

T H E C A B I N E T
S T A T E O F F L O R I D A

Representing:

STATE BOARD OF ADMINISTRATION

FINANCIAL SERVICES COMMISSION, OFFICE OF
FINANCIAL REGULATION

FINANCIAL SERVICES COMMISSION, OFFICE OF
INSURANCE REGULATION

DEPARTMENT OF VETERANS' AFFAIRS

ADMINISTRATION COMMISSION

POWER PLANT AND TRANSMISSION LINE SITING BOARD

BOARD OF TRUSTEES, INTERNAL IMPROVEMENT TRUST FUND

The above agencies came to be heard before
THE FLORIDA CABINET, Honorable Governor Crist
presiding, in the Cabinet Meeting Room, LL-03,
The Capitol, Tallahassee, Florida, on Tuesday,
October 28, 2008, commencing at 9:05 a.m.

Reported by:
JO LANGSTON
Registered Professional Reporter
Notary Public

ACCURATE STENOGRAPHY REPORTERS, INC.
2894 REMINGTON GREEN LANE
TALLAHASSEE, FLORIDA 32308
(850) 878-2221

APPEARANCES:

Representing the Florida Cabinet:

CHARLIE CRIST
Governor

CHARLES H. BRONSON
Commissioner of Agriculture

BILL McCOLLUM
Attorney General

ALEX SINK
Chief Financial Officer

* * *

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ACCURATE STENOGRAPHY REPORTERS, INC.

1 P R O C E E D I N G S

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3 (Agenda Items Commenced at 9:25 a.m.)

4 GOVERNOR CRIST: State Board of Administration,
5 and our new leader, Ash Williams. Good morning,
6 Ash, and welcome.7 MR. WILLIAMS: Good morning. Thank you. Item
8 1 is the minutes from the meeting of October 14.

9 CFO SINK: Move it.

10 ATTORNEY GENERAL McCOLLUM: Second.

11 GOVERNOR CRIST: Moved and seconded. Show the
12 minutes approved without objection.13 MR. WILLIAMS: Item 2 is a fiscal determination
14 for Florida Housing Finance Corporation.

15 ATTORNEY GENERAL McCOLLUM: I move it.

16 CFO SINK: Second.

17 GOVERNOR CRIST: Moved and seconded. Show it
18 approved without objection.19 MR. WILLIAMS: Item 3, fiscal determination for
20 the Florida Housing Finance Corporation.

21 CFO SINK: Move it.

22 ATTORNEY GENERAL McCOLLUM: Second.

23 GOVERNOR CRIST: Moved and seconded. Show it
24 approved without objection.

25 MR. WILLIAMS: Item 4, fiscal determination for

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1 the Florida Housing Finance Corporation.

2 ATTORNEY GENERAL McCOLLUM: I move it.

3 CFO SINK: Second.

4 GOVERNOR CRIST: Moved and seconded. Show it
5 approved without objection.

6 MR. WILLIAMS: Item 5, also a fiscal
7 determination for Florida Housing Finance
8 Corporation.

9 CFO SINK: Move it.

10 ATTORNEY GENERAL McCOLLUM: Second.

11 GOVERNOR CRIST: Moved and seconded, show it
12 approved without objection.

13 MR. WILLIAMS: Item 6 is a letter for approval
14 to be sent to the Joint Legislative Auditing
15 Committee affirming that the Trustees have reviewed
16 and approved the monthly Local Government Investment
17 Pool management summary reports and taken actions as
18 needed, if any, to address impacts.

19 We have, in fact, been on top of this. The
20 report through September 30th indicates that all
21 tests in all key areas have, in fact, been passed.
22 We request approval.

23 ATTORNEY GENERAL McCOLLUM: I move it.

24 CFO SINK: Second.

25 GOVERNOR CRIST: Moved and seconded. Show Item

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1 6 approved without objection. General.

2 ATTORNEY GENERAL McCOLLUM: Before we send Ash
3 to the side, I've just got to comment, this is your
4 first meeting before us. Welcome aboard. We're
5 delighted to have you here and look forward to
6 working with you.

7 You come at tough economic times for the
8 country and the state, but there's nothing more
9 important than having you aboard right now. We
10 value that and we really appreciate it.

