

AGENDA
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
FEBRUARY 8, 2018

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

<https://floridadep.gov/cab/cab/content/agendas>

Item 1 Minutes

Submittal of the Board of Trustees' Minutes from the December 13, 2017 Cabinet Meeting.

VOTING REQUIREMENT FOR APPROVAL: Two members, one of whom is the Governor, when four members are voting; or any two members, when three members are voting.

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

RECOMMEND APPROVAL

**Item 2 Freeman & Hasselwander Resort Properties, L.L.C. (Tarpon Point Marina)
Recommended Consolidated Intent/Lease Modification**

REQUEST: Consideration of an application for a modification of a 25-year sovereignty submerged lands lease to (1) reduce the preempted area from 588,101 square feet to 587,931 square feet, more or less; and (2) increase the number of wet slips from 185 to 225 for an existing commercial docking facility.

VOTING REQUIREMENT FOR APPROVAL: Three votes

APPLICANT: Freeman & Hasselwander Resort Properties, L.L.C.
(d/b/a or a/k/a Tarpon Point Marina)
Lease No. 360189959
Application No. 0153417-022-EM

LOCATION: 6095 Silver King, Cape Coral
Glover Bight, Lee County

CONSIDERATION: \$61,466.07 as the annual lease fee calculated at the base rate of \$0.174244 per square foot, discounted 30 percent because 90 percent of the slips are open to the public for rent on a first-come, first-served basis, pursuant to rule 18-21.011(1)(b)2., F.A.C., discounted 10 percent for participation in the Clean Marina Program, pursuant to rule 18-21.011(1)(b)13.a., F.A.C. Sales tax and county discretionary sales surtax will be assessed, pursuant to sections 212.031 and 212.054, if applicable. The lease fee shall be adjusted based on six percent of the annual income if it proves to be greater than the fee computed at the base rate, pursuant to rule 18-21.011(1)(a)1., F.A.C. The lessee has already paid \$61,483.84 for the 2017/2018 annual lease fee on 588,101 square feet.

Item 2, cont.

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.

The project is required to demonstrate that it is “not contrary to the public interest,” pursuant to Article X, Section 11 of the Florida Constitution, chapter 253, F.S., and rule 18-21.004(1)(a), F.A.C. The lessee has provided reasonable assurance that the proposal will maintain essentially natural conditions; will not significantly impact fish and wildlife and other natural resources, including public recreation and navigation; is consistent with the local government’s comprehensive plan; and will not interfere with the riparian rights of adjacent property owners. Therefore, the Department of Environmental Protection (DEP) is of the opinion that the proposal is “not contrary to the public interest” and otherwise meets all applicable requirements for a proprietary authorization to use sovereignty submerged lands.

Background

On July 29, 2010, the Board of Trustees approved a lease modification which allowed Tarpon Point Associates, LLC (Tarpon Point), predecessor in title, to increase: (1) the preempted area from 347,531 square feet to 588,101 square feet; and (2) the number of slips from 175 to 185 for its existing commercial docking facility. Tarpon Point planned to construct two new docks in the additional lease area and to reconfigure the existing interior docks to accommodate larger vessels.

On April 27, 2012, under delegation of authority, DEP executed a lease modification to reflect a change in upland ownership to Freeman & Hasselwander Resort Properties, L.L.C., the current lessee.

In 2016, the lessee constructed the two new docks in the additional lease area. During the construction of these docks, the lessee reevaluated the boat slip mix and costs associated with the reconfiguration of the interior docks and decided not to reconfigure the existing interior docks. On March 16, 2017, the lessee submitted an application for a permit modification to keep the existing interior docks as currently configured.

On June 1, 2017, DEP conducted a site inspection and determined that floating jet ski platforms had been installed and vessels were moored in areas not previously designated for mooring, for a total of 225 vessels moored at the docking facility. On September 19, 2017, DEP and the lessee entered into a Temporary Use Agreement (TUA) to authorize the use of the floating jet ski platforms and additional mooring areas, within the existing lease area, while pursuing Board of Trustees’ approval for the proposed additional 40 slips.

Item 2, cont.

Project Detail

The lessee is requesting authorization to keep the interior docks as they currently exist, increasing the number of slips from 185 to 225, an increase of 40 slips. The docking facility will accommodate vessels up to 100 feet in length with drafts up to 8 feet. The docking facility will continue to be used in conjunction with the upland commercial marina facility and mixed use commercial development (restaurant, retail shops, hotel, and offices).

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

Noticing/Interested Parties

The lease modification was noticed to property owners within a 500-foot radius of the project, pursuant to rule 18-21.004(1)(m), F.A.C., and to Save the Manatee Club. No objections were received.

(See Attachment 2, Pages 1-27)

RECOMMEND APPROVAL SUBJECT TO THE SPECIAL LEASE CONDITION

**Item 3 William Semmer (Bonita Bill's Waterfront Cafe)/Nonwater Dependent Activities/
Determination**

REQUEST: Consideration of a request (1) for a determination, pursuant to rule 18-21.004(1)(g), F.A.C., that it is in the public interest to allow nonwater dependent activities to occur on sovereignty submerged lands leased by the Applicant; and (2) to allow nonwater dependent, open air, over-the-water-dining activities to be conducted on a total of 795 square feet, more or less, of the Applicant's existing structures.

