark of Florida's Aquatic Preserve Program is that each site's natural resource management efforts are designed in direct response to unique local and regional issues. In this Management Plan the Preserve characterizes its issues and delineates the unique goals, objectives, and strategies that will set the framework for meeting the challenges presented by these issues. The goals, objectives, and strategies employed to address issues of the Preserve are specific to the ecological and socioeconomic conditions present within and around this site.

The Management Plan identifies the following issues and goals:

- **Water Quality** - to maintain and improve water quality within and entering the Preserve to meet the needs of the natural resources and to increase public awareness about water quality issues within the Preserve.
- **Natural Resource Management** - to document the natural resources and to implement management practices which will maintain or improve viable habitats and populations within the Preserve.
- **Coastal Development** - to protect the Preserve from impacts related to land use changes that disrupt the ecological functions of the natural resources.
- **Public Use and Access** - to maintain a safe environment for fish, wildlife, and user groups.

\*\*\*\*\*

**Item 2, cont.**

**Acquisition and Restoration Council Approval**

The Acquisition and Restoration Council approved the Management Plan at its June 12, 2009 meeting.

**Comprehensive Plan**

A local government comprehensive plan has been adopted, and approved by the Department of Community Affairs, for this area pursuant to section 163.3167, F.S. The Management Plan is consistent with the adopted comprehensive plan according to letters received from St. Lucie and Martin counties.

The Management Plan will be submitted separately.

(See Attachment 2, Page 1)

**RECOMMEND APPROVAL**

\*\*\*\*\*

**Item 3 Mosquito Lagoon Aquatic Preserve Management Plan**

**REQUEST:** Consideration of the Mosquito Lagoon Aquatic Preserve Management Plan.

**COUNTY:** Volusia

**APPLICANT:** Department of Environmental Protection's (DEP) Office of Coastal and Aquatic Managed Areas (CAMA)

**LOCATION:** The Mosquito Lagoon Aquatic Preserve (Preserve) is located in east-central Florida, in southern Volusia County, south of Ponce de Leon Inlet. It is 50 miles northeast of Orlando. The Preserve is part of the Indian River Lagoon system, a long, wide, shallow estuarine lagoon bounded on the west by the Florida mainland, and on the east by a chain of barrier islands.

**STAFF REMARKS:**

**Background**

The Preserve was designated by the Florida Legislature on January 30, 1970. The Preserve Management Plan (Management Plan) was approved by the Board of Trustees on July 9, 1991.

Under Chapter 258, Part II, F.S., aquatic preserves are set aside to be maintained in essentially natural condition for the benefit of future generations. The Preserve boundary encompasses 3,500 acres of state-owned sovereign submerged lands occurring below the mean high water line; therefore, no land was purchased for the Preserve through the Florida Forever program or its predecessors.

\*\*\*\*\*

**Item 3, cont.**

The Preserve is a component of one of the most diverse estuaries in North America, providing habitat for numerous federally-protected species (including the green sea turtle (*Chelonia mydas*) and the Atlantic saltmarsh snake (*Nerodia clarkia taeniata*) while simultaneously supporting multi-million dollar recreational and commercial fisheries. The area also contains several nationally-registered cultural resource sites, including Turtle Mound, which is the largest shell midden on the east coast of Florida.

As a component of the Indian River Lagoon complex, Mosquito Lagoon is designated an Estuary of National Significance by the U.S. Environmental Protection Agency. The Preserve was designated as an Outstanding Florida Water in 1979 pursuant to section 62-302.700 (9)(h), F.A.C. In addition, areas within the Preserve are classified as Class II, Shellfish Harvesting waterbodies, approved for shellfish propagation or harvesting.

**Public Involvement**

This Management Plan is the result of nearly two years of work. The following opportunities for public participation were offered:

- five Advisory Committee Meetings on July 19, 2007, September 20, 2007, December 11, 2007, January 7, 2009, and March 4, 2009;
- public scoping meeting on August 14, 2007 to receive input on the issues facing the Preserve; and
- formal public meeting on June 4, 2008 to receive public comment on the Management Plan.

All comments received from the Advisory Committee and the public were considered. No significant or consistently supported issues were raised with this Management Plan.

**Management Plan Overview**

The hallmark of Florida's Aquatic Preserve Program is that each site's natural resource management efforts are designed in direct response to unique local and regional issues. In this Management Plan the Preserve characterizes its issues and delineates the unique goals, objectives, and strategies that will set the framework for meeting the challenges presented by these issues. The goals, objectives, and strategies employed to address issues of the Preserve are specific to the ecological and socioeconomic conditions present within and around this site.

