

AGENDA
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
FEBRUARY 16, 2005
Substitute Page

Substitute Item 1 BOT Delegations Reaffirmation

REQUEST: Consideration of reaffirmation, retroactive to September 21, 2004, to existing delegations granted by the Board of Trustees.

COUNTY: Statewide

STAFF REMARKS: Understanding the benefits that may be reaped when the functions of government are streamlined, the Board of Trustees delegated a number of its functions to the Secretary of the Department of Environmental Protection (DEP). On September 21, 2004, the Board of Trustees reaffirmed existing delegations. In the course of executing certain duties, it has come to the attention of DEP staff that some of the delegations meant to be presented at the September 21, 2004 meeting were inadvertently omitted and grammatical errors altered the intent of some delegations. The delegations also perpetuated a conflict created when the Board of Trustees acted to expand its delegations in 1992 but in one instance reduced delegated authority previously granted by the Board of Trustees as early as 1980. The changes needed to correct the 2004 delegations are as follows:

- DSL-1, DSL-2, and DSL-3 correct grammatical problems that limited these delegations to assignments. The intent was to allow staff to approve, execute, modify and assign the respective instruments covered by the three delegations. The error has been corrected. Also, all assignments have now been combined with renewals under renumbered DSL 25 because these actions do not require negotiation of terms and conditions. In the past, DSL-1 has been used for public entity applications, which appeared to be a duplication of some of the authority granted under renumbered DSL-24. All public entity applications are now more appropriately covered by renumbered DSL-24, and the extra conservation/recreation lands provision found in renumbered DSL-24 was included in DSL-1 to apply to non-profit requests. The confusion occurred when multiple delegations were combined in the 2002 delegations.
- DSL-2 in the 2004 delegations did not reference the requirement for a letter of negative response for easements 5 acres or less and greater than 0.25 acre. Because of this additional language, DEP staff also felt that it was necessary to clarify that easements being granted or modified as part of an acquisition to formalize a pre-existing use were delegated regardless of size and without a letter of negative response.
- DSL-6 as written in the 2004 delegations would only allow transactions for parcels with a value of \$100,000 when the intent was for transactions of \$100,000 or less.
- DSL-7. The Board of Trustees as far back as 1980 delegated authority to release canal and road right-of-way reservations, and the right of entry in oil and mineral reservations, regardless of the type of deed. In 1992 this delegation was inadvertently limited to reservations in Murphy Act deeds. Since the 1992 request to the Board of

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Trustees was to expand existing delegations, staff continued to release reservations in all Board of Trustees deeds based on the previous delegations (the expanded authority was also found in delegations approved in 1988 and 1990.)

- DSL-8 adds back in the ability to satisfy RICO mortgages up to \$25,000, which was inadvertently omitted.
- DSL-11 was found in 1988 and 1990 delegations, and was not authority withheld by the Board of Trustees in 1992, but was inadvertently omitted. Preparing and executing submerged lands authorizations and maintaining the official document are intended for internal purposes only and will be used to differentiate those activities performed by the Division of State Lands, Bureau of Public Land Administration versus the Environmental Resources Permitting field offices.
- DSL-24 is no longer needed.
- Renumbered DSL-25 combines all assignments and renewals under one delegation since neither action involves renegotiating any terms and conditions.
- DSL-28 adds back in the ability to reject RICO offers and issue leases for RICO property for a term of up to 12 months, which was inadvertently omitted.
- DSL 29 through DSL 35 was not authority withheld by the Board of Trustees in 1992, but was inadvertently omitted. In response to thousands of requests per year the Bureau of Survey and Mapping performs research and provides information to both the public and private sectors regarding Board of Trustees ownership and boundaries for permitting, land sales, acquisition and other purposes. Staff also provides expert testimony in court. Standards for review of surveys and appraisal mapping assures all improvements, and physical and legal encumbrances that may affect the value of land are properly identified, and provides effective land boundary demarcation for land management. Technical review of surveys and establishment of water boundaries are in accordance with chapter 177, Part II, F.S., issuance of certificates of title are in accordance with sections 253.12(9)&(10) F.S. and approval of erosion control line plats and resolutions in accordance with sections 161.181, F.S.
- DSL-36 is found in DIR-1, but needs to be included in DSL delegations for all documents submitted to the Governor and Cabinet for Board of Trustees approval.
- DSL-37 was approved by the Board of Trustees under Item #4, 10/08/80, and as a part of 1988 and 1990 delegations, and was not authority withheld by the Board of Trustees in 1992, but was inadvertently omitted.
- DSL-38 was approved by the Board of Trustees under Item #13, 01/17/84, with regard to approving subleases for apiary activities, was expanded in 1990 delegations to include the ability to approve apiary guidelines, and was not authority withheld by the Board of Trustees in 1992, but was inadvertently omitted.
- DSL-39 was found in 1990 delegations, and was not authority withheld by the Board of Trustees in 1992, but was inadvertently omitted.
- DSL-40 was found in 1988 and 1990 delegations, and was not authority withheld by the

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Board of Trustees in 1992, but was inadvertently omitted.

- DSL-41 was found in 1988 and 1990 delegations, and was not authority withheld by the Board of Trustees in 1992, but was inadvertently omitted.

Therefore, in order to carry on business in the most timely fashion, the delegations need to be reaffirmed. Delegations are vital to the protection of Florida's resources, as it allows government to be more responsive to the public in today's sophisticated business environment.

Over the years, DEP has carefully created policies and procedures to ensure that delegations granted to DEP are exercised in accordance with the laws, rules and intent of the Board of Trustees. The end result has been a success. Due to the delegations granted to DEP by the Board of Trustees, DEP has been able to handle the day-to-day operations of the Board of Trustees in a business climate that increases in complexity as it's reliance on technology expands. Additionally, as the state's population has grown, the pressure to use the Board of Trustees' lands has increased. With the delegations in place and the dedication of the staff to providing quality customer service, individuals and businesses from all over the state have increasingly looked to the state's real estate portfolio to solve their business needs.

