

**AGENDA**  
**BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND**  
**APRIL 5, 2005**

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**Item 1**      **Chapter 18-21, F.A.C., Adoption of Rule Amendments**

**REQUEST:** Adoption of rule amendments to chapter 18-21, F.A.C., that adjust some fees associated with the usage of sovereignty submerged lands and clarifies certain current rule provisions.

**COUNTY:** Statewide

**APPLICANT:** Department of Environmental Protection (DEP), Division of State Lands (DSL)

**STAFF REMARKS:** DEP is proposing amendments to chapter 18-21, F.A.C., Sovereignty Submerged Lands Management, to adjust some fees associated with the usage of sovereignty submerged lands and to clarify certain current rule provisions. This meeting of the Board of Trustees serves as the final adoption hearing on the proposed rule, as attached. If adopted, staff will publish a Notice of Change and then file the rule with the Department of State. The rule will become effective twenty days from that filing.

The fee revisions include the fee formula for standard and extended term submerged land leases, the base fees, discounts, surcharges and other payments, one-time premium for certain structures or facilities on submerged lands of the state, and to adopt specific criteria to be used in assessing fees for structures and other uses of submerged lands of the state.

On October 28, 2003, as part of the discussion on the WCI Communities, Inc., agenda item, the Board of Trustees directed staff to consider amending chapter 18-21, F.A.C., to among other things, ensure that six percent of the income of any sublease or subsequent sublease of a slip is included in the lease fee calculations due. On January 27, 2004, the Board of Trustees accepted the DSL decision to conduct workshops on this issue and other issues associated with chapter 18-21, F.A.C. On January 23, 2004, staff published a Notice of Proposed Rule Development to amend chapter 18-21, F.A.C., to address these issues. Staff conducted public workshops on February 19, 24 and 26, 2004, in Pensacola, West Palm Beach, and Tampa. After considering comments received at the workshops, staff presented draft rule amendments, which were published on August 6, 2004, at public workshops held on August 20, 23, 24 and 25, 2004. The workshops were held in Pensacola, Jacksonville, Tampa and West Palm Beach. Additionally, several written comments were received and a meeting was held with the Legislative/Government Relations Chair of Marine Industries Association of Florida, Inc. On October 24, 2004, the Board of Trustees approved draft amendments to chapter 18-21, F.A.C., that adjust some fees and clarifies certain current rule provisions. Staff published a Notice of Proposed Rulemaking on November 12, 2004 and submitted the proposed rule to the Joint Administrative Procedures Committee on November 18, 2004. Finally, staff conducted two public hearings in Orlando and Tallahassee on December 2 and 9, 2004.

The proposed rule amendments can be summarized as follows:

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**Item 1, cont.**

- Replace the first-come, first-served provision with new wording designed to better identify facilities that are open to the public without qualifying requirements;
- Provide a definition of “income” that clearly specifies what actions or activities are to be included in gross revenue;
- Increase the fees for processing submerged land instruments, except for single-family residential facilities;
- Require all leases to have a clause requiring that each subsequent slip transferer pay six percent of gross income to the Board of Trustees;
- Require market rent appraisals of slips at those facilities that do not rent wet slips or rent significantly below market value;
- Waive the annual fees for private residential multi-family dock or pier constructed in lieu of multiple private residential single-family docks or piers on existing single-family riparian parcels if certain provisions are met;
- Waive the extended term lease surcharge for facilities that are open to the public and participating in the Clean Marina Program;
- Provide a ten percent discount to facilities participating in the Clean Marina Program; and
- Provide for a waiver of fees in limited circumstances for government entities for severed dredged material.