VOTING REQUIREMENT FOR APPROVAL: Three votes

APPLICANT: William Semmer (d/b/a Bonita Bill's Waterfront Cafe)
Lease No: 360006175

LOCATION: 708 Fisherman's Wharf, Town of Fort Myers Beach
Matanzas Pass, Lee County
Class II Waters

CONSIDERATION: \$2.51 per square foot, based on the appraised upland market rental value, will be applied annually to the proposed 795 square feet, more or less, associated with the nonwater dependent activity, pursuant to rule 18-21.011(1)(b)6., F.A.C.

Item 3, cont.

STAFF REMARKS: Rule 18-21.004(1)(g), F.A.C., provides that activities on sovereignty lands shall be limited to water dependent activities only unless the Board of Trustees determines that it is in the public interest to allow an exception as determined by a case-by-case evaluation.

Effective July 1, 2016, section 253.03(15), F.S., which encourages the use of sovereignty submerged land for public access and water dependent uses, was amended to include related minimal secondary nonwater dependent uses. The over-the-water dining activities involve nonclimatized areas with minimal secondary nonwater dependent use of placing tables, chairs, and shading structures on existing structures over sovereignty submerged lands for dining activities.

Background

The Applicant acquired the upland property in 1995 and has an existing authorization for the preemption of 62,604 square feet of sovereignty submerged lands for a 53-slip commercial docking facility. The Applicant has applied for a lease modification to conduct over-the-water dining activities at two locations within the existing preempted area (a 481-square-foot area and a 314-square-foot area) for approximately 795 square feet of over-the-water dining on existing structures. The Applicant is currently under a temporary use agreement and is current on its fees. The facility is open to the public.

Project Detail

The over-the-water dining structures will be nonclimatized, with tables, chairs, and shading structures, and will be open to the public.

The existing nonwater dependent structures are not a public project (public projects include government owned/operated structures/activities); however, the proposed project conforms to two of the three criteria listed in rule 18-21.004(1)(g), F.A.C., for public projects. The structures and nonwater dependent activities are along a seawall and constitute only minor nearshore encroachments on sovereignty submerged lands. The structures are not located in an aquatic preserve but are in Class II waters. Although the proposed nonwater dependent activities will be conducted over Class II waters, the Applicant is utilizing its existing structures. If approved, the lease for the Applicant will define the nonwater dependent structures in a survey so that they cannot be improved or expanded without Board of Trustees' approval.

Lease Fees

Rule 18-21.011(1)(b)6., F.A.C., provides that the annual lease fees for nonwater dependent uses shall be negotiated considering the appraised market rental value of the riparian uplands. A market rental value appraisal was completed in order to obtain a basis for negotiating annual lease fees. The Department of Environmental Protection (DEP) recommends that the nonwater dependent structures should be assessed at a negotiated nonwater dependent rate of \$2.51 per square foot. The remaining lease area will be assessed the standard water dependent rate. Approval of this item does not supersede or eliminate any local, state or federal permitting requirements.

Item 3, cont.

Public Interest

DEP is recommending the Board of Trustees find the project meets the public interest requirement because the nonwater dependent, open-air, over-the-water dining activities will continue to provide public access and enhance public enjoyment of sovereignty submerged lands without impairing traditional access. Additionally, it does not entail a significant adverse impact to sovereignty submerged lands and resources. It will also continue to provide an economic benefit to the Applicant and potential secondary economic benefits to nearby businesses.

Noticing

This request is not subject to noticing pursuant to section 253.115, F.S.

Comprehensive Plan

A consideration of the status of the local government comprehensive plan was not made for this item. DEP has determined that the proposed action is not subject to the local government planning process.

(See Attachment 3, Pages 1-5)

RECOMMEND APPROVAL

**Item 4 BOT/City of Winter Springs Exchange Agreement/Cross Seminole Trail/
Determinations**

REQUEST: Consideration of (1) a determination that two parcels, totaling approximately 0.54 acre, of land owned by the Board of Trustees (a) is no longer needed for conservation purposes, pursuant to Article X, section 18 of the Florida Constitution and section 253.0341(1), F.S.; (b) no longer needs to be preserved in furtherance of the Preservation 2000 Act, pursuant to section 259.101(5)(b), F.S; and (c) is surplus; (2) a determination that an exchange will (a) result in a net positive conservation benefit to the state, pursuant to section 253.0341(1), F.S.; and (b) provide a greater benefit to the public than its retention in Board of Trustees' ownership, pursuant to rule 18-2.018(3)(b)1.c., F.A.C.; and (3) an exchange agreement in which the Board of Trustees will convey the two parcels, totaling approximately 0.54 acre, of state-owned, conservation lands in exchange for approximately 1.36-acres of land to be acquired by the City of Winter Springs prior to closing.

VOTING REQUIREMENT FOR APPROVAL: Three votes

COUNTY: Seminole

APPLICANT: City of Winter Springs (City)

Item 4, cont.

LOCATION: Sections 34 and 35, Township 20 South, Range 30 East and Section 31, Township 20 South, Range 31 East

CONSIDERATION: Parcel for parcels, with no cash boot to be paid by the Board of Trustees.

<u>PARCEL</u>	<u>ACRES</u>	APPRAISED BY Williams <u>(05/16/17)</u>	APPROVED <u>VALUE</u>	EXCHANGE <u>VALUE</u>	CLOSING <u>DATE</u>
City	1.36	\$124,500	\$124,500	\$124,500	120 days after BOT approval
BOT	.10	\$15,500	\$15,500	\$15,500	
		APPRAISED BY Schieber <u>(03/31/17)</u>			
BOT	.44	\$96,000	\$96,000	\$96,000	

STAFF REMARKS: The Department of Environmental Protection’s (DEP) Division of State Lands (DSL) received a request from the City proposing to exchange a 1.36-acre parcel of land for the two parcels (0.10 acre and 0.44 acre), totaling approximately 0.54-acre, of conservation land owned by the Board of Trustees.