The Management Plan identifies the following issues and goals:

- **Loss of Natural Community Function and Species Diversity** - to conserve and restore natural community function, productivity and species diversity.
- **Water and Watershed** - to maintain and improve water and sediment quality within and adjacent to the Preserve.
- **Sustainable Public Use** - to encourage user experiences and public recreation opportunities consistent with natural resources conservation.
- **Environmental Incident Assessment and Response** - to assess and respond to environmental incidents.

\*\*\*\*\*

**Item 3, cont.**

**Acquisition and Restoration Council Approval**

The Acquisition and Restoration Council approved the Management Plan at its June 12, 2009 meeting.

**Comprehensive Plan**

A local government comprehensive plan has been adopted, and approved by the Department of Community Affairs, for this area pursuant to section 163.3167, F.S. The Management Plan is consistent with the adopted comprehensive plan according to a letter received from Volusia County.

The Management Plan will be submitted separately.

(See Attachment 3, Page 1)

**RECOMMEND APPROVAL**

\*\*\*\*\*

**Item 4 Terra Ceia Aquatic Preserve Management Plan/Delegation**

**REQUEST:** Consideration of (1) the Terra Ceia Aquatic Preserve Management Plan; and (2) delegation of authority to the Secretary of the Department of Environmental Protection, or designee, to approve aquatic preserve management plans.

**COUNTY:** Manatee

**APPLICANT:** Department of Environmental Protection's (DEP) Office of Coastal and Aquatic Managed Areas (CAMA)

**LOCATION:** The Terra Ceia Aquatic Preserve (Preserve) is located in northwestern Manatee County. The Preserve is just south of Port Manatee at the mouth of Tampa Bay. Situated on either side of the Sunshine Skyway, the Preserve is central to the Bradenton/St. Petersburg/Tampa area.

**STAFF REMARKS:**

**Background**

The Preserve was designated by the Florida Legislature on June 24, 1984. The Preserve Management Plan (Management Plan) was approved by the Board of Trustees on April 21, 1987.

Under Chapter 258, Part II, F.S., aquatic preserves are set aside to be maintained in essentially natural condition for the benefit of future generations. The Preserve boundary encompasses 21,736 acres of state-owned sovereign submerged lands occurring below the mean high water line; therefore, no land was purchased for the Preserve through the Florida Forever program or its predecessors.

\*\*\*\*\*

**Item 4, cont.**

By virtue of its location along the mouth of Tampa Bay, Terra Ceia represents much of the remaining undeveloped shoreline of one of Florida's most densely populated watersheds. With increasing urbanization, it is becoming more important that residents and visitors be able to drive a short distance and experience Florida's coast in its natural state. Such experiences create a public appreciation for the natural functions of ecosystems that help provide clean water, clean air, and abundant seafood.

The Preserve contains considerable seagrass and hardbottom acreage. Because of its subtropical climate the Preserve supports extensive biodiversity. In addition to 4 species of mangroves, 5 species of seagrasses, and over 30 species of algae, approximately 300 species of invertebrates and 70 species of fishes have been identified within the Preserve boundary. The Preserve is designated as an Outstanding Florida Water pursuant to section 62-302.700(9)(h), F.A.C.

**Public Involvement**

This Management Plan is the result of over two years of work. The following opportunities for public participation were offered:

- five Advisory Committee Meetings on October 30, 2006, November 28, 2006, February 5, 2007, March 12, 2007, and April 30, 2007;
- a public scoping meeting on November 13, 2006 to receive input on the issues facing the Preserve; and
- a formal public meeting on April 30, 2007 to receive public comment on the Management Plan.

All comments received from the Advisory Committee and the public were considered. No significant or consistently supported issues were raised with this Management Plan.

**Management Plan Overview**

The hallmark of Florida's Aquatic Preserve Program is that each site's natural resource management efforts are designed in direct response to unique local and regional issues. In this Management Plan the Preserve characterizes its issues and delineates the unique goals, objectives, and strategies that will set the framework for meeting the challenges presented by these issues. The goals, objectives, and strategies employed to address issues of the Preserve are specific to the ecological and socioeconomic conditions present within and around this site.