11 MR. WILLIAMS: Well, thank you. I've worked
12 with each of you and all of your staffs. I
13 appreciate that openness, and that partnership will
14 certainly continue. I've also contacted and will
15 be -- have already spoken with or will be speaking
16 with all the members of the Investment Advisory
17 Council in the near future and will similarly touch
18 base with all appropriate constituencies of the
19 Board. I look forward to working with all of you.

20 And to your point about the market environment,
21 certainly there has been pain out there. You might
22 be interested to know that if you look at all of the
23 bear markets back to World War II, and there have
24 been a number of them, you'll see that the range of
25 down motion has been from 22 percent to 49 percent

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1 from where these bear markets began.

2 If you then go out three years, though, what
3 you'll see is the up side range from 27 to 83
4 percent. So these things do pass. They do improve.
5 And unless the world has truly changed and the U.S.
6 can't adapt and prosper the way it always has, this
7 will pass. And I think we're set up to take
8 advantage of these situations longer term, and we
9 will do so. Thank you.

10 CFO SINK: Governor, could I just ask a
11 question --

12 GOVERNOR CRIST: Of course.

13 CFO SINK: -- about the LGIP? We're at that
14 time now at which historically the LGIP starts to
15 get a flood in of new tax revenues, and I know
16 there's a lot of conversation around whether or not
17 the State will continue to provide this service or
18 not or whether we're seeing inflows of new monies
19 coming in.

20 Can you tell anything yet? I know it's
21 obviously early in the cycle.

22 MR. WILLIAMS: Yeah. The really key months
23 here, CFO, will be November and December because
24 that's when the local government revenue flows come
25 in, and then they would, in turn, flow to the pool,

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1 if they're going to flow to the pool.

2 The latest information I've seen that's
3 summarized is for September. And during that period
4 of time, there were still net outflows, but there
5 were some \$550 million plus in new deposits made by
6 local government entities.

7 CFO SINK: And so it's kind of a wait and see.
8 It's a little premature.

9 MR. WILLIAMS: I think it is. I think it is.
10 And I think on the question of how we handle the
11 pool going forward, I would think we would reason
12 together on that and figure it out.

13 CFO SINK: And a question about Fund B, because
14 of course we're hearing all sorts of conversation
15 about the billions of dollars that the federal
16 government is making available to perhaps repurchase
17 some of these so-called toxic mortgage-backed
18 assets.

19 And, of course, we had about four of them in
20 our Fund B. What are we doing, if anything, or what
21 can we do to ensure that to the extent there's any
22 kind of take-out on the part of the government, that
23 we're able to avail ourselves of that potential
24 opportunity?

25 MR. WILLIAMS: To be honest with you, I don't

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1 have an answer for that question at this point.

2 I'll be happy to follow up on it.

3 CFO SINK: Okay. I'd be interested in just
4 assuring that as an investor we're getting our
5 share, if there's a share to be gotten.

6 MR. WILLIAMS: Indeed.

7 CFO SINK: Thank you.

8 MR. WILLIAMS: Thank you.

9 GOVERNOR CRIST: Thank you very much, Ash.

10 Welcome back to Tallahassee.

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1 GOVERNOR CRIST: Office of Financial
2 Regulation, Andrea Moreland. Good morning.

3 MS. MORELAND: Good morning. The first agenda
4 item, the Office requests approval of the minutes of
5 the August 12th and September 16th meetings.

6 COMMISSIONER BRONSON: Motion on Item 1.

7 ATTORNEY GENERAL McCOLLUM: Second.

8 GOVERNOR CRIST: Moved and seconded. Show the
9 minutes approved without objection.

10 MS. MORELAND: Item Number 2, the Office
11 requests approval to file for final adoption
12 amendments to Rule Chapter 69U-100, relating to
13 financial institutions. These rules pertain to the
14 sale of debt cancellation and debt suspension
15 products that are offered by financial institutions.

16 These rules provide consumer protection
17 provisions. The rules are based on federal
18 regulations that are applicable to nationally
19 chartered financial institutions.