All comments received as a result of the public hearings were reviewed by staff and those comments deemed not be relevant to the proposed amendments were not considered. Staff incorporated both MLG Capital/Ortega LLC and their representative’s recommendation of the use of appraisals in establishing fair market rental rates for wet slips rather than the proposed language of using an average of slip rental rates within the geographic area of the facility. Staff also incorporated language as a result of the comments to address the concern of tracking the subsequent transactions in which the lessee is not a party. Staff confirmed that the revenue generated from the sale of the electricity which is produced from the fuel offloaded at a docking facility would not be considered as income derived from the use of the slip. Other minor changes to sentence structure and grammar in the rule were made as a result of comments, but are not included in the summary.

The increase in application fees for leases and easements from \$200 to \$500 was mentioned in several of the comments submitted. It should be noted that there has not been a fee increase for these applications in 22 years and that increase was not tied to the Consumer Price Index (CPI) to allow for regular modest increases. Staff calculated that if the increase had been tied to the CPI, the current fee would be approximately \$600. This proposed fee amount is also equivalent to application fees under section 18-21.019, F.A.C., for disclaimers, quitclaim deeds or certificates to clear title to filled formerly submerged land.

(See Attachments 1, Pages 1-25)

**RECOMMEND APPROVAL**



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**Item 2**      **DGN, Inc., Lease Agreement**

**REQUEST:** Consideration of a request for a lease agreement on four acres, more or less, to DGN, Inc., a Florida non-profit corporation, for 80 years, with no option for renewal.

**COUNTY:** Broward

**APPLICANT:** DGN, Inc., a Florida non-profit corporation

**LOCATION:** Section 16, Township 41 South, Range 51 East

**STAFF REMARKS:** On May 21, 2002, the Board of Trustees approved a 75-year lease (No. 4329), with no option for renewal, to Miami Jewish Home and Hospital for the Aged, Inc. Subsequently, pursuant to delegations of authority, the lease was amended and assigned to DGN, Inc., on April 6, 2004. The proposed 80-year lease includes the same terms and conditions as Lease No. 4329 and also incorporates the 2004 amendments.

A 95-unit federal Housing and Urban Development (HUD) affordable housing facility for low income seniors is currently under construction on the site and is expected to open approximately September 1, 2005. DGN, Inc., is requesting approval to build another 50 apartment units to the north of the building currently under construction, all within the existing four-acre lease area. In order to meet HUD requirements, the minimum lease term is 75 years, and there will be 72 years remaining on the existing term on May 28, 2005. Staff verified this policy with HUD's Section 202 Supportive Housing program office and confirmed an application would be rejected if the lease is for a period less than 75 years.

DGN, Inc., is requesting a lease for 80 years, which would give them five years to apply for the HUD grant. The HUD 202 Affordable Housing Grant not only provides the capital to build the building but also has a subsidy providing resources to support the housing needs of the elderly poor. To accomplish this, a Release of Lease would be executed, under current delegations of authority, for the existing Lease No. 4329, and a new lease would be approved for the 80-year term.

Pursuant to section 18-2.018(1)(a), F.A.C., the decision to authorize the use of Board of Trustees' owned uplands requires a determination that such use is not contrary to the public interest. Staff is of the opinion that the above requirement has been met. The elder public citizens of the community will benefit from the services provided by DGN, Inc., which include an on-site clinic, and community support programs such as Channeling and Pace. These community support programs offer services including housekeeping, arranging for meals, case management, etc., for the low income elderly living in their homes. Healthcare support services on site will help reduce the risk of Medicaid placement in an institution. Accessibility to quality health care services, including wellness and educational programs, will be provided.

The additional 50 apartment units will compliment the 95 units currently under construction.

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**Item 2, cont.**

There is adequate public space in the 95-unit facility for a library, card room, and community room to accommodate the additional tenants.

A local government comprehensive plan has been adopted for this area pursuant to section 163.3167, F.S. The Department of Community Affairs has determined that the plan is in compliance. The proposed action is consistent with the adopted plan according to a letter received from the City of Pembroke Pines.

(See Attachment 2, Pages 1-31)

**RECOMMEND APPROVAL**

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**Item 3**      **DSL's Use of Private Real Estate Firms/Efficiency Efforts Status Report**

**REQUEST:** Consideration of a status report on the Department of Environmental Protection, Division of State Lands' use of private real estate firms and efficiency efforts.