The Management Plan identifies the following issues and goals:

- **Marine Debris** - to develop a better understanding and reduce the amount of debris in the Preserve.
- **Water Quality** - to improve the understanding of water quality status and trends in the Preserve, further develop long-term, continual, synoptic water quality monitoring at key locations, and reduce the amount of untreated human and animal waste that goes into the Preserve.

\*\*\*\*\*

**Item 4, cont.**

- **Direct Impacts to Preserve Habitats** - to assess the distribution and biotic composition of shallow submerged areas, prevent and restore damage to submerged habitats, and reduce disturbances to wildlife.
- **Shoreline Alteration** - to prevent illegal shoreline impacts.
- **Unintentional and Illegal Fishing** - to reduce ghost fishing by derelict traps and nets, reduce gill netting and other illegal fishing, and assess and address the bycatch of diamondback terrapins by crab traps.
- **Mooring Fields and Liveaboards** - to monitor unauthorized mooring fields and minimize impacts of liveaboard vessels.
- **Public Access Points** - to upgrade boat access and restore paddling access to Bishop Harbor and add paddling access to Lower Terra Ceia River and Upper Frog Creek.
- **Invasive Exotic Species** - to assess possible and existing impacts and minimize habitat for exotics.
- **Aquaculture** - to minimize physical and biotic impacts of aquaculture.
- **Historical and Cultural Resources/Sites** - to identify existing historical and cultural sites and provide protective measures for those sites.
- **Disaster/Contingency Preparation** - to prepare contingencies for oil, fuel, and other spills as well as vessel groundings and prepare for tropical weather events.

**Acquisition and Restoration Council Approval**

The Acquisition and Restoration Council (ARC) approved the Management Plan at its June 12, 2009 meeting.

**Delegation of Authority**

DEP is requesting delegation of authority to the Secretary of DEP, or designee, to approve aquatic preserve management plans. The management plans will continue to be submitted to ARC for approval.

**Comprehensive Plan**

A local government comprehensive plan has been adopted, and approved by the Department of Community Affairs, for this area pursuant to section 163.3167, F.S. The Management Plan is consistent with the adopted comprehensive plan according to letter received from Manatee County.

The Management Plan will be submitted separately.

(See Attachment 4, Page 1)

**RECOMMEND APPROVAL**

\*\*\*\*\*

**Item 5 40 Audusson, LLC/T&S Properties, LLC (Pelican's Perch Marina and Boatyard)  
Lease**

**REQUEST:** Consideration of an application for an after-the-fact five-year sovereignty submerged lands lease containing 139,825 square feet, more or less, for an existing 91-slip commercial docking facility.

**APPLICANTS:** 40 Audusson, LLC, and T&S Properties, LLC  
(known as Pelican's Perch Marina and Boatyard)  
Lease No. 170343361  
Application No. 17-0289756-001-DE

**LOCATION:** 40 Audusson Avenue  
Pensacola, Escambia County  
Section 59, Township 02 South, Range 30 West  
Aquatic Preserve: No  
Waterbody/Classification: Bayou Chico, Class III, not approved for shellfish harvesting  
Outstanding Florida Waters: No  
Designated Manatee County: No  
Manatee Aggregation Area: No  
Manatee Protection Speeding Zone: No

**CONSIDERATION:** \$14,628.29 representing the initial annual lease fee computed at the base rate of \$0.149455 per square foot, discounted 30 percent because a minimum of 90 percent of the slips are open to the public for rent on a first-come, first-served basis. Sales tax and county discretionary sales surtax will be assessed pursuant to sections 212.031 and 212.054, F.S., if applicable. The lease fee may be adjusted based on six percent of the annual income pursuant to section 18-21.011(1)(a)l, F.A.C.

**STAFF REMARKS:**

**Background Synopsis** (chronology included in backup)

A commercial docking facility, at this site, has been in operation since the late 1950s early 1960s. During the 1970s, an area of sovereignty submerged lands, west of the marina, was filled. The Department of Environmental Protection (DEP) issued a Certificate [No. 40814(5700-17)], pursuant to section 18-21.019(3), F.A.C., to clear title to those filled, formerly submerged, sovereignty lands on December 21, 2007. In 1985, the former Department of Natural Resources registered the docking facility, which included a sunken ferry/marginal dock, as a grandfathered structure (GSR No. 170006).

