

**AGENDA**  
**BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND**  
**MARCH 11, 2008**  
**Substitute Page**

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**Substitute Item 1     Dunham/Cannon Option Agreement/FWC/Fish and Wildlife Habitat Program**

**REQUEST:** Consideration of an option agreement to acquire 1,148.49 acres under the Florida Fish and Wildlife Conservation Commission’s Fish and Wildlife Habitat Program from Kathaleen C. Dunham and Shirley L. Cannon.

**COUNTY:** Polk

**APPLICANT:** Florida Fish and Wildlife Conservation Commission (FWC)

**LOCATION:** Sections 28, 33, and 34, Township 31 South, Range 27 East

**CONSIDERATION:** \$12,353,716 (Includes a \$750,000 contribution from Polk County, which is contingent upon funds being available at the time of closing.)

<u>PARCEL</u>	<u>ACRES</u>	<u>APPRAISED BY</u>		<u>APPROVED VALUE</u>	<u>SELLER’S</u>	<u>PURCHASE PRICE</u>	<u>OPTION DATE</u>
		<u>Robinson (02/22/07)</u>	<u>Catlett (02/22/07)</u>		<u>PURCHASE PRICE</u>		
Dunham/ Cannon	1,148.49*	\$18,649,200*	\$21,025,000*	\$21,025,000	**	\$12,353,716*** (59%)	120 days after BOT approval

\* Based on a 70-acre cut-out from the original appraisal.

\*\* The property was assembled by the sellers between 1978 to 1999 through purchase and inheritance.

\*\*\*\$10,756 per acre. If Polk County is able to contribute \$750,000 toward the purchase, then the purchase price paid by FWC will be \$11,603,716. FWC is prepared to pay the entire purchase price if Polk County is unable to contribute at the time of closing.

**Noted Features of Subject Property:**

Subject is located about one mile west of the City of Frostproof, within rural southeast Polk County and on the north side of Highway 98.

The fee simple valuation of the subject is at its highest and best use, which is determined to be rural residential development; with agricultural as the interim use. Parcels are zoned ARR-Agricultural/Rural Residential. Density is one dwelling unit per five acres.

The subject includes a 54.38-acre citrus grove and two single-family residences; one home consisting of 1,080 square feet and the other consisting of 2,574. Parcel IV, a 70-acre tract, is included in the original appraisal reports; however, it is not included in the acquisition since it is isolated and lacks legal and physical access. However, this 70-acre parcel remains a high priority for FWC in future acquisition.

**STAFF REMARKS:** This acquisition was negotiated by FWC and is eligible for funding under its Fish and Wildlife Habitat Program utilizing FWC’s Land Acquisition Trust Fund, pursuant to section 372.074, F.S. The property is located within the Crooked Lake Site of the Lake Wales Ridge Ecosystem Florida Forever Project, which is currently designated as a group “A” project on the Florida Forever Full Fee Project List approved by the Board of Trustees on February 26, 2008.

**Project Description**

Dunham Ranch is composed of a mosaic of natural communities such as: oak/sand pine scrub, mesic flatwoods, xeric oak hammock, relict sandhills, and improved pasture interspersed within a mosaic of herbaceous and forested wetlands. FWC’s Gopher Tortoise survey data and visual

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inspection of the property indicates that the site contains habitat that supports a healthy gopher tortoise population. During FWC's Gopher Tortoise survey, the Sherman's fox squirrel, Eastern indigo snake, and Florida fence lizard were observed, as well as the gopher tortoise.

The property provides essential habitat for a number of listed species, including gopher tortoise and Eastern indigo snake, and Sherman's fox squirrel, and is potentially a critical habitat for other rare species such as, sandhill crane, red-headed woodpecker, and gopher frog, among others. Other factors that were important in the selection of this site for acquisition include: (1) suitable gopher tortoise density; (2) cost; (3) operational management suitability; and (4) proximity to other FWC-managed land.