**STAFF REMARKS:** In order to more efficiently utilize the time and talents of the Department of Environmental Protection, Division of State Lands' (DSL) staff, DSL explored the possibility of outsourcing real estate services. At that time, DSL had been using private contractors for the following: land title services, real estate closing services, environmental site assessment services, survey and survey review services and appraisal and appraisal review services. By using these privatized services, DSL learned that the volume of land acquisitions processed increased and customer response times decreased, which resulted in a higher level of customer service to property owners.

Building upon the success of previous privatization efforts, on May 28, 2003, DSL brought before the Board of Trustees an informational item outlining its plans to use private real estate services. As conveyed to the Board of Trustees, such services that would be made available would enable DSL to more effectively, efficiently, and productively perform the duties of acquiring, leasing and disposing of state lands and would further increase the level of service provided to the citizens of Florida.

Such private real estate services to be provided are:

- Project evaluation and planning;
- Project management services;
- Consulting services;
- Disposition and marketing services;
- Auction services;

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**Item 3, cont.**

- Support staff;
- Negotiation services;
- Special project services; and
- Property owner education and outreach services.

Between October 2003 and January 2004, contracts were awarded to eight private companies for general real estate services for DSL. DSL openly requested proposals from interested parties around the state. Many companies responded to DSL and submitted the appropriate resumes and proposals. Through interviews, presentations and research, the list was refined to include only those companies that, in the opinion of the reviewing committee, exhibited the highest potential of expertly providing one or more of the required services.

The costs associated with contracting out private real estate services compared to using DSL staff may seem high. However, this expense is offset by several benefits, such as: expertise of additional experienced negotiators; intimate knowledge of local areas; increased flexibility of in-house staff to work on multiple projects, versus spending significant amounts of time on one project. By contracting out services on particular projects, DSL is better able to maximize the productivity of in-house staff and resources.

Overall, DSL has found that this pilot project has produced satisfactory results. In those few instances that produced less than satisfactory results, DSL is making the necessary adjustments.

**DSL's Bureau of Land Acquisition (BLA)**

BLA has used the following private real estate services:

- Planning, preparing, negotiating and processing offer packages through to closing packages;
- Providing real estate research analysis to assist with land acquisitions; and
- Researching and providing comparable properties.

The selected contractor currently used by BLA on all three Florida Forever Florida Keys projects - North Key Largo Hammocks, Florida Keys Ecosystem and Coupon Bight/Key Deer is American Government Services Corporation, et al (AGS). In late 2003, these projects were raised to top priority, which created the need for a contractor to be hired to assist staff's acquisition efforts. The selected contractor, AGS, submitted an acquisition plan as required. This plan included: managing the three projects from appraisal mapping, through appraisal and negotiations, to the Board of Trustees' approval; coordinating mapping and appraisal timelines with our survey and appraisal contractors; and handling all research needed; preparing reports; negotiating with owners; and preparing approval requests, such as agenda items and delegation



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**Item 3, cont.**

items. In addition to the plan submittal, AGS reviewed the entire acquisition process, from acquisition to closing, and developed a streamlined acquisition process, which would result in a more efficient and time effective processing of the files. Since inception of project management:

- 1,775 parcels appraised;
- 1700 first offers sent out for 3740 parcels;
- 618 second offers sent out for 1015 parcels;
- 358 parcels under contract; and
- 132 parcels closed

Additionally, AGS was awarded the research analysis task, which would provide a real estate research analyst to assist the entire bureau with land acquisitions, reporting and data entry. The task was renewed on February 28, 2005.

Post, Buckley, Schuh & Jernigan and AGS were issued separate assignments for the Collier County comparable properties tasks. There was a need to locate comparable properties available for purchase in the Collier County area as relocation benefits to one of the Save Our Everglades property owners.