On August 12, 1997, the Florida Marina Patrol and the U.S. Coast Guard responded to a complaint of discharges from this site into Bayou Chico and notified DEP. DEP's August 13, 1997 site inspection revealed: (1) a floating work barge had sunk and was no longer functional; (2) an unauthorized sunken ferry adjacent to the facilities shoreline was being used as a work shed; (3) staging of numerous sunken, non-operational vessels on sovereignty submerged lands



\*\*\*\*\*

**Item 5, cont.**

destined for salvage or recycling; (4) violation of dredge and fill permit due to the use of unauthorized material in the riprap; and (5) hazardous waste violations due to the storing of large amounts of hazardous waste and disposing of hazardous waste into the ground.

The applicants were notified by letter, dated September 11, 1997, of the requirement to bring grandfathered facilities under lease. The applicants submitted an application for a sovereignty submerged lands lease on December 22, 1997. DEP determined the application for lease would not be processed until violations were resolved.

On August 26, 1998, a proprietary consent order was executed. The proprietary consent order required: (1) payment of \$250 for costs and expenses; (2) removal of all material from the shoreline that was not clean riprap; (3) removal of all unauthorized, non-floating structures and/or vessels from sovereignty submerged lands except for the sunken ferry which was authorized as a marginal dock and restricted to water dependent uses; and (4) removal and placement on the uplands of the welding shop from the sunken ferry/marginal dock. On September 9, 1998, a regulatory consent order was executed. The regulatory consent order required payment of \$36,500, with \$34,000 for settlement of hazardous waste matters, \$500 for civil penalties, and \$2,000 for costs and expenses.

On May 22, 2007, a meeting between DEP and the applicants was held to discuss bringing the facility under a sovereignty submerged lands lease. On May 29, 2008, DEP and the applicants entered into a proprietary consent order authorizing the repair of damaged structures as a result of Hurricane Ivan (September 2004) and a temporary use agreement (TUA) for the prior unauthorized use of sovereignty submerged lands. The consent order required payment of \$1,000 for costs and expenses. The TUA required payment of \$104,995.06 for lease fees in arrears. On June 30, 2008, the applicants submitted an application for a sovereignty submerged lands lease as required by the TUA.

The TUA expired on May 29, 2009 and the application for lease was not complete. Lost records due to Hurricane Ivan (2004), the death of the original owner (2005), and pending estate settlement issues have delayed completion of the application beyond the original TUA timeframe of one year. On July 10, 2009, a TUA extension was executed granting temporary exclusive use of the existing structures preempting approximately 140,284 square feet of sovereignty submerged lands through August 29, 2009.

**Project Detail**

The applicants are requesting after-the-fact authorization for an existing 91-slip (85 permanent and 6 transient) docking facility preempting 139,825 square feet of sovereignty submerged lands. The docking facility is used in conjunction with the upland commercial marina facility that includes an office, a boat repair and service facility, and a dry storage yard that provides space primarily for boats needing repair as well as providing dry storage for operational boats. The docking facility and dry storage yard accommodate recreational vessels ranging in lengths from 22 to 47 feet, with drafts up to 5 feet.

\*\*\*\*\*

**Item 5, cont.**

A minimum of 90 percent of all the wet slips will be maintained on an open to the public, first-come, first-served basis, pursuant to section 18-21.003(25), F.A.C. This requirement has been included as a special lease condition.

A ferry, known as the “Tennecco”, is currently moored in the basin (slips 68-71). The “Tennecco” was built in St. Marks in 1940 by Tennessee Gas Transmission. It was originally named the “H. H. Hardin” (vessel # 263244) and was constructed with a concrete hull, unusual for that time period. The applicants have been actively working since 2008 to relocate the ferry to the Apalachicola Maritime Museum. In order to relocate the ferry, it may be necessary to conduct an exempt maintenance dredge in the interior of the boat basin prior to removal as the basin has silted in due to Hurricane Ivan (2004) and Hurricane Dennis (2005). A special lease condition has been included which requires removal of the ferry prior to the end of the five-year lease term.

**Noticing**

The project was noticed pursuant to section 253.115, F.S. Approximately 72 property owners were noticed and one objection was received. The objection concerned the applicants’ prior history of non-compliance and pollution concerns. Since 1997, DEP’s Hazardous Waste Section and Submerged Lands’ Section have been working with the previous owners and the current applicants to resolve all compliance issues including the pollution issues that the objection letter referenced.