The Lake Wales Ridge physiographic region is inhabited by flora and fauna found nowhere else in Florida. Seventy-five rare species are found in the diverse Lake Wales Ridge ecosystem, many of which are either known, or are likely to occur on Dunham Ranch. Acquisition of the ranch will help to ensure the conservation of many of these listed species and will aid in the survival of the gopher tortoise. It will also contribute toward fulfilling the goals of FWC's Gopher Tortoise Management Plan, and will assist in the completion of the Lake Wales Ridge Ecosystem Florida Forever Project.

**Multi-Party Acquisition Agreement**

FWC, the Department of Environmental Protection's (DEP) Division of State Lands, and Polk County have entered into a Multi-Party Acquisition Agreement (MPAA) for this project. The MPAA will allow FWC and Polk County to cooperate in the acquisition and future management of the property. Polk County will contribute \$750,000 toward the purchase of the property through its Polk County Environmental Land Program contingent upon funds being available at the time of closing. FWC is prepared to pay the entire purchase price if Polk County is unable to contribute at the time of closing. On February 6, 2008, the Polk County Board of County Commissioners unanimously approved the \$750,000 contribution to this acquisition.

**Mortgages and Liens/Encumbrances**

All mortgages and liens will be satisfied at the time of closing. The property contains two residences. One residence is currently occupied by owner, Kathaleen Dunham, and will be vacated prior to closing. The second residence, owned by her sister, Shirley Cannon, is unoccupied at this time. FWC will utilize the improvements consistent with the future management plan for the property. There is a 25-foot-wide ingress and egress access easement that widens into a 50-foot-wide ingress and egress access easement encumbering the property and provides access to one of five out-parcels within the property. Other improvements on the property are a 54.38-acre orange grove with a 12-inch well and micro-irrigation, fencing, cattle gates, and similar agricultural site improvements considered typical of properties this size. The appraisers considered all of these conditions in their appraisals. The orange grove will be managed by FWC under a citrus grove contract for the remaining life-cycle of the citrus trees currently on the tract. Pursuant to section 259.032(11)(d), F.S., revenue accruing to FWC from

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the planned citrus grove management contract will be used for management of the tract. The trees will be removed and the grove site will be restored when the grove is no longer economically feasible to operate. On June 22, 1999, the Board of Trustees approved a staff recommendation to delegate to DEP the authority to review and evaluate marketability issues as they arise on all chapter 259, F.S., acquisitions and to resolve them appropriately. Therefore, DEP staff will review, evaluate, and implement an appropriate resolution for these and any other title issues that arise prior to closing.

**Closing Information**

A title insurance policy, a survey, and an environmental site assessment of the property will be provided by FWC prior to closing.

**FWC Acquisition Process**

Article IV, section 9, of the Florida Constitution establishes FWC with the power to exercise the regulatory and executive powers of the state with respect to fish and wildlife. Under this authority, FWC has promulgated rule 68A-27, F.A.C., to provide for permits, prohibitions, and the listing of endangered and threatened species. The Fish and Wildlife Habitat program was created to assist FWC with the implementation of the regulatory provisions of rule 68A-27, F.A.C., by providing an alternative mitigation process for offsetting impacts to listed wildlife. To comply with these provisions, landowners may obtain a permit for the taking of species of special concern, such as the gopher tortoise, by either protecting land onsite within a development, or by making payments to the Land Acquisition Trust Fund, identified in section 372.074(2), F.S. Once sufficient funds are available, FWC uses the trust fund to purchase and manage habitat important to the protection of listed wildlife. This program improves the biological effectiveness of listed species habitat protection by consolidating habitat protection areas into larger tracts, implementing listed species habitat management plans, and providing for long-term management by endowing each park with a dedicated funding source. It also provides developers with an important option for resolving conflicts between wildlife and new development.

