

**AGENDA
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
MARCH 30, 2004**

**Item 1 Caldwell/Mason Option Agreement/Florida's First Magnitude Springs/
Morrison Springs Florida Forever Project**

REQUEST: Consideration of an option agreement to acquire 161.2 acres within the Florida's First Magnitude Springs/Morrison Springs Florida Forever project from Richard A. Caldwell and Brook N. Mason.

COUNTY: Walton

LOCATION: Sections 23 and 24, Township 03 North, Range 17 West

CONSIDERATION: \$3,425,000

<u>PARCEL</u>	<u>ACRES</u>	<u>APPRAISED BY</u>		<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>Catlett</u> <u>(09/11/03)</u>	<u>Candler</u> <u>(09/10/03)</u>				
Morrison Springs	161.2	\$3,500,000	\$3,650,000	\$3,650,000	*	\$3,425,000** (94%)	120 days after BOT approval

* Family owned since the early 1900s.

** \$21,247 per acre

STAFF REMARKS: Florida's First Magnitude Springs project is an "A" group project on the Florida Forever Full Fee Project List approved by the Board of Trustees on February 26, 2004. The project contains 7,551.46 acres, of which 1,319 acres have been acquired or are under agreement to be acquired. After the Board of Trustees approves this agreement, 6,071.26 acres, or 80 percent of the project, will remain to be acquired.

All mortgages and liens will be satisfied at the time of closing. There are three leases that appear on the title work; one in favor of Hydrotronics, Inc, one in favor of Jerry G. Young and one in favor of Melinda Young. The scuba diving and recreation lease in favor of Melinda Young is the only lease currently in effect and will be terminated on or before closing. The owner has contacted the lessee to inform her of the expiration of said lease. There are several structures on the property which include a 51-foot by 23-foot pavilion, a 16.3-foot by 16.3-foot storage shed, a 16.2-foot by 12.3-foot equipment shed, a 40.2-foot by 40.2-foot concession stand/dive shop, a single 90-foot well and a septic tank. The appraisers considered these improvements in their final reconciliation of value. The future managing agency, Walton County, will be able to manage the property with these improvements in place and plans to incorporate them into its management plan of the property. Department of Environmental Protection (DEP) staff will review, evaluate and implement an appropriate resolution for any title issues that arise prior to closing. On June 22, 1999, the Board of Trustees approved a staff recommendation to delegate to DEP the authority to review and evaluate marketability issues as they arise on all chapter 259, F.S., acquisitions and to resolve them appropriately.

A title insurance policy, a survey, an environmental site evaluation and, if necessary, an environmental site assessment will be provided by the purchaser prior to closing.

Morrison Spring was historically a first magnitude spring and since 1942 has been a large second magnitude spring that contributes flow to the Choctawhatchee River in Walton County. It is essentially undeveloped and in a relatively natural condition. The spring is a very popular scuba diving location that attracts cavern divers from several states. The spring has significantly higher recreation potential than is now realized under current management. Furthermore current public use is contributing to the degradation of the natural and recreational qualities of the spring.

Item 1, cont.

Large springs of clear, continuously flowing water are among Florida’s most famous and important natural and recreational resources. The cavernous, water-filled rocks of the Floridan Aquifer supply the largest springs. By preserving land around three of the largest springs, public acquisition of this project will protect them, and the Floridan Aquifer, from the effects of commercial, residential, and agricultural runoff; clear-cutting and mining; and unsupervised recreation. This project will allow Floridians and visitors from all over the world to be able to enjoy these springs for years to come.

The property will be managed by Walton County as a scuba diving and recreation county park.

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 1, Pages 1-22)

RECOMMEND APPROVAL

Item 2 Zimmerman Acquisition Agreement/Critical CREW Portion of the Corkscrew Regional Ecosystem Watershed Project

REQUEST: Consideration of authorization to acquire 100 percent interest in 0.98 acre within the Critical CREW portion of the Corkscrew Regional Ecosystem Watershed project from Julie Zimmerman.

COUNTY: Lee

LOCATION: Section 31, Township 47 South, Range 26 East

CONSIDERATION: \$268,750

<u>PARCEL</u>	<u>ACRES</u>	APPRAISED BY Bowen (07/02/02)	APPROVED <u>VALUE</u>	SELLER’S <u>PURCHASE PRICE</u>	TRUSTEES’ <u>PURCHASE PRICE</u>	CLOSED <u>DATE</u>
Julie Zimmerman	0.98	\$215,000	\$215,000	\$103,000*	\$268,750 (125%)	June 3, 2003

*Dwelling purchased in 1993; adjacent vacant lot in 1998.