Delegations are an avenue for removing some of the obstacles that can be created when the functions of government become overly cumbersome.

(See Attachment 1, Pages 1-17)

RECOMMEND APPROVAL

Substitute Item 2 DMS/Analysis of Office Space Efficiency/Resulting Impact on State-owned Property in Tallahassee

REQUEST: Consideration of the Department of Management Services' analysis of office space efficiency and the resulting impact on state-owned property in Tallahassee.

COUNTY: Leon

APPLICANT: Department of Management Services (DMS)

LOCATION: Multiple

Substitute Item 2, cont.

STAFF REMARKS: DMS has completed an analysis of state-owned office space in Tallahassee. This analysis is part of the agency's Workspace Management Initiative designed to improve office space quality for state employees, improve office space efficiency and control costs associated with property management. It is a statewide initiative that will first focus on Leon County. The analysis has included tenant requests, space quality and utilization, operating costs, building deficiencies, potential value or other uses of the property, and local community impact. The analysis has resulted in 11 parcels presented to the Board of Trustees for their consideration for future uses.

Several DMS facilities have high operating expenses, primarily due to utility consumption related to antiquated equipment. Those not conducive to office use include an old jail, homes, former motels and other structures that lack floor plan efficiency.

DMS requested that the Department of Environmental Protection, Division of State Lands (DSL), initiate appraisals of a number of properties, primarily in the downtown Tallahassee area. The appraisals have now been completed and dispositions will be conducted to ensure that impact to this untested market benefits the state. The decision to consider surplusings properties was based on market interest, appraised value, and the ability to relocate occupants. As employees who occupy some of these facilities will be impacted, the disposition strategy includes an employee migration plan.

Additionally, DMS has formed a work group to solicit feedback from the Tallahassee community to ensure a responsible and disciplined approach is taken. The work group consists of members from the following: City, County, Chamber of Commerce, FSU, FAMU, Downtown Improvement Authority, Gaines Street Revitalization, and Blueprint 2000. DMS, DSL and the impacted local interests have committed to collaboratively produce recommendations to fully leverage each of these assets on behalf of the state. Recommendations can be expected to be provided to the Board of Trustees in approximately one month.

(See Attachment 2, Page 1)

RECOMMEND ACCEPTANCE

Item 3 **BOT/Bluewater Development of Sarasota, L.L.C. Exchange Agreement/
New College**

REQUEST: Consideration of an exchange agreement under which the Board of Trustees would convey a 1.6-acre parcel of state-owned non-conservation land in Sarasota County to Bluewater Development of Sarasota, L.L.C., in exchange for a 3.6-acre parcel of non-conservation land owned by Bluewater Development of Sarasota, L.L.C.

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Item 3, cont.

COUNTY: Sarasota

APPLICANT: Bluewater Development of Sarasota, L.L.C. (Bluewater)

LOCATION: Section 01, Township 36 South, Range 17 East

CONSIDERATION: \$445,000 to be paid by New College of Florida

| <u>PARCEL</u> | <u>ACRES</u> | <u>APPRAISED BY</u> | | <u>APPROVED VALUE</u> | <u>CLOSING DATE</u> |
|--------------------------|--------------|----------------------------|---------------------------------|-----------------------|---------------------|
| | | <u>Pallardy (10/05/04)</u> | <u>Hatin (10/05/04)</u> | | |
| (1)Bluewater | 3.6 | \$1,175,000 | \$1,175,000 | \$1,175,000 | 120 days |
| (2)BOT | 1.6 | | <u>(06/22/04)</u> \$ 730,000 | <u>\$ 730,000</u> | after BOT approval |
| Consideration Due | | | | \$ 445,000 | |

STAFF REMARKS: This exchange was negotiated by New College of Florida (New College). Funds in the amount of \$1,500,000 were appropriated for the acquisition during the 2002 Legislative session and are still available for use by New College.

The Department of Environmental Protection’s (DEP), Division of State Lands (DSL) received a request from New College to exchange 1.6-acres of state-owned land for 3.6-acres of land owned by Bluewater. The state-owned parcel contains three one-story masonry structures, totaling approximately 5,730 gross square feet, constructed in 1947 as a commercial motel. The property was part of New College when it was a private college and was acquired by the state in 1974. The building code allows that the property can only be used for storage of materials and supplies. It would be cost prohibitive to invest funds in improving the structures for use other than storage. New College is prepared to provide alternative storage space when the property is vacated. This property is currently under lease to the University of South Florida (USF). However, USF has provided a letter indicating it will release this property from its lease after the property is exchanged. In October 2003, New College and USF executed an agreement delineating the geographic boundaries of their respective campuses. In accordance with that agreement, the Board of Trustees’ property proposed to be exchanged for the Bluewater property is part of the New College campus.

The Bluewater parcel, totaling approximately 3.6 acres, is vacant land with some asphalt and concrete paving. The New College and New College Foundation have been diligently pursuing its acquisition for several years because of its strategic location to the campus. New College, in consultation with DEP, had the property appraised in April 2003, and the appraised value was \$835,000. At that time, the property was owned by Ludwig and Carmen Czeisler. New College made an offer to the Czeislars but this offer was rejected and the property was subsequently sold to Bluewater for \$1,050,000 on or about October 2003. Early in 2004, New

Item 3, cont.

College representatives had several meetings with the new owners to discuss the possibility of jointly developing the property for the benefit of both New College and Bluewater. New College subsequently concluded that it would be in its best interest to have this site fully under its long-term management and began discussions with Bluewater concerning a possible exchange. During its negotiations, Bluewater provided New College with a copy of an appraisal of its property dated May 6, 2004, with a value of \$1,725,000. New College Foundation agreed to pay an additional \$295,000 in private funds above the DSL approved value of \$1,175,000 in order to facilitate this exchange, pursuant to section 253.025(7)(e)(2), F.S.