**DSL's Bureau of Public Land Administration (BPLA)**

BPLA has used the following private real estate services:

- Marketing, negotiating and selling available Murphy Act parcels in St. Johns and Nassau counties; and
- Selling property by auction.

The Murphy Act task was awarded to Dahill International Realty, Co. (Dahill) because they were in the area, familiar with Nassau and St. Johns counties and had a good insight into the real estate market in those areas. The task contained 143 parcels with payment made on a commission basis. Dahill's task expires June 30, 2005. The 143 parcels have an estimated value of \$1,763,565, which will be the minimum net to the state if all are sold.

A public auction task was also awarded to Dahill. A public auction was required pursuant to sections 253.7823 and 253.783, F.S., because the property was conveyed to the Office of Greenways and Trails, as former Cross Florida Barge Canal Lands. This task consisted of ten parcels in Marion County and seven of the parcels were sold at a public auction.

Pursuant to sections 259.04(1)(b), F.S. and 259.041(8)(b), F.S., the Board of Trustees may contract for real estate acquisition services.

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**Item 3, cont.**

(See Attachment 3, Pages 1-17)

**RECOMMEND ACCEPTANCE**

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**Item 4      Monroe County Comprehensive Plan Land Authority Option Agreement/  
Florida Keys Ecosystem/Coupon Bight Key Deer Florida Forever Projects**

**REQUEST:** Consideration of an option agreement to acquire 57.76 acres, 51.46 acres within the Florida Keys Ecosystem and 6.3 acres within the Coupon Bight Key Deer Florida Forever projects from Monroe County Comprehensive Plan Land Authority.

**COUNTY:** Monroe

**LOCATION:** Section 06, Township 61 South, Range 40 East; Section 02, Township 66 South, Range 28 East; Sections 05 and 08, Township 63 South, Range 38 East; Sections 14 and 23, Township 62 South, Range 38 East; Sections 01 and 28, Township 61 South, Range 39 East; and Sections 19, 20, 22, 25, 26 and 30, Township 66 South, Range 29 East

**CONSIDERATION:** \$1,275,180.65

NUMBER OF PARCELS	ACRES	TAX ASSESSED VALUE	APPROVED VALUE	SELLER'S PURCHASE PRICE	TRUSTEES' PURCHASE PRICE	OPTION DATE
333	57.76	\$1,261,637	\$1,261,637*	\$1,275,180.65**	\$1,275,180.65*** (101%)	120 days after BOT Approval

\* Approved value is based on the 1986 Tax Assessed Value

\*\* Seller purchased properties up to 115 percent of Tax Assessed Value. Some of the properties were purchased below this amount

\*\*\* \$22,077 per acre

**STAFF REMARKS:** The Florida Keys Ecosystem and Coupon Bight/Key Deer Florida Forever projects are "A" group projects on the Florida Forever Full Fee Project List approved by the Board of Trustees on April 5, 2005. The Florida Keys Ecosystem project contains 11,641 acres, of which 3,058.92 acres have been acquired or are under agreement to be acquired. After the Board of Trustees approves this agreement, 8,530.62 acres or 73 percent of the project, will remain to be acquired. The Coupon Bight/Key Deer project contains 3,638 acres, of which 1,478.99 acres have been acquired or are under agreement to be acquired. After the Board of Trustees approves this agreement, 2,152.71 acres or 59 percent of the project, will remain to be acquired.

Pursuant to a multi-party agreement entered into between the Department of Environmental

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**Item 4, cont.**

Protection, (DEP) Division of State Lands (DSL) and the Monroe County Comprehensive Plan Land Authority (Authority), the Authority acquired 57.76 acres from various owners for \$1,275,180.65. Once the item is approved, the Board of Trustees will reimburse the Authority its total purchase price. In no event will the purchase price exceed 115 percent of the tax assessed value.

All mortgages and liens will be satisfied 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 any title issues that arise prior to closing.

