

**AGENDA
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
JUNE 16, 2011**

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

http://www.dep.state.fl.us/secretary/cab/public_notices.htm

Substitute Page

Item 1 Minutes

Submittal of the Minutes from the March 9, 2011, April 5, 2011, and April 19, 2011 Cabinet Meetings.

VOTING REQUIREMENT FOR APPROVAL: Simple majority

(See Attachment 1 at http://www.dep.state.fl.us/secretary/cab/public_notices.htm)

RECOMMEND APPROVAL

Substitute Item 2 Davis Option Agreement/Conservation Easement/Monitoring Agency Designation/Management Policy Statement Confirmation/Seven Runs Creek Florida Forever Project/BOT/Air Armament Center MOA

REQUEST: Consideration of (1) an option agreement to acquire a perpetual conservation easement over 1,103.5 acres within the Seven Runs Creek Florida Forever project from M. C. Davis, individually, and as Trustee of the M. C. Davis 2006 Trust dated March 15, 2006; (2) a designation of the Department of Environmental Protection, Office of Environmental Services, as the monitoring agency; and (3) confirmation of the management policy statement.

VOTING REQUIREMENT FOR APPROVAL: Simple Majority

COUNTY: Walton

LOCATION: Sections 26, 27, and 33 through 35, Township 02 North, Range 17 West

CONSIDERATION: \$1,000,000 (The Board of Trustees' consideration may be reduced by \$657,050 as discussed under "Military Agreement", provided the Air Armament Center approves the supporting acquisition documentation.)

<u>PARCEL</u>	<u>ACRES</u>	APPRAISED BY:		<u>APPROVED</u> <u>VALUE</u>	<u>SELLER'S</u> <u>PURCHASE</u> <u>PRICE</u>	<u>TRUSTEES'</u> <u>PURCHASE</u> <u>PRICE</u>	<u>OPTION</u> <u>DATE</u>
		<u>(12/06/10)</u>	<u>(12/06/10)</u>				
Davis	1,103.5	\$1,100,000	\$1,100,000	\$1,100,000	\$10,204,500*	\$1,000,000** (91%)	120 days after BOT approval

* Owner purchased 14,475 acres on July 12, 2002.

** Price per acre is \$906.21; Conservation Easement Value is 56% of the Fee Value as reported on the Goodman appraisal and 54% of the Fee Value as reported on the Clayton appraisal.

STAFF REMARKS: The parcel is located within the Seven Runs Creek Florida Forever project, ranked third in the Florida Forever Less-Than-Fee project category, approved by the Board of Trustees on May 17, 2011. The project contains 26,610 acres, of which these are the

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first to be acquired by the Board of Trustees. The Northwest Florida Water Management District acquired a conservation easement over 1,095.3 acres on March 17, 2011. If the Board of Trustees approves this agreement, 24,411 acres, or 92 percent of the project, will remain to be acquired.

Project Description

Combining the North Nokuse Plantation (11,961 acres) and the Seven Runs Creek (14,649 acres) Florida Forever projects facilitates restoration efforts and overall management of the property as one management unit. The combined project meets the Florida Forever goals of creating contiguous conservation areas, protecting groundwater resources, using alternatives to fee-simple acquisition to protect open lands, conserving significant Strategic Habitat Conservation areas for rare species, and ecological restoration of lands that were changed by tree-farming and other activities, as well as offers an important expansion to the existing connection between Eglin Air Force Base (AFB) and the Choctawhatchee Wildlife Management Area (WMA). Additionally, several listed species could potentially benefit from ongoing restoration of historic and current sandhill habitats on the property.

Military Agreement

A portion of the 1,103.5 acres is being funded with \$657,050 of federal money made available through a cooperative agreement between the Department of Environmental Protection (DEP) and the Air Armament Center, pursuant to Section 2684a, Title 10, United States Code. The purpose of this funding is to purchase lands, in fee simple or less-than-fee interest, that limit development in the vicinity of Eglin AFB in order to ensure the continuing military value of Eglin's test and training ranges. The federal money will be applied to an agreed upon portion of the property for which the seller will issue a separate deed of conservation easement in favor of Board of Trustees but subject to federal reconveyance if conditions under the cooperative agreement are not met. The need for this procedure arises from the authority granted to the Secretary of the Air Force to demand conveyance of property acquired with such federal funds, apparently without compensation. Therefore, Florida Forever funds will not be commingled with the federal funds, nor will title to the conservation easements purchased with these two sources of funding be commingled.

Public Access

No public access will be planned under the terms of the easement. Controlled public access may be provided through the E. O. Wilson Biophilia Center which is located south of the subject property on the south side of Highway 20 surrounded by the Seven Runs Creek project in that area. It opened in 2009, and provides educational opportunities for 4th and 7th grade students as well as opportunities for researchers to investigate and document the diverse aspects of the ecosystems on the surrounding lands. The center's site, as well as several residences for managers and staff, and office space are not within the project boundary.