Background

The Board of Trustees acquired the two parcels as part of a larger acquisition from CSX Transportation in 1996 with Preservation 2000 funds for a segment of the Cross Seminole Trail (CST). Seminole County (County) is the current manager of the trail. The County requested a land exchange with the state on behalf of Mr. Bart Phillips (Mr. Phillips) and had agreed to pay all closing costs. As part of this original exchange request, the City wanted to purchase the 0.44-acre parcel from the state to construct an amphitheater. However, during the review and processing of this exchange request, Mr. Phillips and the City advised DEP that he wanted to donate the lands to the City in return for approval of zoning/development changes for the remaining property he owns, as well as the City transferring the 0.10-acre parcel to him upon completion of its exchange with the state. The City recently entered into a donation agreement for the 1.36-acre parcel owned by Mr. Phillips.

Project Detail

After discussions and entering into an agreement with Mr. Phillips, the City requested this proposed exchange which includes the acquisition of the two parcels of state-owned lands. The City needs the 0.44-acre parcel for part of its planned amphitheater. The conveyance of the 0.44-acre parcel to the City will also benefit trail users by providing improved trail access from an existing parking area and restroom facilities. In addition, the City will provide a trail use agreement to the County within an existing public right-of-way for completion of the trail to the north. In order to provide trail users access from the existing trail terminus to the south, the Seminole County School Board has agreed to convey a 0.05-acre easement to the County over an existing sidewalk along the roadway.

Item 4, cont.

CST is a component of the Florida Greenways and Trails Priority System, as well as a component of the Florida National Scenic Trail. On its northern end, it connects to the Spring to Spring Trail and to the Florida Coast to Coast Trail. If this proposed exchange is approved, the 1.36-acre parcel being acquired by the Board of Trustees, will complete a significant connection (approximately 0.7 miles) within CST.

Acquisition and Restoration Council

The proposed exchange request was recommended for approval by the Acquisition and Restoration Council (ARC) on February 14, 2014. In early August 2016, ARC members were advised via email that it was determined based on a survey, that due to the existence of a privacy wall constructed by Mr. Phillips, the width of the parcel to be acquired by the Board of Trustees needed to be reduced by three feet to the south. This reduction of three feet, reduced the size of the proposed acquisition parcel from 1.52 acres to approximately 1.36 acres, a reduction of approximately 0.16 acre. No objections were received from ARC members to this reduction in acreage.

Constitutional, Statutory, and Rule Requirements

Pursuant to Article X, section 18 of the Florida Constitution, the fee interest in real property may be disposed of only if the members of the governing board of the entity holding title determine the property is no longer needed for conservation purposes and only upon a vote of two-thirds of the governing board. Pursuant to section 259.101(5)(b), F.S., the Board of Trustees must make a determination that the land no longer needs to be preserved in furtherance of the intent of the Preservation 2000 Act. Pursuant to section 253.0341(1), F.S., in order to surplus conservation lands, the Board of Trustees, by a vote of at least three members, must make a determination that the lands are no longer needed for conservation purposes and that the exchange will result in a net positive conservation benefit to the state. Pursuant to rule 18-2.018(3)(b)1.c., F.A.C., the surplus lands must provide a greater benefit to the public than its retention in Board of Trustees' ownership. DEP offers the following to assist the Board of Trustees in determining that the 0.10-acre and 0.44-acre parcels are no longer needed for conservation purposes:

- the newly realigned trail corridor will bypass the 0.10-acre parcel and reconnect the trail to the south;
- the 0.44-acre parcel being conveyed to the City will benefit trail users by providing improved trail access from an existing parking area and restroom facilities; and
- as is common with rail-trail corridors, the only conservation value that the two parcels have is for outdoor recreation as part of CST. Since these portions of the trail will be abandoned and never constructed as part of CST, its intended conservation value will cease to exist.

DEP also offers the following to assist the Board of Trustees in determining that the exchange will provide a net positive conservation benefit to the state and the 0.10-acre and 0.44-acre parcels will provide a greater benefit to the public than its retention in Board of Trustees' ownership:

Item 4, cont.

- the proposed exchange will complete a significant 0.7-mile connection within CST; and
- the completion of this segment of CST will enhance public use and provide the public with a more complete trail experience.

Management Review

Seminole County, as manager of CST, supports the proposed exchange. The proposed exchange will complete one of the last remaining segments of CST and improve management capabilities of CST and provide the public improved trail access areas that are currently inaccessible.

Comprehensive Plan

DEP has determined that surplus land actions are not subject to the local government planning process. The acquisition of the City lands is consistent with section 187.201(9), F.S., the Natural Systems and Recreational Lands' section of the State Comprehensive Plan.

(See Attachment 4, Pages 1-28)

RECOMMEND APPROVAL

Item 5 Natural Vitamins Laboratory Corp. Acceptance of Offer/Sale and Purchase Contract/Determination

REQUEST: Consideration of (1) a determination that a 4.63-acre, more or less, vacant parcel of state-owned, non-conservation land in Miami-Dade County is surplus and no longer needed, pursuant to section 253.0341(1), F.S.; (2) acceptance of an offer in the amount of \$3,031,001 submitted by Natural Vitamins Laboratory Corp. for the purchase of the 4.63-acre, more or less, vacant parcel of state-owned, non-conservation land; and (3) a contract for sale and purchase of the 4.63-acre, more or less, vacant parcel of state-owned, non-conservation land to Natural Vitamins Laboratory Corp.