**Comprehensive Plan**

A local government comprehensive plan has been adopted for this area pursuant to section 163.3167, F.S. The Department of Community Affairs determined that the plan is in compliance. The proposed action is consistent with the adopted plan according to a letter received from Escambia County.

(See Attachment 5, Pages 1-14)

**RECOMMEND APPROVAL SUBJECT TO THE SPECIAL LEASE CONDITIONS  
AND PAYMENT OF \$14,628.29**

\*\*\*\*\*

**Item 6 City of Fort Pierce Recommended Consolidated Intent/Storm Protection Islands  
Pilot Project Lease/Lease Modification**

**REQUEST:** Consideration of (1) an application for a 5-year sovereignty submerged lands lease encompassing 916,768 square feet, more or less, in order to construct a pilot project storm protection island system for the protection of a 269-slip public marina; (2) authorization for the severance of 7,217 cubic yards of sovereignty material; (3) authorization to fill approximately 14.66 acres of sovereignty submerged lands for the construction of the storm protection island system; and (4) modification of a 25-year sovereignty submerged lands lease to (a) include a

\*\*\*\*\*

**Item 6, cont.**

condition that requires the City to maintain 100 percent of the 98-slip southern exterior docking facility as open to the public, on a first-come, first-serve basis, in perpetuity; and (b) delete a special lease condition concerning a portion of the facility that exists over City-owned submerged lands.

**APPLICANT:** City of Ft. Pierce (City)

Lease Nos. 560344636 (Storm Protection Island System)

560109629 (98-slip City Marina)

Application No. 56-0129156-011

**LOCATION:** 1 Avenue A

Ft. Pierce, St. Lucie County

Section 10, Township 35 South, Range 40 East

Aquatic Preserve: No

Waterbody/Classification: Indian River Lagoon, Class III Waters, not approved for shellfish harvesting.

Outstanding Florida Water: No

Designated Manatee County: Yes, with an approved manatee protection plan.

Manatee Aggregation Area: No

Manatee Protection Speed Zone: Slow speed year round/specified channels excluded.

**CONSIDERATION:** Storm Protection Island Complex: The proposed storm protection island system project qualifies for a waiver of lease fees pursuant to section 18-21.011(1)(b)7, F.A.C., which states that fees shall be waived for government entities that are either not-for-profit or non-profit uses when the revenues are used for operation and maintenance of the structure and the activity is consistent with the public purposes of the applicant organization and is not an adjunct to a commercial endeavor.

Southern Exterior Docking Facility: \$28,515.20 as the lease fee computed at the base rate of \$0.149455 per square foot, discounted 30 percent because a minimum of 90 percent of the slips are open to the public for rent on a first-come, first-served basis and 10 percent because of the Clean Marina discount. The project qualifies for waiver of the severance fee pursuant to section 18-21.011(3)(c)(3), F.A.C. Sales tax and county discretionary sales surtax will be assessed pursuant to sections 212.031 and 212.054, F.S., if applicable. The lease fee may be adjusted based on six percent of the annual income pursuant to section 18-21.011(1)(a)1, F.A.C.

**STAFF REMARKS:** In accordance with rules adopted pursuant to sections 373.427(2) and 253.77(2), F.S., this "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.

\*\*\*\*\*

**Item 6, cont.**

**Project Synopsis**

The City is proposing to construct 14.66 acres (628,589.6 square feet, more or less) of storm protection islands, resulting in the placement of 207,964 cubic yards of sediments and limestone material on sovereignty submerged lands. A chain of 12 storm protection islands and one peninsular structure shall contain various ecological components which will likely be beneficial to the surrounding waterway and contribute to the overall ecological value of the marine ecosystem.

**Background**

In 2004, the City Marina was impacted by Hurricane Jean and Hurricane Frances and the exterior portions of the marina including a portion on sovereignty submerged lands were destroyed. Prior to the City reconstructing the docking facilities that were destroyed the City is proposing to construct and maintain 14.66 acres of storm protection islands on sovereignty submerged lands in order to protect the waterfront marina from future storm events.

The City has represented that the Federal Emergency Management Administration (FEMA) will partially fund the \$20 million City Marina reconstruction and storm protection island construction projects. FEMA has allocated \$4,084,986 and the City \$6,000,000 towards the cost of rebuilding the docking facilities. In addition, FEMA has allocated \$9,630,444 for the total construction cost of the storm protection island system. FEMA has conditioned its proposed contributions to require the docking facilities be reconstructed in the same footprint with additional storm protection measures. The City has explored many alternative storm protection measures, but based on the location and existing physical conditions, it has concluded that the storm protection islands are the most effective measure.