This exchange is beneficial to the state and New College because it will allow the disposal of a state-owned parcel which is not contiguous to any other state-owned property and has less strategic/operational value to New College and the state, in exchange for a parcel that will consolidate state-owned lands. In addition, this exchange will allow for the preservation of green space within the central core of the Historic Palmer Campus. This parcel on the periphery of campus will provide pedestrian safety and parking enhancements serving state-owned property immediately north and south of this parcel.

DEP has determined that surplus land sales are not subject to the local government planning process.

(See Attachment 3, Pages 1-56)

RECOMMEND APPROVAL

**Item 4 **BOT/Clark Development Group, Inc. Settlement/Survey Discrepancies/
DOA/Point Washington State Forest****

REQUEST: Consideration of a request to (1) enter into a settlement in lieu of litigation to resolve the survey discrepancies with Clark Development Group, Inc., in Point Washington State Forest; and (2) delegation to the Secretary of the Department of Environmental Protection, or designee, to resolve future survey discrepancies as identified on the Point Washington State Forest boundary encroachment map dated November 10, 2004, by settlements in lieu of litigation.

COUNTY: Walton

APPLICANT: Clark Development Group, Inc.

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Item 4, cont.

LOCATION: Section 29, Township 02 South, Range 20 West; and Section 14, Township 03 South, Range 19 West

STAFF REMARKS: On May 19, 1992, the Board of Trustees exercised the authority granted by section 253.025(15), F.S., and directed the Department of Environmental Protection (DEP) to attempt to purchase approximately 18,000 acres at a federal auction as part of the Resolution Trust Corporation's sale of lands from failed savings and loan associations. To facilitate the bidding process, The Nature Conservancy (TNC) offered its assistance to the Board of Trustees acting as agent for the Board of Trustees subject to specific limitations imposed by the Board of Trustees. After acceptance of TNC's bid, TNC assigned the Acknowledgement of Contingent High Bidder issued by the Special Master to the Board of Trustees. However, a boundary survey was not done when the property was acquired.

This acquisition became part of the Point Washington State Forest (Forest) in Walton County. Over the last few years, the Department of Agriculture and Consumer Services' Division of Forestry (DOF), through DEP's Division of State Lands (DSL), has contracted for boundary surveys within this Forest and other state forests for the purpose of identifying and marking management boundaries. These surveys at the Forest indicate numerous encroachments ranging from 20 square feet to over an acre in size with adjoining private property owners. The areas of encroachment involve over 160 different adjacent property owners. Many of these encroachments are a result of lots that were originally surveyed and platted in the early 1900s. The encroachments include roads, fence lines, shrubbery rows, utility lines and other improvements. Aerials show some of these improvements may have been in existence since at least the mid-1970s.

DSL noticed the affected property owners in March 2004. Rather than defending numerous lawsuits for quiet title with the inherent expenses and risks, DSL proposes to settle these disputes with settlements in lieu of litigation. The settlement will identify the boundary line between the Board of Trustees and the affected property owners. DSL believes these settlements would greatly reduce the Board of Trustees' potential liability incurred by the existing improvements that currently appear to encroach onto state-owned lands within the Forest. These settlements would also prevent future claims by the current adjoining property owners or successors in title.

DSL is requesting to enter into a settlement whereby the Board of Trustees would relinquish its possible interest in approximately 1.15 acres (49,958 square feet) to Clark Development Group, Inc. In return, Clark Development Group, Inc., would be a part of the settlement which would resolve the encroachment issue along the northern boundary/survey line at Parcel 29-2S-20-33000-020-0000 (Lot 20) as well as any future litigation.

Item 4, cont.

In order to expedite the resolution of similar survey discrepancies with these owners, DSL is also requesting that the Secretary of the Department of Environmental Protection, or designee, be given the delegated authority to approve future settlements in lieu of litigation to affected property owners identified on the Forest boundary encroachment map dated November 10, 2004. Surveys have shown that an additional 1.85 acres (80,586 square feet) of encroachments will need to be addressed to the individual lot owners at Gulf Shore Manor subdivision. The areas of encroachment range from approximately 20 to 2,000 square feet on the eastern boundary of the subdivision, and from approximately 300 to 4,000 square feet on the northern boundary of the subdivision. Additionally, there is approximately one acre of the platted Pelayo Avenue that encroaches along the eastern boundary of the subdivision. Aerials of the area indicate that Pelayo Avenue has been in existence since at least 1976. These encroachments include shrubbery rows, fence lines, utility lines, driveways and graded roads.

DEP's Office of Environmental Services and Office of General Counsel have determined these settlements for the survey discrepancies are administrative in nature, and therefore do not require the review of the Acquisition and Restoration Council. These settlements are merely an equitable resolution of a boundary/possession line issue.

DOF is the managing agency for the Forest under Board of Trustees' Lease No. 3972. DOF supports these settlements as a means of resolving the boundary/encroachment issues at the Forest. Once the settlements are completed and the appropriate documents recorded, DOF will construct firebreaks, boundary posts and/or fences to delineate the newly determined boundaries for management purposes.

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

(See Attachment 4, Pages 1-9)

RECOMMEND APPROVAL

2nd Substitute Item 5 2005 Florida Forever Annual Report/Priority List

REQUEST: Consideration of (1) the 2005 Florida Forever Annual Report of the Acquisition and Restoration Council; and (2) the 2005 Florida Forever Priority List.

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2nd Substitute Item 5, cont.