VOTING REQUIREMENT FOR APPROVAL: Three votes

COUNTY: Miami-Dade
Bid #DSL-ITO-17-021

APPLICANT: Natural Vitamins Laboratory Corp.

LOCATION: Section 29, Township 52 South, Range 41 East

CONSIDERATION: \$3,031,001 to be deposited in the Internal Improvement Trust Fund

Item 5, cont.

STAFF REMARKS:

Background

In December 1983, approximately 4.63 acres (subject parcel) in Miami-Dade County were purchased from the United States of America. The subject parcel was a portion of the Former Remote Receiver Site, U.S. Coast Guard Air Station, located in Opa Locka, Florida. The subject parcel is leased to the Department of Corrections (DOC) under Board of Trustees' Lease No. 4786. The subject parcel has been utilized by DOC as a prisoner work camp location and is subject to an avigation easement, dated June 10, 1963, and a local utility easement, dated June 18, 1928. DOC has requested that the subject parcel be released from its current lease.

Statutory Requirement

Pursuant to section 253.0341(1), F.S., to surplus non-conservation land, the Board of Trustees must determine that the land is no longer needed. Pursuant to section 253.0341(4), F.S., non-conservation lands shall be reviewed by the Division of State Lands (DSL) for recommendation as to whether such lands should be retained in public ownership or disposed of by the Board of Trustees. DSL offers the following to assist the Board of Trustees in making an affirmative determination that the subject parcel is no longer needed:

- DOC, the managing agency, has evaluated the use of the subject parcel and determined that it is not being used for the purpose for which it was originally leased and is no longer needed; and
- DSL has reviewed DOC findings, completed the required surplus lands process, and recommends that the subject parcel be disposed of by the Board of Trustees.

Noticing

Pursuant to sections 253.0341(1), F.S., notice was given to state agencies, state universities and Florida College System institutions. No interest was expressed by any qualifying educational or governmental entity.

Bid History

DEP contracted with CBRE, Inc. (CBRE) to assist with the marketing and sale of the subject parcel. On July 13, 2017, CBRE posted the bid on its website which provided property information, maps, history, disclosures and bid information. DEP and CBRE offered the subject parcel for sale with a minimum bid of \$3,150,000. CBRE placed signs on the subject parcel, advertised the subject parcel on CoStar, Loopnet, and its own corporate website and sent emails to prospective buyers. Numerous follow-up communications and site tours with prospective buyers have been conducted by CBRE during the marketing period. The subject parcel was also advertised on DEP's surplus land website until the bid opening date of September 6, 2017, when bids were opened. DEP sent notification of the bid through GovDelivery to real estate offices, developers, investment companies, and other parties that have requested to receive notification of surplus land notices. No bids were received.

Item 5, cont.

On September 26, 2017, the subject parcel was placed back on the market as an Invitation to Offer with a minimum offer amount of \$3,025,000 and an offer opening date of November 8, 2017. The required deposit amount was reduced to the amount of \$100,000 to assist with attraction of prospective buyers. No bids were received.

On November 27, 2017, the parcel was placed back on the market as an Invitation to Offer with a minimum offer amount of \$3,025,000 and an offer opening date of January 17, 2018. The required deposit amount was reduced to the amount of \$50,000 to assist with attraction of prospective buyers. One offer was received and accepted from Natural Vitamins Laboratory Corp. (Buyer) in the amount of \$3,031,001.

Buyer indicated that it is planning on building a new manufacturing and distribution center for its company and relocating from a smaller, nearby location. Buyer anticipates that the construction project will provide numerous temporary jobs in the construction industry and the development will provide nearly 200 full-time and part-time positions when completed.

Buyer will be responsible for and pay all closing costs associated with the subject parcel including, but not limited to, survey costs, documentary stamp tax on the quitclaim deed, recording fees, abstract or title insurance fees, Buyer's attorneys' fees, and any other closing costs that Buyer may incur. Buyer shall also reimburse any closing costs that are initially paid by the Board of Trustees or other parties on behalf of the Board of Trustees. These reimbursable closing costs include, but are not limited to, the cost of appraisal, survey, and legal advertising. Buyer will also be responsible for the brokerage fee to CBRE.

Comprehensive Plan

DEP has determined that the proposed action to surplus property is not subject to the local government planning process; therefore, a consideration of the status of the local government comprehensive plan was not made for this item.

(See Attachment 5, Pages 1-8)

RECOMMEND APPROVAL

**Item 6 Cemex Construction Materials Florida, LLC, Sale and Purchase Contract/
Determinations**

REQUEST: Consideration of (1) a determination, pursuant to Article X, section 18 of the Florida Constitution and section 253.0341(1), F.S., that an approximately 630-acre parcel of land owned by the Board of Trustees is no longer needed for conservation purposes and is surplus; (2) a determination, pursuant to rule 18-2.018(3)(b)1.c., F.A.C., that a conveyance of the approximately 630-acre parcel of state-owned, conservation land to Cemex Construction Materials Florida, LLC,

Item 6, cont.

provides a greater benefit to the public than its retention in Board of Trustees' ownership; (3) authorization to convey, pursuant to section 253.62(1), F.S., the approximately 630-acre parcel of state-owned, conservation land without a reservation for oil, gas, phosphate, and other minerals required by section 270.11, F.S.; and (4) a contract for sale and purchase for the conveyance of the approximately 630-acre parcel of state-owned, conservation land to Cemex Construction Materials Florida, LLC.