**Project Details**

The proposed lease area will preempt 21.05 acres (916,768 square feet, more or less) in order to create an archipelago of storm protection islands and peninsular structure. The footprint of the storm protection island system will preempt 14.66 acres (628,589 square feet, more or less) and require the placement of 207,964 cubic yards of sediments and limestone material on sovereignty submerged lands.

The entire 269-slip City Marina complex consists of three sections: the interior basin (113 slips, City-owned submerged lands), the southern exterior docking facility (98 slips, sovereignty submerged lands) and the northern exterior docking facility (58 existing slips, City-owned submerged lands).

**Interior Basin**

The interior basin is fully situated on lands that were conveyed by the Board of Trustees to the City in 1965. The interior basin currently accommodates 113 vessels. Construction activities related to this project are not proposed within the interior basin.

\*\*\*\*\*

**Item 6, cont.**

Southern Exterior Docking Facility

On September 23, 1987, the Board of Trustees approved a 25-year lease containing 300,000 square feet for a docking facility to be use in conjunction with an existing municipal marina complex. Under delegation of authority, the lease has subsequently been modified to increase the preempted area to 317,993 square feet for a 98-slip docking facility. The southern exterior docking facility was completely destroyed during the 2004 hurricanes. Reconstruction of the previously existing 98-slip docking facility, in the same footprint, is pending the determination of the currently proposed storm protection island project and permit.

Northern Exterior Docking Facility

The northern exterior docking facility (including 19 slips in Moore's Creek) is fully situated on lands that were conveyed by the Board of Trustees to the City in 1966. Prior to the northern exterior docking facility being destroyed, it contained 51 slips. As part of the currently proposed storm protection island system project, the City is requesting regulatory authorization to reconfigure what previously existed and reconstruct a 58-slip docking facility, which is an increase of 7 slips from what previously existed at this section.

In 1987 when the Board of Trustees approved the original 98-slip City Marina lease, a lease condition was included that prohibiting mooring of motorized vessels in Moore's creek. This section of the City Marina located within Moore's Creek is situated over former sovereignty submerged lands that were conveyed to the City through a Board of Trustees Dedication in 1965. The City has requested removal of this lease condition from its sovereignty submerged lands lease.

In a letter dated May 3, 2007, the Florida Fish and Wildlife Conservation Commission (FWC) provided comments indicating that it do not object to removing this condition as the entire reach of Moore's Creek is regulated by a seasonal no-motor zone to protect manatees between November 15 and March 31. Therefore, the City would still be prohibited from mooring motorboats between November 15 and March 31 pursuant to section 68C-22.008(2)(b), F.A.C. The Department of Environmental Protections (DEP) staff concluded that implementing a lease condition related to a non-sovereign portion of the marina is unnecessary. Subsequently, staff is recommending removal of the lease condition prohibiting mooring of motorized vessels in Moore's Creek and an updated version of this condition reflecting the seasonal no-motor zone will be inserted into the regulatory permit associated with the reconstruction of the 98-slip southern exterior docking facility.

The City is also proposing to sever 8,683 cubic yards of material (7,217 cubic yards of material on sovereignty submerged lands in the southern exterior docking facility basin and 1,466 cubic yards of material on City-owned submerged lands in the northern exterior docking facility basin) to dredge the exterior basins to -8 feet mean low water, utilizing the severed material for the partial construction of the islands. Additional fill material required to create the islands will be brought in from an upland source.

\*\*\*\*\*

**Item 6, cont.**

**Public Interest**

The storm protection islands are defined by rule as spoil islands; however, once they are constructed, the islands primary function is not for the disposal of fill. The proposed storm protection island system will primarily act as a storm buffer, while providing additional ecological benefits to the surrounding submerged lands ecosystem. Pursuant to section 18-21.012(1), F.A.C., spoil islands shall not be developed except upon a clear showing that the development is in the public interest and hardship would result if the development was not authorized. Therefore, to receive approval, it is required that the proposal be clearly in the public interest.

In order for the City to provide reasonable assurance the proposed project is clearly in the public interest the City has proposed conveying 15 acres of submerged lands currently owned by the City to the state. In addition, the City has agreed to maintain the 98-slip southern exterior marina facility as 100 percent open to the public on a first-come, first-served basis, in perpetuity. This has been included as a special lease condition.

