

**AGENDA
BOARD OF TRUSTEES
DEPARTMENT OF AGRICULTURE & CONSUMER SERVICES
NOVEMBER 23, 2004**

Item 1 Minutes

Submittal of the Minutes from the November 12, 2003 Cabinet Meeting.

(See Attachment 1, Pages 1-3)

RECOMMEND APPROVAL

Item 2 Douglas Hattendorf Aquaculture Lease

REQUEST: Consideration of authorization to issue a ten-year sovereignty submerged land aquaculture lease of approximately 1.0 acres, more or less, and the overlying water column.

COUNTY: Monroe
 Application No. 44-AQ-859

APPLICANT: Douglas Hattendorf

LOCATION: The requested parcel is located about 2.75 miles south of Marathon Key in the Atlantic Ocean, within the local jurisdiction of Monroe County, at the following coordinates: 24°41.8"N / 81°57.4"W (center points in latitude and longitude; decimal minutes).

CONSIDERATION: \$41.90 annually, representing (1) an initial lease fee of \$31.90, at a rate of \$31.90 per acre or fraction thereof, including the water column; and (2) an annual surcharge of \$10.00, representing \$10.00 per acre or fraction thereof, for deposit in the General Inspection Trust Fund pursuant to section 597.010, Florida Statutes. Commencing January 1, 2005, the lease fees shall be adjusted every five years, based upon the five-year average change in the Consumer Price Index.

STAFF REMARKS: The applicant is requesting approval of a commercial aquaculture lease to cultivate and harvest live rock within a parcel of sovereignty submerged land in the Atlantic Ocean. The requested parcel includes 1.0 acres of state-owned land in 18 to 20 feet of water. The circular parcel covers an area with about 125 feet radius containing coarse sand overlying a lime rock substrate. The proposed project involves the placement of approximately 100,000 pounds of non-indigenous rock per year on the seafloor. The raw material will be obtained from a quarry near Miami and Sarasota, Florida. Lime rock will be piled as pyramids and will act as substrate to attract larval marine organisms to colonize the rock and mimic natural reef communities. Once a desired growth stage has been achieved, the applicant will harvest the rocks with attached marine life and sell them in the tropical marine aquarium trade. The culture of sedentary marine life, referred to as "live rock", has become an integral part of the marine life aquarium trade, since federal and state regulations were enacted to prohibit the harvest of natural live rock communities.

Section 253.68(2)(b), F.S., provides that "it shall be the policy of the state to foster aquaculture development when the aquaculture activity is consistent with state resource management goals, environmental protection, proprietary interests, and the state aquaculture plan." Additionally, section 253.68, F.S., provides that "the Board of Trustees may lease submerged lands to which it has title for the conduct of aquaculture activities and grant exclusive use of the bottom and the water column for either commercial or experimental purposes."

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Item 2, cont.

The application was noticed pursuant to section 253.70, F.S. No objections were filed for the application.

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

(See Attachment 2, Pages 1-25)

RECOMMEND APPROVAL

Item 3 Collier County/Establishment of Aquaculture Use Areas/Issuance of Aquaculture Leases/Educational Use Authorization

REQUEST: Consideration to (1) use approximately 94 acres of sovereignty submerged lands to establish two aquaculture use areas in Collier County for shellfish aquaculture; (2) authorize the issuance of fifteen ten-year sovereignty submerged land aquaculture leases to qualified applicants within the aquaculture use areas; and (3) authorize the use of one parcel, within each aquaculture use area, for educational use issued jointly to Collier County and Florida Gulf Coast University.

COUNTY: Collier

APPLICANTS: Ted Naftal, Jr., Matt Finn, Billie A. Weeks, Jr., Robert W. Robinson, Jonathan S. Speck, Robert D. Robinson, Michael Thompson, Benjamin Hilgendorf, Eric G. Buckley, Gary D. Weeks, Gerald Nicks, CD's Clams and Fishing, Inc., Roy Kibbe, Kenneth E. Moss, Kenneth E. Moss, Jr., and Collier County and Florida Gulf Coast University.

LOCATION: Two tracts of sovereignty submerged lands in Township 54 South, Range 29 East, in Gullivan Bay, Cape Romano-Ten Thousand Islands Aquatic Preserve, near the town of Goodland, Collier County, Florida.