VOTING REQUIREMENT FOR APPROVAL: Three votes

COUNTY: Miami-Dade

APPLICANT: Cemex Construction Materials Florida, LLC (Cemex)

LOCATION: Section 16, Township 52 South, Range 39 East

CONSIDERATION: \$14,765,000 to be deposited into the State School Fund

<u>PARCEL</u>	<u>ACRES</u>	APPRAISED BY		<u>APPROVED</u> <u>VALUE</u>	<u>CLOSING</u> <u>DATE</u>
		Catlett <u>August 21, 2017</u>	Newstreet <u>August 21, 2017</u>		
BOT	630±	\$14,650,000	\$14,880,000	\$14,765,000	150 days after BOT approval

STAFF REMARKS: The Board of Trustees holds title to a Section 16 parcel (Parcel) in Miami-Dade County (County) for the benefit of the Department of Education. It is currently under lease to the County for the Milton E. Thompson Park (Park) and contains a motocross track in the northwest quadrant with passive recreation on the remainder. Cemex is interested in acquiring the Parcel for mining, which was anticipated in the County's management plan approved by the Acquisition and Restoration Council (ARC) on April 17, 2015. Mining is limited to approximately 380 acres of the Parcel because of the motocross track and a 1,500-foot mining buffer area adjacent to the canals on the west and northwest boundaries. Cemex has agreed to convey the approximately 250 acres that cannot be mined to the County for no consideration along with \$100,000 for management. Upon the completion of mining, the 380 remaining acres would be conveyed at no cost or leased to the County.

The Parcel is within the boundaries of the Lake Belt Area established by section 373.4149, F.S. In 1992, the Florida Legislature created the Lake Belt Implementation Committee (Committee), which was directed by the Legislature to develop a plan for the Lake Belt that:

- enhances the water supply for the County and the Everglades;
- maximizes efficient recovery of limestone while promoting the social and economic welfare of the community and protecting the environment; and
- educates various groups and the general public of the benefits of the plan.

Item 6, cont.

The Legislature subsequently approved and adopted the recommendations of the Committee as submitted in the Lake Belt Plan (Plan). The Plan designates the Parcel as appropriate for mining. Section 373.4149, F.S., provides that all agencies of the state review the status of their landholdings within the boundaries of the Lake Belt. Those lands for which no present or future use is identified must be made available, together with other suitable lands, to the Department of Environmental Protection (DEP) for its use in carrying out the objectives of the act. It is the intent of the Legislature that lands provided to DEP be used for land exchanges to further the objectives of the act. If Cemex obtains title to the Parcel for mining, it will convey a 1,080-acre parcel located in the Pennsuco Wetlands within the Lake Belt and the East Everglades Florida Forever Project to the South Florida Water Management District (SFWMD) for restoration. The 1,080-acre parcel is the last privately-owned mining company parcel in the Pennsuco Wetlands and has been designated in the Plan as appropriate for preservation/mitigation. The Committee approved the acquisition of the 1,080-acre parcel using Lake Belt Mitigation Trust Fund money in April 2016. SFWMD Governing Board approved the acquisition on October 12, 2017.

Acquisition and Restoration Council

The proposed conveyance was recommended for approval by ARC on October 20, 2017.

Constitutional, Statutory, and Rule Requirements

Pursuant to Article X, section 18 of the Florida Constitution, the fee interest in real property may be disposed of only if the members of the governing board of the entity holding title determine the property is no longer needed for conservation purposes and only upon a vote of two-thirds of the governing board. Pursuant to section 253.0341(1), F.S., in order to surplus conservation lands, the Board of Trustees, by a vote of at least three members, must make a determination that the lands are no longer needed for conservation purposes. Pursuant to rule 18-2.018(3)(b)1.c., F.A.C., the Board of Trustees must make a determination that the conveyance of the Parcel to Cemex provides a greater benefit to the public than its retention in state ownership.

The proposed transaction can achieve multiple public benefits related to Everglades restoration, water supply, and economic purposes. DEP offers the following to assist the Board of Trustees in making these determinations:

- The proposed transaction carries out the legislative intent which mandated agencies to exchange land suitable for mining for land located in the Pennsuco Wetlands owned by mining companies [section 373.4149(6)(a), F.S.].
- The Parcel, which is currently largely compromised with melaleuca and lygodium, will be reclaimed when mining is completed and will be available for re-lease or conveyance to Miami-Dade County. The mining will result in a retention basin contemplated in the Plan and the lake feature contemplated in the County's management plan for the Milton E. Thompson Park.

Item 6, cont.

- Cemex will convey the 1,080-acre parcel in the Pennsuco Wetlands to SFWMD for restoration. The 1,080-acre parcel is the last privately-owned parcel held by a mining company in the Pennsuco Wetlands. The Pennsuco Wetlands act as a seepage area to collect water from the Water Conservation Areas to the west.
- Cemex will convey 250 acres of the Parcel that cannot be mined to the County for recreation along with \$100,000 for management. Use of the 250 acres will be restricted to public park, public recreation, and educational purposes.
- State will receive over \$1.6 million in mining mitigation fees, based on the estimate of 33 million tons of mining reserves available in the Parcel, for the benefit of the Everglades.
- The Parcel's mining reserves will support approximately 110 mining-related jobs for the estimated 17-year life of the mine.