If approved, the proposed project to construct the 14.66-acre storm protection island system will result in the protection of 269 slips during extreme storm events and 98 of the 269 slips will be located on sovereignty submerged lands. Therefore, it is staff's opinion that the proposed project is clearly in the public interest.

**Mitigation**

Of the project's 14.66-acre footprint, 6.35 acres of submerged lands were considered to be suitable habitat for submerged aquatic vegetation (SAV) and .43 acres of seagrasses will be impacted. To offset the impacts to these submerged lands and seagrasses, the City has proposed the following mitigation:

- 26 acres of additional submerged lands in the Indian River Lagoon (41 acres total, which consists of seagrass, mangrove and mudflat habitat) shall be conveyed back to the State;
- 1.94 acres of created SAV habitat by filling a portion of a dredge hole;
- 0.12 acres of created SAV habitat by scraping down a spoil island;
- 0.04 acres of prop scar restoration;
- 4.24 acres of SAV protection from navigational signage;
- 1.28 acres of created oyster habitat as a component of the islands; and
- 1.54 acres of created mangrove habitat as a component of the islands.

The following ecological components are proposed for the project:

- 1.54 acres (67,082.4 sq. ft.) of mangrove habitat;
- 1.28 acres (55,756.8 sq. ft.) of oyster habitat;
- 6.26 acres (272,685.6 sq. ft.) of artificial reef habitat;
- 2.22 acres (96,703.2 sq. ft.) of coastal dune habitat; and
- 2.33 acres (101,494.8 sq. ft.) of shorebird habitat.

\*\*\*\*\*

**Item 6, cont.**

Although the City will implement ordinances prohibiting public access to the storm protection islands and peninsular structure, it is anticipated that public use of the submerged lands surrounding these islands will increase significantly. Once established, the presence of the islands along with their ecological benefits will likely be utilized by recreational boaters, fishermen, and wildlife observers. Mooring of vessels will be prohibited along any of the storm protection islands and peninsular structure. This has been included as a special lease condition.

**Noticing**

The project was noticed pursuant to section 253.115, F.S., and section 18-21.005(3), F.A.C. Approximately 59 property owners and other stakeholders were specifically noticed and one objection was received by Audubon of Florida.

Audubon of Florida expressed concerns related to:

- (1) Potential precedence this project may set related to the use state lands;
- (2) Appropriateness and integrity of the proposed geo-tubes; and
- (3) Questioned the habitat component of the project as it relates to the City's claimed created shorebird habitat.

DEP is of the opinion the Audubon of Florida concerns are addressed as follows:

- (1) Conveyance of the 41 acres of City-owned submerged lands; and the requirement that the 98-slip southern exterior marina facility be maintained as 100 percent open to the public on a first-come, first-served basis, in perpetuity is an integral component pertaining to this project not setting precedence;
- (2) With an appropriate monitoring and maintenance plan, utilization of geo-tubes with other structural components is an appropriate storm protection device for this project; and
- (3) Through specific conditions in the permit, the City shall coordinate with FWC and Audubon of Florida with regards to creating the appropriate shorebird habitat.

**Permit Summary**

**Storm Protection Island Complex**

DEP's environmental resource permit requires that the City of Fort Pierce Marina Storm Protection Island Maintenance, Monitoring and Performance Plan be implemented for the life of the structure.

DEP's hydrographic engineer has reviewed the proposed project and a specific permit condition has been included that the City continues to coordinate with the independent engineering firm contracted by FEMA and DEP staff in order to achieve proper 100-year storm event design wave height and rock sizes for the islands. These design components of the artificial islands are critical in evaluating the performance, reliability and final design of the protection system structures.

\*\*\*\*\*

**Item 6, cont.**

Southern Exterior Docking Facility

DEP's environmental resource permit authorizes sewage pumpout facilities, liveaboards, and fueling facilities.

**Commenting Agency**

The recommendations of FWC regarding protection of manatees have been addressed in the permit.

**Comprehensive Plan**

A local government comprehensive plan has been adopted for this area pursuant to section 163.3167, F.S. The Department of Community Affairs determined that the plan is in compliance. The proposed action is consistent with the adopted plan according to a letter received from the City.

(See Attachment 6, Pages 1-47)

**RECOMMEND APPROVAL SUBJECT TO THE SPECIAL APPROVAL CONDITIONS  
AND SPECIAL LEASE CONDITIONS**