20 ATTORNEY GENERAL McCOLLUM: So move it.

21 COMMISSIONER BRONSON: Second.

22 GOVERNOR CRIST: Moved and seconded. Show Item
23 2 approved without objection.

24 MS. MORELAND: Item Number 3, the Office
25 requests approval to file for final adoption

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1 permanent rules relating to the effect of law
2 enforcement records on applicants seeking licensure
3 as mortgage brokers, mortgage lenders and mortgage
4 broker businesses. These are the rules that are
5 based on the emergency rules that you approved on
6 August 12.

7 CFO SINK: Move it.

8 ATTORNEY GENERAL McCOLLUM: Second.

9 GOVERNOR CRIST: Moved and seconded. Show Item
10 3 approved without objection.

11 MS. MORELAND: Item Number 4, the Office
12 requests approval to publish a notice of proposed
13 rule for Rule Chapter 69V-40, relating to mortgage
14 brokering and lending. During the 2008 session, the
15 Legislature passed House Bill 5049, which required
16 the Office to implement an electronic version of the
17 mortgage broker test. It also required the
18 applicant to pay for the actual cost of the test,
19 not to exceed \$75. The Office has contracted with a
20 vendor that can provide the test at a cost of \$43,
21 and the rules implement these provisions.

22 CFO SINK: Move it.

23 ATTORNEY GENERAL McCOLLUM: Second.

24 GOVERNOR CRIST: Moved and seconded. Show Item
25 4 approved without objection. Thank you very much.

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1 GOVERNOR CRIST: Office of Insurance
2 Regulation, Commissioner McCarty. Good morning,
3 Commissioner.

4 MR. McCARTY: Good morning, Governor, members
5 of the Commission. The first agenda item is request
6 for adoption of the minutes of the Financial
7 Services Commission for September 16, 2008.

8 GOVERNOR CRIST: Is there a motion on the
9 minutes?

10 COMMISSIONER BRONSON: Motion on 1.

11 ATTORNEY GENERAL McCOLLUM: Second.

12 GOVERNOR CRIST: Moved and seconded. Show the
13 minutes approved without objection.

14 MR. McCARTY: Agenda Item Number 2 is request
15 for approval to adopt Proposed Rule 690-170.0144,
16 Public Hurricane Model. Senate Bill 2860, which was
17 passed by the 2008 Legislature, requires the
18 Financial Services Commission to adopt by rule a fee
19 schedule for the access and use of the computer
20 model that was developed by FIU.

21 The bill specifically provides that it's to be
22 not a profit-seeking but merely reflect the actual
23 cost of development of the model.

24 COMMISSIONER BRONSON: Motion on Item 2.

25 CFO SINK: Second.

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1 GOVERNOR CRIST: Moved and seconded. Show Item
2 2 approved without objection.

3 MR. McCARTY: Agenda Item Number 3 is request
4 for approval to adopt Proposed Rule 690-149.041,
5 concerning small group underwriting. This rule
6 creates an unfair trade practice for insurance
7 companies who treat different size small groups by
8 using a different application.

9 The Office has determined that there might be
10 some discrimination based upon the size of the
11 group, and federal law, the HIPAA law prohibits
12 that. This makes it an unfair trade practice.

13 COMMISSIONER BRONSON: Motion on Item 3.

14 ATTORNEY GENERAL McCOLLUM: Second.

15 GOVERNOR CRIST: Moved and seconded. Show it
16 approved without objection.

17 MR. McCARTY: Agenda Item Number 4 is to
18 request approval for publication of proposed rule
19 concerning credit life and credit disability. House
20 Bill 343 passed by the Legislature in the 2008
21 session made substantial changes to credit life.

22 Specifically, the bill removed the ten-year
23 limitation for disability. This merely comports the
24 rule with the changes in the law.

25 ATTORNEY GENERAL McCOLLUM: Move Item 4.

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1 COMMISSIONER BRONSON: Second.

2 GOVERNOR CRIST: Moved and seconded. Show it
3 approved without objection.

4 MR. McCARTY: And finally is request for
5 approval for the 2008-2009 performance contract for
6 the Office of Insurance Regulation.