STAFF REMARKS: The Corkscrew Regional Ecosystem Watershed (CREW) project is an “A” group project on the Florida Forever Full Fee Project List approved by the Board of Trustees on February 26, 2004. The project contains 61,992 acres, of which 31,592.03 acres have been acquired or are under agreement to be acquired. After the Board of Trustees approves this agreement, 30,398.99 acres or 49 percent of the project will remain to be acquired. The residential improvements will be removed to reduce the depth and duration of stormwater impacting natural areas.

In 1994, the legislature enacted section 259.041(17), F.S., which provided the authority to adopt Water Management District procedures for joint acquisitions. On June 27, 1995, the Board of Trustees authorized staff to enter into an acquisition agreement with the South Florida Water Management District (District) to acquire various ownerships located within the CREW project in accordance with section 259.041(17), F.S., utilizing the procedures set out in section 373.139, F.S.

Item 2, cont.

On October 30, 1995, the Land Acquisition Advisory Council expanded the CREW project boundary, eliminated a \$10 million cap on project funding and designated the project a shared acquisition with the District. As a shared acquisition, the District and the Board of Trustees are each expected to spend the same amount in acquiring land within the project. Since the District has already made some purchases for which it was credited, staff agreed that it would be appropriate for the Board of Trustees to match those purchases. Therefore, the acquisition agreement was amended to provide that the Board of Trustees purchase \$13,360,000 worth of land in the project at its sole cost and expense before the 50/50 shared acquisitions will begin. The District has provided documentation, acceptable to the Division of State Lands, establishing the District's expenditure in this project. Following the Board of Trustees' authorization of the acquisitions contemplated in this item, \$7,772,845 worth of land will have been purchased by the Board of Trustees towards matching the District's purchases in this project. The remaining matching balance will be \$5,587,155.

On August 14, 2001, the Board of Trustees authorized the Division of State Lands to modify the acquisition agreement with the District to allow the District to (a) extend offers for that portion of the CREW project known as the Southern CREW Critical Project (Critical CREW) that exceed the appraised value by the greater of \$5,000 or up to 125 percent of the appraised value; (b) purchase improved property; and (c) approve a substitute procedure allowing any resulting contracts to be approved according to the current delegations when appropriate. The Board of Trustees' approval of this amendment has allowed the District to increase voluntary acquisitions, reduce the number of lengthy and expensive condemnations and reduce the overall project acquisition cost.

Public acquisition is essential to continue the preservation and restoration of this endangered ecosystem that is a vital component of the Comprehensive Everglades Restoration Plan. Acquisition of this land is critical to improving water quality and water quantity (hydroperiod), both of which are necessary to restore the Big Cypress Basin portion of the Everglades ecosystem that supports a unique diversity of plants and animals not found anywhere else.

Restoration benefits include the following:

- Preservation of the natural water storage potential provided by the natural attributes of these lands;
- Re-establishment of historical flows across those wetlands currently impeded by roads and structures to avoid forcing more water eastward through the CREW Project and the Corkscrew Swamp Sanctuary which could harm natural wetlands by increasing hydroperiods in these areas;
- Restoration of the historical flowway of the Imperial River by removing structures and filled area reducing the depth and duration of stormwater impacting natural areas;
- Reduction of existing loads of nutrients and other pollutants to the Imperial River;
- Avoidance of additional encroachment of development into flood-prone areas; and
- In addition to provision of critical wildlife habitat, the acquired land will provide additional freshwater supplies for protected natural areas including Corkscrew Swamp, Florida Panther National Wildlife Refuge and Everglades National Park.

The District has acquired an agreement for sale and purchase for this parcel within the Critical CREW project boundary. The parcel is improved with one house, which will be removed as part of the restoration. Pursuant to the terms of the amended acquisition agreement, the District shall be reimbursed for all costs associated with acquiring the property, including pre-acquisition and closing related costs. The Board of Trustees' purchase price will be 100 percent of the contract price negotiated by the District plus 100 percent of the cost incurred in the purchase of the property. Title to the property acquired will vest in the Board of Trustees.

Item 2, cont.