Prohibited Uses

Under the proposed conservation easement, the property will be restricted in perpetuity by the provisions of the easement, a summary of which includes, but is not limited to, the following prohibited uses:

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- Dumping of trash, waste, hazardous materials and soil will be prohibited;
- Exploration by the grantor for and extraction of oil, gas, minerals, peat, muck, limestone, etc., by means of surface exploratory and extractors operations will be prohibited, except as reasonably necessary to combat erosion or flooding or except as necessary and lawfully permitted for the conduct of permitted activities.
- Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation or fish and wildlife preservation will be prohibited, unless otherwise provided in the easement;
- Acts or uses detrimental to the preservation of any historical or archaeological area will be prohibited;
- The removal, destruction, cutting, trimming, mowing, alteration or spraying with biocides of trees, shrubs or other natural vegetation will be prohibited, unless otherwise specifically provided in the easement;
- There shall be no planting of nuisance exotic or non-native plants;
- Commercial and industrial activities will be prohibited, except as may be incidental to the exercise of grantor's reserved rights;
- New construction or placing of temporary or permanent structures or buildings on the property will be prohibited except as may be necessary for maintenance, normal operation or emergency situations or as permitted in Article V, and otherwise specifically provided for in the easement;
- Construction of new roads or jeep trails will be prohibited except as associated with restoration activities allowed under the provisions of Article V of the easement;
- The operation of motorized vehicles will be prohibited except on established trails and roads unless (1) necessary to protect or enhance the conservation values of the property; and (2) for emergency purposes;
- Actions or activities that may be expected to adversely affect threatened or endangered species is prohibited;
- Subdivision of the property is prohibited;
- Signs, billboards or outdoor advertising is prohibited except signs designating the property as conservation lands protected by the State of Florida;
- Commercial water wells on the property are prohibited; and
- There shall be no mitigation bank established on the property.

Owner's Rights Retained

The proposed conservation easement will allow the owner to retain certain rights. The summary of owner's rights includes, but is not limited to, the following:

- The right to observe, maintain, photograph, fish, hunt and introduce and stock native fish or wildlife, to use the property for non-commercial, passive, resource-based recreation not inconsistent with the purpose of the easement. In addition, the owner reserves hunting and fishing rights related to the property and may lease and sell privileges of such rights;
- The right to conduct controlled and prescribed burns with proper authorization;

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- The right to mortgage the property;
- The right to contest property taxes, appraisals and assessments;
- The right to continue to use, maintain, repair and reconstruct but not relocate or enlarge all existing buildings as depicted on the Baseline Documentation Report (BDR);
- The right to exclusive use of improvements depicted on the BDR;
- The right to engage in silviculture in accordance with the best management practices of the Division of Forestry until such time that the area has been cut to an approximate natural condition. As each tract regains its approximate natural condition (30 to 60 pine trees per acre), all commercial harvesting of trees shall cease forever;
- The right to engage in management and ecological restoration activities to foster, preserve, protect and restore the natural, ecological, scenic, historical, archaeological, wildlife and plant features and values of the property in consultation with qualified public or private land management agencies; and
- The right to use the property for scientific, environmental resource and educational programs provided the programs are conducted by a non-profit organization for the benefit of the public.

Right of First Refusal

The Board of Trustees will have the right of first refusal to purchase the property or any interest therein, in fee if the grantor proposes to sell the property or any interest therein to a third party other than a lineal descendant, an entity in which grantor owns a controlling interest or a non-profit conservation organization regionally or nationally recognized and acceptable to grantee.

Mortgages, Liens and Encumbrances

All mortgages and liens will be satisfied or subordinated at the time of closing. On June 22, 1999, the Board of Trustees approved a staff recommendation to delegate to DEP the authority to review and evaluate marketability issues as they arise on all chapter 259, F.S., acquisitions and to resolve them appropriately.

Preliminary title work indicates there are two outstanding oil, gas and mineral reservations owned by third parties over 842.10 acres. No determination has been made as to the current record owner for this interest. DEP's Florida Geological Survey has stated all oil and gas wells in the area have been dry and abandoned and current data does not suggest the presence of hydrocarbons. They also state small quantities of phosphate found in the panhandle are not suitable for mining. Additionally, the property is affected by four non-exclusive, twenty-five foot wide access easements. Three of these are along existing dirt roads and connect to the outparcels within this acquisition. The remaining easement runs along a private drive for the purpose of accessing a private residence. The appraisers were aware of the outstanding reservations and considered them in determining the final value. Because these issues were discovered during preliminary due diligence, further research may change the facts and scope of each issue and, therefore, DEP will review, evaluate and implement an appropriate resolution for these and any other title issues that arise prior to closing.

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Closing Information

A title insurance policy and a baseline documentation/environmental site assessment report will be provided by the purchaser prior to closing. The survey will be waived pursuant to Rule 18-1.005, F.A.C.

Monitoring Agency

Pursuant to section 259.032(9)(e), F.S., DEP recommends that the Board of Trustees designate DEP's Office of Environmental Services (OES) as the monitoring agency for this site.

First Purchase Confirmation of Management Policy Statement

Section 259.032(9)(e), F.S., requires that the Board of Trustees, concurrent with its approval of the initial acquisition agreement within a project, "evaluate and amend, as appropriate, the management policy statement for the project as provided by section 259.035, F.S., consistent with the purposes for which the lands are acquired." The management policy statement for this project was included in the 2011 Florida Forever Five-Year Plan adopted by the Board of Trustees on May 17, 2011. DEP recommends that the Board of Trustees confirm the management policy statement as follows:

The owner of the property has been working to restore the sandhills of the property to their historical condition. As a conservation easement, or less-than-fee interest, the project will be managed by the private landowner with some restrictions and monitored by OES. Restoration of the property to historic composition is the documented overall goal of the landowner.

Comprehensive Plan

This acquisition is consistent with section 187.201(9), F.S., the Natural Systems and Recreational Lands' section of the State Comprehensive Plan.

(See Attachment 2, Pages 1-70)

RECOMMEND APPROVAL