STAFF REMARKS: The 2005 Florida Forever Annual Report was prepared pursuant to chapter 259, F.S., and rule 18-24, F.A.C. During the Acquisition and Restoration Council (ARC) meetings of August 20, October 15, December 3, 2004 and January 25, 2005, ARC added four new projects, removed nine projects, and amended the boundaries of five projects on the Florida Forever Priority List. ARC also moved thirty projects from Group A to Group B, and moved another two projects from Group B to Group A. The Annual Report includes the 2005 Florida Forever Priority List of acquisition projects approved by ARC on January 25, 2005 and proposed for adoption by the Board of Trustees. The report also includes the descriptions of the projects that were added to the Priority List and amendments to projects on the previous priority list.

| <u>New Projects Added To Priority List</u> | <u>Acres</u> | <u>County</u> |
|---|---------------------|----------------------|
| Caber Coastal Connector Tract (A list) | 6,052 | Levy |
| Little River Conservation Area (B list) | 2,000 | Gadsden |
| Ochlockonee River Conservation Area (A list) | 3,105 | Leon |
| Promise Ranch (A list) | 1,460 | Lake |

| <u>Projects Removed From List</u> | <u>Reason</u> | <u>County</u> |
|--|-----------------------|-------------------------------|
| Battle of Wahoo Swamp | Sold to a third party | Sumter |
| Cedar Swamp | Unwilling seller | Duval |
| Dunn's Creek | Unable to reach value | Putnam |
| East Everglades | CERP Project | Broward/Miami-Dade/Palm Beach |
| Lake Talquin/Rocky Comfort Creek | Sold to a third party | Gadsden |
| Upper Econ Mosaic | At an impasse | Orange/Osceola |
| Upper Yellow River | Sold to a third party | Okaloosa |

| <u>Projects with Boundary Amendments</u> | <u>Acres</u> | <u>County</u> |
|---|---------------------|----------------------|
| Esterro Bay | -1,312 | Lee |
| FL's First Magnitude Springs - Church Sink | 5 | Leon |
| Lake Wales Ridge Ecosystem - Lake Josephine | 519 | Highlands |
| Northeast FL. Timberlands & Watershed Reserve | 3,500 | Clay |
| Pumpkin Hill Creek | -658 | Duval |

2nd Substitute Item 5, cont.

Projects Moved From Group A to Group B

| | <u>County</u> |
|--|--------------------------------------|
| Atlantic Ridge Ecosystem | Martin |
| Baldwin Bay / St. Marys River | Nassau/Duval |
| Belle Meade | Collier |
| Caloosahatchee Ecoscape | Hendry/Glades |
| Charlotte Harbor Estuary | Charlotte/Lee/Sarasota |
| Dickerson Bay / Bald Point | Wakulla/Franklin |
| Estero Bay | Lee |
| Heather Island / Oklawaha River | Marion |
| Hosford Chapman's Rhododendron Protection Zone | Gadsden/Liberty |
| Ichetucknee Trace | Columbia |
| Kissimmee-St. Johns River Connector | Okeechobee/Indian River |
| Lower Perdido River Buffer | Escambia |
| Middle Chipola River | Jackson/Calhoun |
| Mill Creek | Marion |
| Millstone Plantation | Leon |
| Pal-Mar | Palm Beach/Martin |
| Pineland Site Complex | Lee |
| Pinhook Swamp | Baker/Columbia |
| Pumpkin Hill Creek | Duval |
| San Felasco Conservation Corridor | Alachua |
| San Pedro Bay | Madison/Taylor |
| Save Our Everglades | Collier |
| Searcy Estate | Wakulla |
| Southeast Bat Maternity Caves | Jackson/Marion/Sumter/Citrus/Alachua |
| South Walton County Ecosystem | Walton |
| St. Johns River Blueway | St. Johns |
| St. Joseph Bay Buffer | Gulf |
| Twelvemile Slough | Hendry |
| Upper Shoal River | Walton |
| Watermelon Pond | Alachua/Levy |

Landowners with property in projects moved from Group A to Group B on the Florida Forever Priority List have six months to complete negotiations to secure a contract for purchase by the Board of Trustees. Negotiations are considered to be underway if an appraisal has been performed and an offer made to the landowner. This policy has been in place since the beginning of the Florida Forever program and was developed for the following two purposes: (1) fairness to the landowner that is so close to selling his property; and (2) cost effectiveness to the state. Group B projects will be considered for purchase only if a substantial bargain sale, that includes an acquisition partner or sale for 50 percent, or less, of appraised value, is offered.

2nd Substitute Item 5, cont.

The Acquisition and Restoration Council (ARC) met on February 11, 2005, and following a discussion about the Department of Environmental Protection, Division of State Lands' (DSL) six-month policy, asked DSL to review the policy for it's application with regard to conservation easements. There are three landowners within projects moving to Group B that were negotiating conservation easements that couldn't meet the requirements of the six-month policy: Millstone Plantation (Conrad), Lower Perdido River Buffer (International Paper) and St. Johns River Blueway (Meldrim). The Council asked DSL to see if the St. Johns River Water Management District and the Northwest Florida Water Management District would work with two of the landowners (IP and Meldrim) to keep the acquisition process moving forward until June when the Florida Forever list is reviewed again and ARC can reconsider the list at that time.

DSL reviewed the six-month policy and agrees it should be amended as follows: For those landowners who are negotiating with the state for a conservation easement within a Florida Forever project that gets moved to Group B, as long as the conservation easement has been completed and it is either ready to go or is currently in the appraisal process, the negotiations may continue for up to six months to secure a contract for purchase to the Board of Trustees. With this change the Millstone Plantation conservation easement qualifies for the six-month policy.

Projects Moved From Group B to Group A

Bear Creek
Lafayette Forest

County
Calhoun/Bay/Gulf
Lafayette

All property within the boundaries of the Florida Forever projects, unless specifically noted otherwise, are proposed to be purchased, in fee-simple or a lesser interest, for conservation purposes.

The Florida Forever Tool for Efficient Resource Acquisition and Conservation (F-TRAC) and Single Resource Ranking are analyses produced every six months by the Florida Natural Areas Inventory (FNAI) to provide scientific support to ARC in advance of their biannual vote on Florida Forever land acquisition projects. The analyses provide a concise overview of the natural resource values of each existing and proposed Florida Forever project. A Single Resource Ranking is provided for 10 resource types outlined in the Florida Forever Act. The F-TRAC 2010 Scenarios show which projects offer the greatest return in resource protection given the estimated acreage likely to be acquired by Florida Forever. Complete documentation for the F-TRAC and Single Resource Ranking analyses may be downloaded from the FNAI website (www.fnai.org).