As a condition to the permitting process for mining, a systematic cultural resources assessment survey will be conducted by a professional archaeologist for the Parcel.

DEP is recommending the Board of Trustees: (1) find the Parcel is no longer needed for conservation purposes and is surplus; (2) find that conveyance of the Parcel provides a greater benefit to the public than its retention in Board of Trustees' ownership; and (3) approve the contract for sale and purchase for the conveyance of the Parcel to Cemex. The sale is conditioned upon receiving a Release of Lease from Miami-Dade County.

Mineral Interests

Section 253.62, F.S., provides for the Board of Trustees to convey land without reservations for oil, gas, phosphate, and other minerals required by section 270.11, F.S. DEP is recommending the Board of Trustees convey the Parcel to Cemex without such reservations.

Comprehensive Plan

A consideration of the status of the local government comprehensive plan was not made for this item. DEP has determined that conveyances of land are not subject to the local government planning process.

(See Attachment 6, Pages 1-10)

**RECOMMEND APPROVAL SUBJECT TO RECEIPT OF THE RELEASE OF LEASE
FROM MIAMI-DADE COUNTY**

Item 7 Gulf Jackson Aquaculture Use Zone Expansion/Aquaculture Leases/Big Bend Seagrasses Aquatic Preserve

REQUEST: Approval to (1) expand the existing Gulf Jackson Aquaculture Use Zone (AUZ); (2) issue three, two-acre, ten-year sovereignty submerged land aquaculture bottom leases, to be incorporated into the Gulf Jackson AUZ, for the purpose of shellfish aquaculture; and (3) authorize the Florida Department of Agriculture and Consumer Services (FDACS) to modify the three bottom leases should the leaseholder request use of the full water column and FDACS determines the request meets all rule and statutory requirements.

VOTING REQUIREMENT FOR APPROVAL: Three votes

LOCATION: Big Bend Seagrasses Aquatic Preserve, Suwannee Sound, Levy County, Florida

APPLICANTS: Frank Drummond, Tracie Drummond and Michael Davis

CONSIDERATION: An annual fee of \$53.46 for each two-acre lease parcel, representing a base annual rental fee of \$16.73 per acre or fraction thereof; and an annual surcharge of \$10.00 per acre or fraction thereof, pursuant to Rule 18-21.022, Florida Administrative Code (F.A.C.). The annual fee and surcharge collected will be deposited in the General Inspection Trust Fund, pursuant to Sections 597.010(5)(b) and (7), F.S.

STAFF REMARKS: The three requested lease parcels are approximately two acres in size and are located in the Suwannee Sound, as well as the Big Bend Seagrasses Aquatic Preserve, off the coast of Cedar Key. The applicants are requesting authorization from the Board of Trustees, pursuant to Section 253.68 (1), F.S., for three, new aquaculture leases for the purpose of culturing shellfish on the bottom. The proposed parcels are an expansion of the existing Gulf Jackson AUZ, where there are 110 existing lease sites, of which three are currently utilizing the full water column. On August 16, 2017, the Board of Trustees authorized FDACS to modify the remaining bottom leases within Gulf Jackson AUZ to allow for the use of the full water column should the leaseholder request it and FDACS determines it meets all rule and statutory requirements. For consistency, FDACS is requesting the same authority for the three proposed bottom leases. Prior to execution of the leases, the applicants are required to provide FDACS with a survey of the individual parcels and the expanded AUZ.

Agency Review

FDACS has conducted resource assessments and determined that the proposed leases and associated aquaculture activities will not result in adverse impacts to seagrasses, existing shellfish beds, natural reefs or other sensitive habitats. Additionally, FDACS has coordinated the review of the application with the Florida Department of Environmental Protection, the Florida Fish and Wildlife Conservation Commission, the Florida Department of State's Division of Historical Resources, and the Levy County Board of County Commissioners, pursuant to Rule 18-21.021, F.A.C.

Item 7, cont.

Special Conditions

The proposed leases will be subject to the terms and conditions applied to other aquaculture leases issued throughout the state for the same purposes, including the provision that the transfer or sale of the leases will not be approved during the first five years of the lease terms. The proposed gear is covered under the FDACS general permit from the Army Corps of Engineers. Any leaseholders requesting to modify their lease for use of the full water column will be required to install associated lighting and signage to aid boaters with navigation pursuant to a Private Aids to Navigation permit from the United States Coast Guard.

Public Interest

The Florida Aquatic Preserve Act provides that no further sale, lease, or transfer of sovereignty submerged lands shall be approved within an aquatic preserve, unless the sale, lease, or transfer is in the public interest. The Aquatic Preserve Act specifically provides that “aquaculture is in the public interest and aquaculture leases may be authorized in aquatic preserves...” [Section 258.42(1)(b), F.S.] Accordingly, FDACS recommends that the Board of Trustees find that the leases are in the public interest, as set forth in statute.

Noticing

The proposed leases were noticed pursuant to Section 253.70, F.S., and no objections were received.

Comprehensive Plan

A consideration of the status of any local government comprehensive plan was not made for this item. FDACS has determined that the proposed action is not subject to the local government planning process.

(See Attachment 7, Pages 1-36)

RECOMMEND APPROVAL

Item 8 Cannon Family Farm Conservation Easement/FDACS/Rural & Family Lands Protection Program

REQUEST: Consideration of (1) an option agreement to acquire a 412-acre perpetual conservation easement over lands lying within the Cannon Family Farm project of the Florida Department of Agriculture and Consumer Services’ Florida Forest Service (FDACS/FFS) Rural & Family Lands Protection Program (RFLPP) from Ronald D. Cannon and Sarah F. Cannon; and (2) designation of FDACS/FFS as the monitoring agency.