As provided for in the amended acquisition agreement, the Governing Board of the District adopted Resolution 2003-510 requesting the Board of Trustees' release of funds for the purchase price for the parcel, reimbursement of 100 percent of its pre-acquisition costs and reimbursement of 100 percent of its closing costs. Pursuant to the amended acquisition agreement, the pre-acquisition and closing costs will be reimbursed from Florida Forever. The District's resolutions contain all of the assurances required by the amended acquisition agreement.

This property will be managed by the District as a conservation and preservation area with passive public use.

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 1-41)

RECOMMEND APPROVAL

Item 3 Sale of State-owned Land/Alachua County/Frances E. Jones-Clayton

REQUEST: Consideration of a request to sell 22.42 acres of state-owned land in Alachua County to Frances E. Jones-Clayton.

COUNTY: Alachua
Deed No. 31195

APPLICANT: Frances E. Jones-Clayton

LOCATION: Section 33, Township 07 South, Range 17 East.

CONSIDERATION: \$41,500 to be deposited into the Internal Improvement Trust Fund

<u>PARCEL</u>	<u>ACRES</u>	APPRAISED BY Santangini (04/17/03)	APPRAISED <u>VALUE</u>	BUYER'S PURCHASE <u>PRICE</u>	CLOSING <u>DATE</u>
01-0070.0	22.42	\$41,500	\$41,500	\$41,500	60 days after BOT approval

STAFF REMARKS: The Board of Trustees originally acquired these parcels of land pursuant to chapter 18296, 1937 Laws of Florida, known as the Murphy Act. The act provided for statutory forfeiture of lands for nonpayment of taxes. Tax certificates unredeemed as of June 9, 1939, were automatically converted to fee simple title in the name of the state. Pursuant to section 253.034(6)(c), F.S., for nonconservation lands, the Department of Environmental Protection (DEP), Division of State Lands (DSL) shall review such lands and shall recommend to the Board of Trustees whether such lands should be retained in public ownership or disposed of by the Board of Trustees.

Pursuant to section 253.034(6)(h), F.S., lands determined to be surplus, which were acquired by a unit of government by gift, donation, grant, quitclaim deed, or other such conveyance where no monetary consideration was exchanged, may be sold based on one appraisal.

DSL received a request from Frances E. Jones-Clayton to purchase one parcel totaling 22.42

Item 3, cont.

acres of state-owned land for agricultural purposes. Mr. Larry Jones, the son of the applicant, owns property adjacent to the subject property.

In accordance with section 253.111, F.S., Alachua County and state agencies were notified of the sale and did not express any interest in the property. Pursuant to section 253.115, F.S., the ten property owners within 500 feet of the subject property were also notified and no objections or interest was expressed.

Based on the fact that this is a landlocked parcel with the only road access controlled by the applicant's family and that no interest was expressed by adjacent land owners, DSL did not conduct a bid for this property.

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

(See Attachment 3, Pages 1-20)

RECOMMEND APPROVAL

Item 4 Reconsideration of Sale of State-owned Land/Orange County/Alexandra (U.S.A.), Inc.

REQUEST: Reconsideration of an application to purchase a 5.35-acre, more or less, parcel of filled, formerly sovereignty submerged land.

COUNTY: Orange
Deed No. 30145 (4848-48)

APPLICANT: Alexandra (U.S.A.), Inc.

LOCATION: Section 05, Township 24 South, Range 28 East, Lake Sheen, Class III waters

CONSIDERATION: \$266,644, to be deposited in the Internal Improvement Trust Fund; and quitclaim of applicant's interest in two parcels of submerged lands, containing 2.85 acres (Parcel B) and 1.46 acres (Parcel C), respectively, for the purpose of clearing the Board of Trustees' title.

STAFF REMARKS: In 1994 and 1995, Alexandra (U.S.A.), Inc. (Alexandra), purchased property in Orange County for residential development purposes. The purchase included a 4.69 acre finger of land, Parcel A ("banana parcel"), that extends into Lake Sheen, and two parcels of submerged lands and associated wetlands to the north and south of the banana parcel containing 2.84 acres (Parcel B) and 2.23 acres (Parcel C), respectively. At the time of purchase, the banana parcel appeared relatively unimproved, with large trees ringing the perimeter along the lakefront. It was not until an application for a dredge and fill permit was submitted to the South Florida Water Management District (SFWMD) that title to the banana parcel became an issue. Aerial photographs taken in 1954 showed the area to be submerged lands in their natural state, and aerial photographs dated February 1958 showed recent fill in the area of the banana parcel.