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The F-TRAC and Single Resource Ranking analyses evaluate projects only according to natural resource values. Other considerations such as willing sellers, active negotiations, completing projects, management feasibility, development threat, etc., are always part of any decision regarding project status. The information provided in these analyses is not intended to substitute for the informed judgment of expert decision makers. The analyses are a tool to guide decision-making, not a final conservation plan that must be followed. Nevertheless, the F-TRAC and Single Resource Ranking provides sound direction for Florida Forever, and decisions made to the contrary should be justifiable.

Since 1999, the state's land acquisition programs have been extremely successful as evidenced by the protection of: over 420,000 acres of Strategic Habitat Conservation Areas (Florida Wildlife Conservation Commission); over 800,000 acres of habitat conservation areas (FNAI), and over 750 listed species locations of 245 different species, 121 of which are state-listed as endangered, 48 state-listed threatened, and 22 species of special concern; over 600,000 acres of ecological greenways (Office of Greenways & Trails); nearly 130,000 acres of under-represented natural communities; over 277,000 acres of natural floodplains; nearly 540,000 acres important to significant water bodies; nearly 27,000 acres of fragile coastline; over 550,000 acres of functional wetlands; over 160,000 acres of significant groundwater recharge areas; over 190,000 acres of land to support priority recreational trails; and, over 377,000 acres of sustainable forest land. Also, over 750 archaeological and historic sites have been protected, over 197,262 acres have been added to state parks and over 39,000 acres have been added to buffer preserves. Note: these acres overlap to include over 1 million acres acquired since 1999.

The 2005 Florida Forever Priority List is consistent with section 187.201(9), F.S., the Natural Systems and Recreational Lands section of the State Comprehensive Plan.

The Florida Forever Annual Report is being submitted in digital format.

(See Attachment 5, Pages 1-4)

RECOMMEND ACCEPTANCE OF THE 2005 FLORIDA FOREVER ANNUAL REPORT AND APPROVAL OF THE 2005 FLORIDA FOREVER PRIORITY LIST

**Substitute Item 6 **Rayonier Timberlands Operating Company, L.P. Option Agreement/
Northeast Florida Timberlands and Watershed Reserve Florida
Forever Project****

REQUEST: Consideration of an option agreement to acquire (1) an undivided 50 percent interest in 2,235 acres and (2) a 100 percent interest in 747 acres within the Northeast Florida Timberlands and Watershed Reserve Florida Forever project from Rayonier Timberlands Operating Company, L. P.

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COUNTIES: Duval and Nassau

LOCATION: Sections 25, 27 and 34 through 36, Township, 01 North, Range 24 East; Sections 20, 31 and 32, Township 01 North, Range 25 East; and Sections 04 through 06, 40, 41, 43 and 44, Township 01 South, Range 25 East

CONSIDERATION: \$4,533,252.78 [\$2,623,554.75 - Board of Trustees' 50 percent share of the \$5,247,109.50 purchase price for Parcel 1A, 1B and 3 (Thomas Creek) and \$1,909,698.03 - Board of Trustees' 100 percent share of the purchase price for Parcel 2 (Gopher Ridge)]

| <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>Candler (03/04/04)</u> | <u>Rogers (03/04/04)</u> | | | | |
| Thomas Creek (Parcel 1A, 1B and 3) | 2,235 | \$5,247,000 | \$5,825,000 | \$5,825,000* | \$51,841,600** | \$2,623,554.75*** (45%) | May 17, 2005 |
| Gopher Ridge (Parcel 2) | 747 | \$1,656,000 | \$1,940,000 | \$1,940,000* | included above | \$1,909,698.03 (98%) | May 17, 2005 |
| | <u>2,982</u> | <u>\$6,903,000</u> | <u>\$7,765,000</u> | <u>\$7,765,000</u> | <u>\$51,841,600</u> | <u>\$4,533,252.78</u> | |

* The appraisers rounded to arrive at the final values.

** Seller purchased the property on October 25, 1999, as part of a much larger parcel.

*** Parcel 1A, 1B and 3 is \$2,348 per acre with 50 percent interest being \$1,174 per acre and Parcel 2 is \$2,556 per acre.

Noted Features of Subject Property:

Located northwest of Jacksonville just south of the town of Callahan, between State Road 301 and U.S. Highway 1. Subject property is three (3) non-contiguous parcels containing a total of 2,982 acres. Parcels 1A and 1B consists of 2,193 acres (991 acres or 45% of uplands). Parcels 1A and 1B has 1,000 feet of frontage along Plummer Road and 1.3 miles of frontage along Acree Road. Parcel 1A is located in Nassau County and Parcel 1B is located in Duval County. Parcel 2 contains 747 acres (556 acres or 74% of uplands) located in Nassau County. Parcel 3 contains 42 acres (28 acres or 67% of uplands) located in Nassau County. Due to the continued growth around Jacksonville, the subject property is expected to be in the path of future development

STAFF REMARKS: The Northeast Florida Timberlands and Watershed Reserve 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 146,890 acres, of which 37,618 acres have been acquired or are under agreement to be acquired. Should the Board of Trustees approve this agreement, 106,290 acres, or 72 percent of the project, will remain to be acquired.

On December 5, 2003, the Acquisition and Restoration Council approved a boundary amendment of 7,043 acres that includes the parcels in this acquisition. Acquisition of these parcels will provide protection to Plummer Creek, Mills Creek, Alligator Creek and Thomas Creek along with their associated wetland systems. These creeks contribute to the Nassau River.

The St. Johns River Water Management District (District) has taken the lead in order to

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Substitute Item 6, cont.

facilitate the acquisition of this property pursuant to the acquisition agreement. The District obtained appraisals and negotiated an option agreement to acquire 2,982 acres from the seller. The Board of Trustees will obtain 100 percent interest in the Gopher Ridge parcel for a purchase price of \$1,909,698.03 and an undivided 50 percent interest in the Thomas Creek parcel, for a purchase price of \$2,623,554.75 or 50 percent of the total purchase price of \$5,247,109.50. The District is obtaining the remaining 50 percent undivided interest in the Thomas Creek parcel. The actual amount of each party's contribution may change after a final determination of acreage is made.