Section 372.074(1)(c), F.S., contains language stating that land purchases made pursuant to FWC's Fish and Wildlife Habitat Program shall be subject to the acquisition procedures of section 253.025, F.S. However, chapter 253, F.S., has since been amended to move all the conservation land acquisition procedures to chapter 259, F.S. According to FWC staff and DEP legal staff, the cross-reference in section 372.074(1)(c), F.S., has yet to be amended to reflect this realignment of the conservation land acquisition procedures, and the amendment to chapter 253, F.S., that creates the applicable sub-section of chapter 259, F.S., automatically inserts itself in section 372.074(1)(c), F.S. Therefore, pursuant to FWC staff and DEP legal opinion, in view of the fact that this land is being purchased for conservation purposes, the land acquisition procedures set forth in section 259.041, F.S., are the procedures which apply to this transaction. Accordingly, this acquisition was negotiated by FWC, pursuant to section 259.041, F.S. DEP and FWC have found that mitigation banking, as defined in sections 373.4135 and 373.4136, F.S., is not a part of this project.

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**Substitute Item 1, cont.**

**Management**

The parcel will be managed by FWC as part of the Lake Wales Ridge Ecosystem Florida Forever Project, Crooked Lake Site, in cooperation with Polk County, as an addition to FWC's Mitigation Park Program.

**Comprehensive Plan**

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

(See Attachment 1, Pages 1-107)

**RECOMMEND APPROVAL**

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**2<sup>nd</sup> Substitute Item 2                      TNC Assignment of Option Agreement (Milne/Foster)  
/Northeast Florida Timberlands and Watershed Reserve  
Florida Forever Project**

**WITHDRAWN FROM THE JANUARY 31, 2008 AGENDA**

**REQUEST:** Consideration of the acceptance of an assignment of option agreement for sale and purchase to acquire 1,135.6 acres within the Northeast Florida Timberlands and Watershed Reserve Florida Forever project from The Nature Conservancy.

**COUNTY:** Nassau

**LOCATION:** Sections 26, 27, 35, and 37, Township 01 North, Range 24 East.

**CONSIDERATION:** \$9,475,000 (\$9,375,000 for the acquisition, \$100,000 for assignment of an option agreement for sale and purchase.)

<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>CLOSING DATE</u>
		<u>(08/24/06)</u>	<u>(08/24/06)</u>				
Milne/ Foster (6 parcels)	1,135.6	\$9,653,000	\$10,200,000	\$10,200,000	\$967,200	\$9,475,000** (93%)	04/15/08***

\* Subject property was purchased and assembled from 1988 to 2006 for \$967,200. The parent tract is approximately 1,080 acres and was acquired in 1988 and 1989. The additional 55.6 acres were acquired in 2006.  
 \*\* \$8,344 per acre.  
 \*\*\* Acceptance of the assignment and closing will occur on or before April 15, 2008.

Noted Features of the Subject Property:  
 The subject neighborhood has a mix of agricultural and rural residential uses.  
 The property is zoned (OR) Open Rural, with a Future Land Use classification of (A) Agriculture.  
 The property contains 708.10 acres of uplands (62.4%) and 427.5 acres of wetlands (37.6%)  
 The value is based on price per gross acre.  
 It has approximately 915 feet of frontage along the eastern right-of-way of US Highway 301.

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**2<sup>nd</sup> Substitute Item 2, cont.**

**STAFF REMARKS:** The Northeast Florida Timberlands and Watershed Reserve project is an “A” group project on the Florida Forever Full Fee Project List approved by the Board of Trustees on February 26, 2008. The project contains 146,164 acres, of which 60,094 acres have been acquired or are under agreement to be acquired. If the Board of Trustees approves this agreement, 86,070 acres, or 59 percent of the project will remain to be acquired.

**Project Description**

Public acquisition of this project will contribute to the following Florida Forever goals: (1) increase the protection of Florida’s biodiversity at the species, natural community, and landscape levels known to harbor four Florida Natural Areas Inventory (FNAI)-listed species of vascular flora and four rare animals; (2) increase the amount of open space available in urban areas, conserve spaces suitable for greenways, or outdoor recreation that are compatible with conservation purposes; (3) increase natural resource based public recreation and educational opportunities, such as camping, picnicking, nature appreciation, hiking, and horseback riding are possible; and (4) protect, restore, and maintain the quality and natural functions of land, water, and wetland systems of the state; 75 to 80 percent of land is disturbed with restoration a primary objective.