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

The unique pine rocklands and hardwood hammocks of the Florida Keys, forest of West Indian plants that shelter several extremely rare animals, are being lost to the rapid development of the islands. Public acquisition of the Florida Keys Ecosystem project will protect all the significant unprotected hardwood hammocks let in the Keys and many rare plants and animals, including the Lower Keys marsh rabbit and Key deer. It will also help protect the Outstanding Florida Waters of the Keys, the recreational and commercial fisheries, and the reefs around the islands, and also give residents and visitors more areas for enjoying the natural beauty of the Keys.

The subtropical pine forests of rapidly developing Big Pine Key and the islands around it are the home of the endangered Key deer and many Caribbean plants found nowhere else in the country. Rich coral reefs and other hardbottom communities flourish in shallow water around the islands. The Coupon Bight/Key Deer project will protect the remaining undeveloped land on Big Pine and No Name Keys (without which the Key deer will not survive), protect water quality of the Coupon Bight Aquatic Preserve and the other waters surrounding the islands, and provide the public an area to appreciate the unique natural world of this part of Florida.

All parcels located within the Coupon Bight/Key Deer Florida Forever Project will be managed by U. S. Fish and Wildlife Service as an addition to the National Key Deer Refuge. All parcels located within the Florida Keys Ecosystem Florida Forever Project will either be managed by DEP's Department of Recreation and Parks as an addition to the John Pennekamp Coral Reef State Park or Florida Fish and Wildlife Conservation Commission as an addition to the Florida Keys Wildlife and Environmental Area.

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



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**Item 4, cont.**

(See Attachment 4, Pages 1-71)

**RECOMMEND APPROVAL**

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**Item 5      Three Rivers Land LLC Amendment/Northeast Florida Timberlands  
Florida Forever Project**

**REQUEST:** Consideration of authorization to amend the original request which was to acquire a 50 percent, undivided interest in 9,504 acres and amended to 9,990.65 acres within the Northeast Florida Timberlands Florida Forever project from Three Rivers Land LLC now known as Three Rivers Timber, LLC.

**COUNTY:** Nassau

**LOCATION:** Sections 07 through 09, 13 through 24, 27, 28, 40 through 43, and 45, Township, 02 North, Range 26 East; and Sections 13 through 15, 22 through 24, 27, 37, 43, 44, 46 and 52, Township 02 North, Range 25 East

**CONSIDERATION:** \$12,377,614.23 (Board of Trustees' 50 percent share of the total purchase price of \$24,755,228.46)

<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>Grainger (10/15/03)</u>	<u>Rogers (10/15/03)</u>				
Three Rivers Land	9,990.65	\$27,960,000	\$26,100,000	\$27,960,000	\$27,400,000*	\$12,377,614.23** (50%)	04/30/05

\* Seller's price for the parent tract of 15,188 acres.

\*\* \$2,477.84 per acre

**STAFF REMARKS:** The Northeast Florida Timberlands is an "A" group project on the Florida Forever Full Fee Project List approved by the Board of Trustees on April 5, 2005. The project contains 143,347 acres, of which 24,322 acres have been acquired or are under agreement to be acquired. Should the Board of Trustees approve this agreement, 109,034.35 acres, or 76 percent of the project, will remain to be acquired.

On February 26, 2004, the Board of Trustees authorized the acquisition of 9,504 acres within the Northeast Florida Timberlands project from Three Rivers Land LLC for \$12,524,013.32 (the Board of Trustees' 50 percent share of the total purchase price of \$25,048,026.64).