The Governing Board of the District adopted Resolution No. 2005-14 on November 9, 2004, which approved the purchase price, and the option agreement between the District and Rayonier Timberlands Operating Company, L. P. After the Board of Trustees approves this acquisition, the District will exercise the option to purchase the property from Rayonier Timberlands Operating Company, L. P. The District will close the transaction on behalf of the Board of Trustees, subject to Division of State Lands' approval.

All mortgages and liens will be satisfied at the time of closing. There are two timber contracts outstanding. One expired December 31, 2004, but the contract has not been released due to post harvest requirements that have not been met. The other contract is 85 percent harvested and has been extended through March 2005. A three-year license agreement for timber harvesting and the use of the current logging roads will be executed at closing. The license agreement provides access across the existing logging roads for presold timber harvesting of 335 acres remaining to be harvested on the proposed property to be acquired and access across the property to timber harvesting areas outside the acquisition property. There will be no harvesting in the wetland areas except a portion of a three-acre strand needed for a road in order to reach an adjacent planted pine stand. There are outstanding oil, gas and mineral rights in favor of the state. All other mineral rights and surface rights of entry have been extinguished by the Marketable Record Title Act. Because these issues were discovered during preliminary due diligence, further research may change the facts and scope of each issue and, therefore, the Department of Environmental Protection (DEP) staff will review, evaluate and implement an appropriate resolution for these and any other title issues that arise prior to closing in coordination with the District. 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, and an environmental site evaluation will be provided by the purchaser prior to closing. The Board of Trustees and the District will each be responsible for 50 percent of the cost of the purchaser-provided due diligence items as they pertain to the Thomas Creek parcel.

The three-county corridor of the Northeast Florida Timberlands Watershed and Reserve will

Substitute Item 6, cont.

create a conservation landscape connecting several high-quality managed areas, including Jennings State Forest, Cecil Field Conservation Corridor, Cary State Forest and Timucuan Ecological and Historic Preserve. The project area will also connect with two military reservations, Camp Blanding and Whitehouse Naval Outlying Field, and is contiguous at the southern end with the Etoniah/Cross Florida Greenway Florida Forever Project. The Greenways and Trails Council identified it as a highly important conservation corridor in its statewide analysis. The project's size and diversity makes it desirable for use and management as a state forest.

The Thomas Creek parcels, except parcel 3, and the Gopher Ridge parcel will be managed by the Department of Agriculture and Consumer Services' Division of Forestry under a multiple-use

management regime consistent with the State Forest system. Parcel 3 of the Thomas Creek parcels will be managed by the St. Johns River Water Management District as an addition to the Thomas Creek Conservation Area.

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 6, Pages 1-106)

RECOMMEND APPROVAL

Item 7 **Acquisition Efforts Status Report/North Key Largo Hammocks/Florida Keys Ecosystem/Coupon Bight/Key Deer Florida Forever Projects**

REQUEST: Consideration of a status report on the acquisition efforts of parcels located within the North Key Largo Hammocks, Florida Keys Ecosystem and Coupon Bight/Key Deer Florida Forever projects.

COUNTY: Monroe

LOCATION: Multiple

STAFF REMARKS: On December 16, 2003, the Board of Trustees delegated authority to the Secretary of the Department of Environmental Protection (DEP) to waive the appraisal requirements and to extend binding offers up to 125 percent of either the current appraised

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Item 7, cont.

value or the 1986 tax assessed value (TAV) in the North Key Largo Hammocks, Florida Keys Ecosystems and Coupon Bight/Key Deer Florida Forever projects. The Board of Trustees delegated this authority with the requirement that DEP staff report the status of the acquisition efforts in the project areas. The first status report was accepted by the Board of Trustees on August 24, 2004.

Offers have been extended based on the TAV, subsequently appraisals were ordered and new first and second offers were made. In addition to making offers efforts have been made to streamline and expedite the closing process for the Keys project.

| | |
|--|--------------|
| Offers | |
| Total number of parcels receiving TAV 1 st offers | 2,002 |
| Total number of parcels receiving TAV 2 nd offers | 489 |
| Total number of parcels receiving 1 st appraised offers | 985 |
| Total number of parcels receiving 2 nd appraised offers | 159 |
| Total number of offers | 3,635 |
| Contracts Received | |
| Total number parcels under contract | 276 |
| % of offers accepted | 8% |
| Closing Status | |
| Total number of parcels in closing | 161 |
| Total number of parcels clear to close | 17 |
| Total number of closed parcels | 99 |

Currently there are only 12 appraisals remaining to be completed within the original project boundary. The appraisals reveal that 558 of the parcels appraised have decreased in value. The properties that have decreased in value are concentrated in the Coupon Bight Key Deer project area.

| | |
|---|--------------|
| Appraisal Review | |
| Total number of parcels that increased in value | 348 |
| Total number of parcels that had no previous appraised value | 840 |
| Total number of parcels that decreased in value | 328 |
| Total number of parcels where value decreased and value was below TAV | 230 |
| Total number of parcels appraised | 1,746 |

The boundary amendment that was approved in June of 2004 is in the final stages of mapping. Once mapping is complete, accurate acreage and number of parcels will be determined. Before mapping, the amendment is believed to contain 911 parcels (3063 acres). The last status report indicated that a second boundary amendment containing 5263 parcels (4250 acres) was pending approval. This amendment appeared before the Acquisition and Restoration Council in February 2005. Prior to the two new boundary amendments, the project had 1,787 parcels totaling 3763 acres remaining.

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Item 7, cont.