CONSIDERATION: The lease fees for the proposed leases within the Collier County aquaculture use areas represent (1) a base annual rental fee of \$15.95 per acre or fraction thereof; and (2) an annual surcharge of \$10.00 per acre or fraction thereof, for deposit in the General Inspection Trust Fund pursuant to section 597.010, F.S. Commencing January 1, 2005, the lease fees shall be adjusted every five years, based upon the five-year average change in the Consumer Price Index. A waiver is requested for the aquaculture lease application fee, annual rental fees and surcharges for the two parcels to be used for educational and experimental purposes.

STAFF REMARKS: The Department of Agriculture and Consumer Services^o requests consideration by the Board of Trustees to designate approximately ninety-four (94) acres of sovereignty submerged lands for aquacultural use. The requested acreage is located in two tracts of submerged lands identified as the Cape Romano Aquaculture Use Area and the White Horse Key Aquaculture Use Area. The Cape Romano Aquaculture Use Area includes about fifty (50) acres of sovereignty submerged lands, including sixteen (16) two-acre aquaculture lease parcels and navigation easements; and the White Horse Key Aquaculture Use Area includes about forty-four (44) acres, including sixteen (16) two-acre aquaculture lease parcels and navigation

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Item 3, cont.

easements. The applicants request consideration by the Board of Trustees to authorize the use of sixty-four (64) acres of sovereignty submerged lands for fifteen (15) individual four-acre aquaculture leases and one four-acre educational use area within the two aquaculture use areas. The applicants' request for each lease to contain two parcels of two acres reflects the recommendation of the Board of Collier County Commissioners that each individual be granted a two-acre parcel in each of the aquaculture use areas.

Because of the commercial viability of clam farming, the Board of Collier County Commissioners requested that the Department of Agriculture and Consumer Services (DACS) investigate the feasibility of developing commercial aquaculture in the waters off of Collier County in the Gulf of Mexico. Staff, in cooperation with the Department of Environmental Protection's (DEP) aquatic preserve staff, identified two tracts of submerged lands in Gullivan Bay. Staff assessed the marine resources within the proposed areas, determined that the area was suitable for commercial shellfish aquaculture activities, and determined that the activities would not result in adverse impacts to seagrasses, existing shellfish beds, or other sensitive habitats. Based on these findings, the Board of Collier County Commissioners subsequently requested that the Board of Trustees make sovereignty submerged lands available to individual applicants.

The applicants requesting aquaculture leases have completed applications as required in section 253.69, F.S., and section 18-21.008(3), F.A.C., and paid the \$200 nonrefundable application fees. The Division of Aquaculture has reviewed the applications for completeness, evaluated the business plans, and requested background checks by DACS's Division of Law Enforcement to ensure that applicants have had no public health or marine resource violations or felonies.

Pending approval of the Board of Trustees, the two aquaculture use areas will be subdivided into individual two-acre parcels, which will be issued to qualified applicants on a first-come, first-served basis. Leases will be issued in the order that completed applications were received. Individual aquaculture leases will be subject to the terms and conditions applied to other aquaculture leases issued throughout the state for the same purposes, except the transfer or sale of leases will not be approved during the first three years of the lease term.

Upon approval from the Board of Trustees, the potential lessees will have their individual lease parcels surveyed, and the survey will be submitted for approval to the DEP's Bureau of Surveying and Mapping. After DACS receives the approved surveys and legal descriptions of the lease parcels, the lease instruments will be executed. The lessees will then have their leases recorded with the county and with DEP's Division of State Lands, mark their leases according to their lease agreements, and begin production.

Section 253.68(2)(b), F.S., provides that "it shall be the policy of the state to foster aquaculture development when the aquaculture activity is consistent with state resource management goals, environmental protection, proprietary interests, and the state aquaculture plan." Additionally, section 253.68, F.S., provides that "the Board of Trustees may lease submerged lands to which it has title for the conduct of aquaculture activities and grant exclusive use of the bottom and the water column ... for either commercial or experimental purposes."

Item 3, cont.

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

(See Attachment 3, Pages 1- 38)

RECOMMEND APPROVAL TO (1) ESTABLISH TWO AQUACULTURE USE AREAS IN COLLIER COUNTY; (2) AUTHORIZE THE ISSUANCE OF FIFTEEN AQUACULTURE LEASES; AND (3) AUTHORIZE ONE EDUCATIONAL USE AREA IN THE AQUACULTURE USE AREAS SUBJECT TO APPLICABLE LAW AND RULE REQUIREMENTS, FINAL ACTION BY THE U.S. ARMY CORPS OF ENGINEERS, AND COMPLIANCE WITH LEASE TERMS AND CONDITIONS