This property is one of the most outstanding properties in the “A” ranked Northeast Florida Timberlands and Watershed Reserve. Among the natural communities on the property are sandhill, mesic flatwoods, floodplain swamp/forest, dome swamp, and baygall. The majority of the property is comprised of good high quality sandhill, a globally imperiled natural community as determined by the FNAI. The mesic flatwoods on site are of at least equal quality to the sandhills. A few small areas of remnant wet prairie may also occur, but these are mostly disturbed through past silvicultural activities. Several large areas support an intact, older growth longleaf pine canopy. One of the other outstanding natural/hydrological features of the property is that it encompasses a portion of the headwaters of Thomas Creek. The property supports a substantial population of gopher tortoises, as well as numerous Sherman’s fox squirrels. Because of the presence of gopher tortoise, as well as the kinds of habitats encompassed by the property, it is likely that Eastern indigo snakes may occur on site. The acquisition of the tract will help to forge an important new conservation hub of protected lands straddling the Duval-Nassau County line.

**Multi-Party Acquisition Agreement**

Pursuant to a multi-party acquisition agreement (MPAA) entered into between the Department of Environmental Protection’s (DEP) Division of State Lands (DSL) and The Nature Conservancy (TNC), TNC has entered into an option agreement with the purchaser to acquire the subject property within the Northeast Florida Timberlands and Watershed Reserve Florida Forever project. TNC has executed an assignment of the option agreement releasing its right, title, and interest in and to the property. For consideration pursuant to the terms of the MPAA and upon approval of the Board of Trustees, the Board of Trustees will pay the purchase price, after credit for the option payment, to the property owner, and pay TNC \$100,000 for assignment of an

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**2<sup>nd</sup> Substitute Item 2, cont.**

option agreement for sale and purchase pursuant to paragraph three of the terms and conditions of transfer within the MPAA. In no event will the final Board of Trustees' purchase price exceed \$9,475,000, even though this amount may be less than the final DSL approved value of the property. TNC has paid the seller \$350,100 as option payment that will be reimbursed by the Board of Trustees to TNC, at closing. This amount will be credited against the purchase price pursuant to paragraph three of the option agreement. TNC has provided documentation that verifies this transaction.

**Encumbrances**

All mortgages and liens will be satisfied at the time of closing. A reservation of one-half interest of oil, gas, and minerals covering 448.5 acres in favor of International Paper Company (IP) exists. The appraisers were instructed by DEP to base the valuation on the assumption that the oil, gas, and mineral rights encumbering the subject property will be extinguished prior to closing. The sellers are to pay (\$40,000) to extinguish the IP interest, except for five percent royalty. The geology report states the other interests have no apparent issues of concern. There is a 100-foot strip of land crossing the property in a northeast/southwest direction encumbered by the Right-Of-Way Agreement (easement) to Florida Power and Light Company. There is a license agreement by and between Rayonier Corporation, David M. Foster and his co-owners that encumbers the property. This agreement terminates on June 30, 2008. On June 22, 1999, the Board of Trustees approved a staff recommendation to delegate to the DEP the authority to review and evaluate marketability issues as they arise on all chapter 259, F.S., acquisitions and to resolve them appropriately. Therefore, DEP staff will review, evaluate, and implement an appropriate resolution for these and any other title issues that arise prior to closing.

**Closing Information**

A survey and environmental site assessment will be provided by the buyer. A title insurance commitment will be provided by the seller prior to closing. The buyer will reimburse the seller the promulgated rate for the title insurance pursuant to the terms of the option agreement. Assignor has already paid for the survey and the environmental site assessment, and upon tender of paid receipts to DSL, and finding the payment is reasonable, assignee will reimburse assignor for said costs.

**Management**

The property will be managed by the Division of Forestry as part of the Cary State Forest.

**Comprehensive Plan**

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

(See Attachment 2, Pages 1 -71)

**RECOMMEND APPROVAL**