Boundary Amendment Table

| Boundary Name | Owners | Parcels | Unmapped Acreage | Property Appraiser Value | Approved/Pending By ARC |
|----------------------|---------------|----------------|-------------------------|---------------------------------|--------------------------------|
| Lower Keys | 353 | 911 | 3,063 | 7.4 | Approved 6/2004 |
| Monroe County | 1,507 | 4,104 | 3,900 | 29.2 | Pending 2/2005 |
| Marathon | 285 | 1,046 | 81.5 | 13.9 | Pending 2/2005 |
| Islamorada | 75 | 113 | 269 | 8.8 | Pending 2/2005 |
| Totals | 2,220 | 6,174 | 7,313.5 | 59.3 (million) | |

(See Attachment 7, Pages 1-5)

RECOMMEND ACCEPTANCE

Substitute Item 8 DOA to Extend Offers/Approve Contracts/Recognize and Appraise as ROGO/Payments in Lieu of Litigation/North Key Largo Hammocks/ Florida Keys Ecosystem/Coupon Bight/Key Deer Florida Forever Projects

REQUEST: Consideration of a request specifically limited to the North Key Largo Hammocks, Florida Keys Ecosystem and Coupon Bight/Key Deer Florida Forever project areas, to authorize the Secretary of the Department of Environmental Protection, or designee, (1) to extend offers and approve any contract for the sale and purchase of land pursuant to section 259.041(1), F.S., at \$7,000 over, or up to 125 percent, per parcel of the current appraised value, whichever is greater, when the purchase price per parcel does not exceed \$100,000; (2) recognize and appraise as Rate of Growth Ordinance parcels those parcels that previously qualified for Rate of Growth Ordinance designation; and (3) allow payments in lieu of litigation to settle claims by private landowners to lands that appear to be sovereignty submerged lands, such payments not to exceed \$1,000 per parcel.

COUNTY: Monroe

LOCATION: Multiple

STAFF REMARKS: On December 16, 2003, the Board of Trustees delegated authority to the Secretary of the Department of Environmental Protection (DEP) to waive the appraisal requirements and to extend binding offers up to 125 percent of either the current appraised value or the 1986 tax assessed value (TAV) in the North Key Largo Hammocks, Florida Keys Ecosystems and Coupon Bight/Key Deer Florida Forever projects.

Under this delegated authority, DEP has made offers based on the TAV, and first and second offers based on new appraisals. Currently there is an eight percent success rate of acquiring

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Item 8, cont.

parcels. In an effort to encourage owners to sell, DEP is seeking additional delegation. The new delegation would allow offers to be based on \$7,000 over, or up to 125 percent, per parcel of the current appraised value, whichever is greater, when the purchase price does not exceed \$100,000 per parcel. Currently there are 1,655 parcels that have been appraised that could receive the additional \$7,000 or 125 percent incentive.

As an area of Critical State Concern, Monroe County's environmentally sensitive lands are subject to many development restrictions resulting from land use plan policies that took effect in 1986, 1996, and subsequent years. The development potential of many parcels has been reduced to one-half to one-tenth of previously allowed densities. Many owners that intend to develop a piece of property must now obtain a certain number of Rate of Growth Ordinance (ROGO) points by acquiring and donating conservation land to Monroe County. Between August 2000 and October 2001 parcels were appraised based on the fact that they qualified under ROGO in Monroe County. Those same parcels today do not qualify under ROGO, thus the value on those parcels has decreased significantly. Delegation is being sought that would allow parcels to be appraised as if they still qualified under ROGO. This would allow DEP to make offers based on the current ROGO value.

There are approximately 514 deeded parcels, consisting of 133 owners, within the project areas that have been mapped and appear to be state owned by virtue of being below the mean high water line (MHWL). A number of the deed holders also have been paying ad valorem taxes on the parcels described in their deeds. Attorney fees to quiet title in the state against the deed holders are anticipated at \$4,000 to \$5,000 per parcel. In addition, DEP will incur filing and service fees and expenses to survey MHWL on each parcel, to obtain title work to determine necessary parties to the litigation, and to pay such other expenses arising from responding to any defenses raised by the deed holder. In order to avoid the cost of litigation and the risks that necessarily attend litigation, DEP proposes to attempt to clear the state's title to the sovereignty submerged lands by offering the deed holders a settlement, not to exceed \$1,000 per parcel, in consideration for a quitclaim deed to the disputed parcel. A condition of such settlements shall be that any mortgage, lien, or other encumbrance that is not acceptable to DEP shall be satisfied by the deed holder. In the event that the deed holder of record is now deceased, DEP is authorized to accept a deed from the heirs at law, beneficiaries, or successors in interest.

Additionally, approval of the new delegations would further facilitate an expeditious and efficient buy out of the remaining unimproved parcels.

These acquisitions will be consistent with section 187.201(9), F.S., the Natural Systems and Recreational Lands section of the State Comprehensive Plan.

(See Attachment 8, Pages 1-4)

RECOMMEND APPROVAL

2nd Substitute Item 9 Whitley Bay Marina LLC Leases/Easement Modifications

REQUEST: Consideration of an application for (1) modification of two existing 10-year sovereignty submerged lands leases to (a) assign the leases to reflect a change of ownership; (b) extend the term to 25 years; and (c) remove special lease condition 31b; and (2) modification of an existing sovereignty submerged lands easement to assign the easement to reflect a change of ownership.

COUNTY: Brevard
Lease Nos. 050001674 and 050786344; Easement No. 00297(4160-05)

APPLICANT: Whitley Bay Marina LLC (WBM)

LOCATION: Section 33, Township 24 South, Range 36 East, in the Indian River, Class III Waters, within the local jurisdiction of the city of Cocoa
Aquatic Preserve: No
Outstanding Florida Waters: No
Manatee County: Yes, with an approved manatee protection plan
Manatee Aggregation Area: No
Manatee Protection Speed Zone: No

CONSIDERATION: As defined in Rule 18-21, F.A.C.