VOTING REQUIREMENT FOR APPROVAL: Two members, one of whom is the Governor, when four members are voting; or any two members, when three members are voting.

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APPLICANT: Florida Department of Agriculture and Consumer Services' Florida Forest Service

COUNTY: Marion

LOCATION: Portions of Sections 32, Township 16 South, Range 19 East and Section 05, Township 17 South, Range 19 East

CONSIDERATION: \$742,424

<u>PARCEL</u>	<u>ACRES</u>	<u>APPRAISED BY</u>		<u>APPROVED VALUE</u>	<u>SELLER'S PURCHASE PRICE</u>	<u>TRUSTEES' PURCHASE PRICE</u>	<u>OPTION DATE</u>
		<u>(10/25/16)</u>	<u>(10/25/16)</u>				
Cannon Family Farm	412	\$907,000*	\$825,000	\$907,000	**	\$742,424***	120 days after BOT approval

*Fee value was determined to be \$1,772,000 (Albright)
 **Property was assembled over many years by the Cannon Family
 ***The purchase price for the conservation easement is \$1,802 per acre

STAFF REMARKS:

This acquisition was negotiated by FDACS/FFS under its RFLPP. If approved, this will be the fortieth perpetual conservation easement proposed for acquisition, with a total of approximately 41,504 acres preserved under the RFLPP. The Cannon Family Farm project is ranked in Tier One on the 2016 RFLPP Acquisition List.

PROPERTY DESCRIPTION:

The Cannon Family Farm is a working farm that has been in agricultural production for more than 100 years. The original home site was built in the late 1800's and was used as a church prior to being converted to a home, which family members still live in and are working to complete the restoration. Additionally, there is a sugar cane mill on the property that is being restored so that syrup making may begin again on the homestead.

The Cannon Family Farm is centrally located between one of the few gaps in the 100-mile long Marjorie Harris Carr Cross Florida Greenway State Recreation and Conservation Area (Greenway). Acquisition of this easement to fill a gap in the Greenway will prevent potential development, or other incompatible land uses, from occurring between the Greenway boundaries that may adversely impact wildlife movement. Additionally, the proposed easement is situated within the Cross Florida Greenway 2001 Additions Florida Forever BOT project, which extends just north of the Cannon property. The Cannon property's eastern boundary is shared with the western boundary of the Southwest Florida Water Management District's Halpata Tastanaki Preserve.

The Cannon Family has multiple agricultural practices, including cow/calf, row crops, and timber. A cattle operation has been in place as long as the family has owned the property. This is a commercial cattle operation of 60 head of brood cows. There is an animal identification program,

Item 8, cont.

a vaccination program, and a supplemental feeding program. Stocking rates are good with adequate grazing conditions and rotational grazing is in place. Other livestock include horses, donkeys, and poultry. Sweet corn and peanuts are rotated on cropland, with watermelons and pastures rotated as land and market conditions warrant. Approximately 80 acres of hay are cut each year for use on the farm.

There are scattered small stands of natural regeneration slash and loblolly pines. The stands are fully stocked with basal areas, or 100 or more, and are ready for a first thinning. Most of the mature pine was harvested 25-30 years ago and allowed to regenerate naturally, producing a mix of slash and loblolly pine.

About two-thirds of the Cannon Family Farm has been converted to improved pasture, the remainder consists of isolated, depressional wetlands, both marsh and cypress swamp, and bordering hardwood forest. The property is located approximately 688 feet northeast of the Withlacoochee Outstanding Florida Waters and within its impaired waters drainage basin. Numerous ephemeral water bodies and numerous palustrine, ephemeral wetlands, and forested freshwater wetlands occur on this property. The northern portion of the property is located within the Rainbow River Springshed and the southern part of the property is within the Crystal River Springshed.

Whitetail deer, turkey, sandhill crane, mourning dove are all present in large numbers. Florida black bear and Florida panther are known to pass through and utilize the property.

PROHIBITED USES:

- Dumping of biodegradable or nonbiodegradable, toxic, unsightly, offensive or hazardous substances, trash or garbage, wastes, abandoned vehicles, appliances, machinery, toxic wastes or substances, pollutants or contaminants, or similar material.
- The mining, excavation of surface or subsurface materials, the exploration for and extraction of oil, gas, minerals, dolostone, peat, muck, marl, limestone, limerock, kaolin, fuller's earth, phosphate, common clays, gravel, shell, sand and similar substances either directly or indirectly by Grantor or on Grantor's behalf.
- Activities that affect the hydrology of the land or that detrimentally affect water conservation, erosion control, soil conservation, or fish and wildlife habitat, etc.
- Planting of nuisance exotic or non-native plants as listed by the Exotic Pest Plant Council (EPPC) or its successor. The Grantor shall, to the extent practical, control and prevent the spread of nuisance exotics or non-native plants on the Property.
- Concentrated and confined animal feed lot operations as defined by the United States Department of Agriculture.

Item 8, cont.