The survey of the property was completed in late February 2005, resulting in approved acreage of 10,231. The sellers subsequently approached the District requesting to retain approximately

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**Item 5, cont.**

233.2 additional acres of the property, and after review of their proposal, the Department of Agriculture and Consumer Services' Division of Forestry, the future managing agency, determined that the reduction in acreage would create a more manageable boundary along the shoreline of the Nassau River rather than along a wetland line that is less easily defined, and will also eliminate two noncontiguous island parcels. Under the new configuration, the revised acreage is 9,997.8. There are 7.15 acres being deleted for small encroachments revealed on the survey, for a final revised acreage total of 9,990.65, and a renegotiated non-adjustable purchase price of \$24,755,228.46. Acreage of the parcel may increase by the number of acres of cured encroachment areas, though the purchase price will remain the same. The revised price continues to be supported by appraisals, and was approved by the District's Governing Board on March 8, 2005, subject to final approval by the Board of Trustees.

(See Attachment 5, Pages 1-77)

**RECOMMEND APPROVAL**

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**Item 6      Lastinger Option Agreement/Northeast Florida Blueway Florida Forever Project**

**REQUEST:** Consideration of an option agreement to acquire 1.1 acre within the Northeast Florida Blueway Florida Forever project from Allen L. Lastinger, Jr.

**COUNTY:** St. Johns

**LOCATION:** Sections 12 and 13, Township 09 South, Range 30 East

**CONSIDERATION:** \$700,000

<u>PARCEL</u>	<u>ACRES</u>	APPRAISED BY	<u>APPROVED VALUE</u>	<u>SELLER'S PURCHASE PRICE</u>	<u>TRUSTEES' PURCHASE PRICE</u>	<u>OPTION DATE</u>
		Benson (08/11/04)				
19A	0.8	\$480,000	\$480,000	\$255,000*		
19B	0.3	\$320,000	\$320,000	\$ 69,000*		
	1.1	\$800,000	\$800,000	\$324,000	\$700,000** (88%)	120 days after BOT Approval

\* Seller purchased the property in two transactions, parcel A on April 18, 2003 and parcel B on June 2, 1999

\*\* \$2,784.08 per front foot of marsh frontage along the Matanzas River

**Noted Features of Subject Property:**

The property is comprised of two non-contiguous parcels located on the western right-of-way of Highway A1A.

Parcel 19A has 159.25 feet of frontage along A1A and Parcel 19B has 105.15 feet of frontage.

Parcel 19A has 151.43 feet and Parcel 19B has 100 feet of marsh frontage along the Matanzas River.

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**Item 6, cont.**

Parcel 19A contains 0.80 acres of gross land area (0.60 acres of contiguous uplands), Parcel 19B contains 0.30 acres of gross land area (0.20 acres of contiguous uplands). For both parcels, the uplands are located along the road, with the wetlands located towards the rear of the property.

Both parcels are designated Open Rural (OR), which allows for residential development and have vested development rights.

The Matanzas River is located several hundred feet west of the subject properties.

**STAFF REMARKS:** The Northeast Florida Blueway project is an "A" group project on the Florida Forever Full Fee Project List approved by the Board of Trustees on April 5, 2005. The project contains 35,019 acres, of which 8,765 acres have been acquired or are under agreement to be acquired. After the Board of Trustees approves this agreement, 26,252.9 acres, or 75 percent of the project, will remain to be acquired.

All mortgages and liens will be satisfied at the time of closing. On June 22, 1999, the Board of Trustees approved a staff recommendation to delegate to the Department of Environmental Protection (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 any title issues that arise prior to closing.

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.

The Northeast Florida Blueway is a chain of marshes and tidal lands extending from Mayport south through much of St. Johns County. Estuarine Tidal Marsh covers much of the project. These marshes and open water areas of the Blueway provide important nurseries for many species of game fish and shrimp, and ultimately support a recreational and commercial fishery. Public acquisition would protect fragile marshes, tidal creeks, and the associated uplands that buffer these fragile resources. The intention of this project is to connect existing natural areas and greenspace to form a conservation lands corridor along the north-south waterway.

The property will be managed by DEP, Office of Coastal and Aquatic Managed Areas as an addition to the Guana Tolomato Matanzas National Estuarine Research Reserve.

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 1-33)

**RECOMMEND APPROVAL**