STAFF REMARKS: Whitley Bay Marina (Marina) is located in the city of Cocoa (City) on the Indian River Lagoon in Brevard County. The Marina is currently a commercial marina subject to two 10-year sovereignty submerged land leases, one of which expires in 2008 and the other in 2010. The Marina also has a sovereignty submerged lands easement for a 754-foot-long wooden breakwater near the docks. WBM recently acquired the Marina and the upland area riparian to the Marina and has requested a modification of the easement to reflect the change in ownership and modification of the two leases to reflect the change of ownership, to extend the term of the leases to 25 years with removal of the special lease condition allowing for lease fee discounts if a minimum of 90 percent of the slips are made available to the public on a 'first-come, first-served' basis. When ownership was transferred in September of 2004, it was agreed that the conditions of the leases would remain unchanged, requiring the same lease fees payment and no conditions limiting the term or fee of a slip rental. Currently, the uplands contain a clubhouse and ship's store, shower and bath facilities, and parking. The facility also provides public access to the Marina via an easement to the City along the shoreline as well as over a portion of the docks. WBM intends to spend over \$2,000,000 to repair and upgrade the marina and upland facilities. Its reasons for requesting to extend the terms of the two leases to 25 years are because of this substantial investment being made and the financing requirements of the lender.

2nd Substitute Item 9, cont.

WBM intends to make the slips available to members of the newly formed yacht club. A membership fee would be paid to the club and would include the right to use a designated slip, membership in Rockledge Country Club, use of the clubhouse and business center, a full time Dockmaster, dock attendants, and concierge services. The fees range from \$70,313 to \$255,000. Temporary transient rentals would be made available to the public through a rental pool of slips that are not currently occupied by club members. Department of Environmental Protection staff determined that the special lease condition allowing for lease fee discounts if a minimum of 90 percent of the slips are made available to the public on a 'first-come, first-served' basis did not apply to these leases because of the membership required to obtain on-going use of a slip. WBM has agreed to remove the conditions from the leases.

The commercial marina facility is now being considered as a private yacht club rather than a marina because of the membership fee required by WBM in order to obtain a slip. The issue has prompted heightened public concern regarding public access to marina slips in general and specifically in Brevard County. While there may be marinas on privately-owned submerged land, there are 17 marina facilities on state-owned submerged land that are at least 90 percent open to the public in Brevard County, none of which are located in the City. The nearest public marinas were the Indian Cove and Island Pointe Marinas directly across the Indian River Lagoon from Whitley Bay Marina in Merritt Island. However, staff has indicated that both marinas have been sold and the upland property is being converted to multi-family residential. The new owners of the Indian Cove and Island Pointe marinas have been informed that lease modifications will be required as a result of this conversion in order to conform with the private residential multi-family dock provisions of section 18-21.004(4), F.A.C, including the "40:1" and Unit: Slip ratios for any portion of the marina facility serving the multi-family upland development.

The City is very interested in the Marina being available to the public. They, along with the Cocoa Redevelopment Agency (CRA), invested over \$1,200,000 in the boardwalks, promenades, streetscape improvements, stormwater infrastructure improvements and the relocation of a sewer lift station on the site, all associated with the riverwalk and Cocoa Villages near the Marina. The City is also obligated under an agreement with WBM to financially maintain the boardwalk. The City relied on the fact that the Marina was open to the public when making this investment decision to enhance this portion of the downtown area for citizens and visitors.

On November 6, 2001, Cocoa electors approved the following non-binding referendum question, "If an opportunity arises, should the City Council pursue the acquisition of a public marina along the Indian River for purposes of preserving the general public's access to dock boats and other watercraft within the Cocoa downtown area?" A total of 1,343 electors voted, of which 794 (59 percent) voted "yes" and 549 (41 percent) voted "no". The Marina was

2nd Substitute Item 9, cont.

subsequently offered to the City for \$5,000,000 but it did not purchase the Marina, in part because income projections showed the City would not turn a profit for 21 years from the date of purchase. In addition, the City and CRA felt the general public's access to dock boats and other watercraft within the Cocoa downtown area had been preserved because the new owner had accepted the current lease conditions at the time of the sale.

The City Council met on January 11, 2005 and passed Resolution No. 2005-04 requesting that the Board of Trustees reject WBM's application to amend its leases through the removal of the provision requiring 90 percent of the slips to be open to the general public on a 'first-come, first-served' basis; encouraging the Board of Trustees to protect and promote public access to the state's public waterways; and expressing its support of the retention and preservation of state lands so that benefits will accrue to all Floridians. WBM's attorney sent a letter, dated February 2, 2005, to the City threatening litigation if the City Council did not revoke its resolution and support WBM's application.

In addition, the Brevard County Legislative Delegation has provided a formal request for the Board of Trustees to deny the action due to concerns over the lack of public access to marinas in the area.

The Board of Trustees has five possible options that can be considered in response to this request:

1. grant the 25-year extended term leases with no provision for reduced lease fees as a result of public availability on a 'first-come, first-served' basis;
2. deny the extended term leases and keep the current leases in place and assign them to the new owner;
3. grant two standard 5-year term leases with no provision for reduced lease fees as a result of public availability on a 'first-come, first-served' basis;
4. have a percentage of the slips available to the yacht club members and a percentage of the slips available to the public on a 'first-come, first-served' basis with no membership fee required on the latter; or,
5. grant two new 10-year term leases (1) retaining the special lease condition of public availability on a 'first-come, first-served' basis, as defined in section 18-21.003(23), F.A.C.; and (2) with the addition of a special lease condition that limits slip rental terms to no longer than one-year with no automatic renewal rights or conditions.

DEP staff is recommending that the Board of Trustees approve option five of the item because of the multiple factors that make this situation unique and contrary to the public interest. These factors include that this is the only marina that is 90 percent or more open to the public

2nd Substitute Item 9, cont.

on a "first-come first-served basis" in the geographic area, the City has invested in infrastructure for the public that benefits the Marina, the City committed to maintain the boardwalks and promenades when the Marina was open to the public, and the public/private partnership that has been developed between the Whitley Bay Marina and the City of Cocoa directly impacts the use of the submerged lands.

(See Attachment 9, Pages 1-83)

RECOMMEND DEFER UNTIL MARCH 17, 2005