On June 22, 1999, the Board of Trustees approved the sale of the 4.69 acres of filled, formerly sovereignty submerged land to Alexandra (U.S.A.), Inc. (Alexandra), for \$212,500

Item 4, cont.

for the purpose of clearing the applicant's title. In addition to the cash payment, Alexandra agreed to quitclaim to the Board of Trustees its interest in the two parcels of submerged lands and to grant the Board of Trustees a conservation easement over a 1.45-acre parcel of wetlands located west of and adjacent to the banana parcel.

Following Board of Trustees' approval, the applicant requested that the legal description of the banana parcel be modified to reflect the ambulatory nature of the ordinary high water line. Department of Environmental Protection (DEP) staff agreed to the modification, which was to be forwarded to the Governor and Cabinet for approval via a letter of negative response. While waiting for revised legal descriptions, the applicant also determined that a strip of land to the north of Parcel B should have been included in the original negotiations. An alternative proposal was submitted to staff. Subsequent negotiations resulted in the following revised request that requires Board of Trustees' approval:

1. Following approval of the 1999 request, Alexandra determined that it should have included a 75-foot strip of land adjoining the northern boundary of Parcel B in the transaction. The strip includes a 0.14-acre parcel of land above the 99.5-foot contour (Parcel A-1), and 1.20 acres of submerged lands below the 99.5-foot contour (Parcel B-1). Alexandra would like the Board of Trustees to include Parcel A-1 with Parcel A in the Board of Trustees' conveyance to Alexandra, and Parcel B-1 with Parcel B in Alexandra's conveyance to the Board of Trustees.

2. At the time of Board of Trustees' approval of the original transaction, a 0.52-acre strip of land above the 99.5-foot contour located between the banana parcel and Parcel C (Parcel C-1) was included in the lands to be deeded to the Board of Trustees as part of Parcel C. Because Parcel C-1 is landward of the 99.5-foot contour, it should have been included with Parcel A in the conveyance to Alexandra.

3. Department of Environmental Protection (DEP) staff has learned that Parcel D, originally proposed for a conservation easement to the Board of Trustees, is designated for conservation purposes and is subject to a conservation easement in favor of the SFWMD, and its development rights have also been dedicated to Orange County. Because these lands will already be restricted for conservation purposes, there is no benefit to the Board of Trustees in accepting another conservation easement across the property. In recognition of this change in the previously negotiated transaction, Alexandra has agreed to eliminate the ten percent reduction in purchase price it was to receive for the conservation easement to the Board of Trustees across Parcel D.

4. Alexandra has requested that a 0.25-acre portion of Parcel C south of and including a 30-foot right-of-way across the southern portion of Parcel C (Parcel E) be removed from the lands to be quitclaimed to the Board of Trustees as proposed in the original transaction. In accordance with applicable development permits and the subdivision plat, Parcel E is also designated for conservation purposes and is subject to a conservation easement in favor of the SFWMD. Alexandra has also dedicated its development rights to Parcel E to Orange County. Although Alexandra has offered to grant the Board of Trustees a conservation easement over Parcel E, DEP staff believes that there is no benefit to be derived from receiving a conservation easement over lands already subject to multiple development restrictions. DEP's Bureau of Survey and Mapping (BSM) has reviewed aerial photographs of the area and determined that in the event Alexandra were to apply for regulatory permits involving these lands, it would recommend that proprietary authorization was not required. For this reason DEP staff has no problem with eliminating Parcel E from the lands originally proposed for quitclaim to the Board of Trustees by Alexandra.

Item 4, cont.

In 1999, the Board of Trustees approved a sale price of \$212,500 for 4.69 acres, or \$45,309 per acre. Elimination of the ten percent reduction granted in exchange for the conservation easement over Parcel D results in an increase in the purchase price to \$233,750 or \$49,840 per acre for the original 4.69 acres. Based on updated surveys of the respective parcels, DEP staff is recommending that the Board of Trustees accept \$266,644 for Parcel A, which now contains 5.35 acres above the 99.5-foot contour (5.35 acres x \$49,840/acre), as well as a quitclaim deed for Parcels B and C, which now contain 2.85 acres and 1.46 acres, respectively, of submerged lands lying below the 99.5-foot contour for the purpose of clearing the Board of Trustees' title.

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

(See Attachment 4, Pages 1-13)

**RECOMMEND APPROVAL SUBJECT TO RECEIPT OF A MARKETABLE TITLE
INSURANCE COMMITMENT OR OPINION OF TITLE
ACCEPTABLE TO DEP FOR PARCELS B, C AND C-1**