- New construction or placing of temporary or permanent buildings, mobile homes or other structures in, on or above the ground of the Property except as may be permitted hereinafter, or as necessary by Grantor for maintenance or normal operations of the Property or during emergency situations or as may otherwise be specifically provided for in the Easement.
- Construction or placing of roads, billboards or other advertising, utilities, or structures, except those structures and unpaved roads necessary for the agricultural operations on the land or structures necessary for other activities allowed under the Easement, and except for linear facilities described in section 704.06(11), F.S. Grantee may erect and maintain signs designating the Property as land under the protection of Grantee.
- Fertilizer use for agriculture activities shall be in accordance with agricultural Best Management Practices (BMPs) recommended by the Natural Resources Conservation Service or the Florida Department of Agriculture and Consumer Services, whichever is more stringent, as those BMPs may be amended from time to time. No agricultural activities shall occur within a 100-foot buffer around sinkholes and other karst features that are connected to spring conduits, except as provided in the applicable BMPs.
- Actions or activities that may reasonably be expected to adversely affect threatened or endangered species.
- Any subdivision of the property.
- Commercial water wells on the Property.
- Harvesting of cypress trees in the designated Significant Natural Areas (SNA).
- Mitigation banks pursuant to Section 373.4135, et. seq., F.S.
- Construction or improvements in any SNA or conversion of SNAs to more improved areas or more intense uses. Any use of the Property which would impair, adversely impact, or destroy the SNAs, including a change to more intensive agricultural practices, is also prohibited.
- Activities detrimental to the preservation of historical, architectural, archaeological, or cultural resources on the Property.
- Conversion of forested areas to non-forested areas as shown in the BDR within the SNAs, provided however, that pine trees maybe be harvested outside of Significant Natural Areas pursuant to Silviculture Best Management Practices as approved by the Florida Department of Agriculture and Consumer Services.

Item 8, cont.

OWNER'S RIGHTS:

- Grantor has, and shall be deemed hereby to have retained, the underlying fee simple absolute title in the Property.
- The right to conduct prescribed burning on the Property; provided, however, that Grantor shall obtain and comply with a prescribed fire authorization from the FDACS' FFS or its successor agency.
- The right to mortgage the Property; provided, however, that the Mortgagee's lien shall be inferior to and lower in priority than this Easement.
- The right to contest tax appraisals, assessments, taxes and other charges on the Property.
- The right to continue to use, maintain, repair, and reconstruct, all existing buildings, barns, animal pens, outbuildings, fences, roads, ponds, wells, utilities, drainage ditches and such other facilities on the Property as depicted in the BDR, except on SNAs.
- The right to sell, devise or otherwise transfer ownership of the Property to a third party. This right, however, does not include the right to sell the remaining property rights on the Property for the purposes of a conservation easement or other restriction that would divest the Property of its use under the terms and conditions of the Easement.
- The right to exclusive use of the improvements on the Property.
- Grantor shall obtain and comply with all permits for management of stormwater, for water wells and consumptive uses as may be required by the water management district or any successor agency having jurisdiction over those activities.
- The right to construct, after giving notice to Grantee, buildings or other structures incident to agricultural uses carried on in accordance with sound agricultural practices. Such buildings shall not be used as residences.
- Nothing shall prohibit Grantor from establishing (by survey, fencing or marking) and maintaining property lines around the perimeter of the Property to protect the Property from trespassing and to assist Grantor in the management of the Property in accordance with the Easement.
- The right to observe, maintain, photograph, introduce, and stock native fish or wildlife on the Property, to use the Property for hiking and horseback riding. Grantor reserves, and shall continue to own, the hunting and fishing rights on or related to the Property and Grantor may lease and sell privileges of such rights.

Item 8, cont.

- The right to farm as agriculture is defined in Sec. 570.02(1), Fla. Stat., pursuant to such Best Management Practices as promulgated by the Department of Agriculture and Consumer Services; unless specifically prohibited or restricted herein.
- Grantor reserves five Building Envelopes and the right, after giving notice to Grantee, to develop within each envelope up to 45,000 square feet of impervious surfaces for residential purposes including one single family residence, barn, and accessory structure. Each Building Envelope will not exceed two contiguous acres. Impervious surfaces are defined as material that does not allow water to percolate into the soil on the Property. This includes, but is not limited to, residential buildings, agricultural buildings with or without flooring, paved areas, and any other surfaces that are covered by asphalt, concrete, or roofs. Any such development may not be constructed within the SNAs. Grantor shall provide a legal description and survey for the building envelope(s) to the Grantee prior to development.
- The granting of easements or rights-of-way for power lines, gas lines, sewer lines, waterlines, telecommunications towers, and wind farms is prohibited. Notwithstanding this prohibition, the Grantee may grant or modify easements for utility connections necessary to serve the permitted uses of the Property that are consistent with the Easement Purposes. Existing utilities may be replaced or repaired at their current location.
- The right to install connections to normal utility systems, such as electric, cable, water and sewer, and telephone. If a connection to a sewer system is not available, this right shall include the right to install a septic system. The granting of easements or rights-of-way for power lines, gas lines, sewer lines, waterlines, telecommunications towers, and wind farms is prohibited, unless approved by Grantee. Notwithstanding this prohibition, the Grantor may grant or modify easements for utility connections necessary to serve the permitted uses of the Property that are consistent with the Easement Purposes. Existing utilities may be replaced or repaired at their current location.

ENCUMBRANCES:

There are no known encumbrances on the property that adversely affect marketability or the ability to enforce the rights granted under the easement.

MORTGAGES AND LIENS:

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. Therefore, DEP staff 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 commitment and an environmental site assessment of the property will be provided by FFS prior to closing.

EASEMENT MONITOR:

This perpetual conservation easement will be monitored by the FFS.

COMPREHENSIVE PLAN:

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

(See Attachment 8, Pages 1-77)

RECOMMEND APPROVAL