7 CFO SINK: Move it.

8 ATTORNEY GENERAL McCOLLUM: Second.

9 GOVERNOR CRIST: Moved and seconded. Show Item
10 5 approved without objection. Thank you,
11 Commissioner.

12 MR. McCARTY: Thank you, Governor.

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1 GOVERNOR CRIST: Department of Veterans'
2 Affairs, Admiral LeRoy Collins. Good morning.

3 MR. COLLINS: Good morning, Governor and
4 members of the Cabinet. The Florida Department of
5 Veterans' Affairs has three items for consideration.
6 We wish to withdraw Item Number 4, our legislative
7 budget proposals, and with your permission will
8 present them at the next Cabinet meeting.

9 Item Number 1 are the minutes from the May 13th
10 Cabinet meeting. I recommend acceptance.

11 ATTORNEY GENERAL McCOLLUM: Move Item 1.

12 CFO SINK: Second.

13 GOVERNOR CRIST: Moved and seconded. Show it
14 approved without objection.

15 MR. COLLINS: Item Number 2 is our quarterly
16 report for the period ending June 30th, 2008. The
17 trend in veteran claims activity continues upward,
18 with an increase of eight percent in the number of
19 ratings reviewed. Claims are being adjudicated
20 faster, so less compensation has to be paid by the
21 federal VA to Florida veterans retroactively.

22 On page seven of the homes program section, the
23 only two homes where expenses exceeded revenues were
24 those with high-priced, outsourced certified nursing
25 assistant and food service staff, Pembroke Pines and

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1 Springfield.

2 As you recall, we received the authorization to
3 in-source those positions as FTEs effective this
4 fiscal year. So I am confident we will see revenues
5 exceeding expenses across the board by the end of
6 this year. I recommend acceptance of our quarterly
7 report.

8 GOVERNOR CRIST: Is there a motion?

9 CFO SINK: Move it.

10 COMMISSIONER BRONSON: Second.

11 GOVERNOR CRIST: Moved and seconded. Show Item
12 2 approved without objection.

13 MR. COLLINS: Item 3 is our capital improvement
14 program for the next five fiscal years. There were
15 seven major capital facility projects undertaken in
16 the past five years, construction of the homes in
17 Port Charlotte and Springfield and two renovation
18 projects in each of our older homes at Daytona Beach
19 and Lake City, and finally the grant project for the
20 new home being built in St. Johns County near St.
21 Augustine.

22 Given the current economic slowdown and
23 resulting budget constraints, our capital
24 improvement program, looking forward for the next
25 five years, is modest by comparison.

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1 The flagship will be the construction of the
2 new \$30 million veterans home in St. Johns County,
3 which will stimulate the local economy while
4 responding to the Governor's green initiative.

5 Governor Crist and I received two ceremonial
6 checks for 20 million and \$2 million earlier this
7 month from the federal VA. The construction project
8 is expected to begin later this fall and be
9 completed by 2010. It will generate nearly 150 new
10 jobs and about \$6 million annually for the local
11 economy.

12 We will continue to maintain our homes -- our
13 homes' physical plants with renovation projects but
14 have no more new home construction on the horizon.
15 I recommend acceptance of our capital improvement
16 program.

17 GOVERNOR CRIST: Is there a motion on Item 3?

18 CFO SINK: Move it.

19 ATTORNEY GENERAL McCOLLUM: Second.

20 GOVERNOR CRIST: Moved and seconded. Show it
21 approved without objection.

22 MR. COLLINS: I'll be happy to answer any
23 questions, and I thank you for your consideration of
24 these matters.

25 GOVERNOR CRIST: I think we need a motion for

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1 withdrawal of Item 4. Is there a motion?

2 CFO SINK: Move it.

3 GOVERNOR CRIST: Is there a second?

4 COMMISSIONER BRONSON: Second.

5 GOVERNOR CRIST: Moved and seconded. Show it

6 withdrawn without objection. Admiral, thank you

7 very much.

8 MR. COLLINS: Thank you, sir.

9 GOVERNOR CRIST: Good to see you.

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1 GOVERNOR CRIST: Administration Commission,
2 Lisa Saliba. Good morning, Lisa.

3 MS. SALIBA: Good morning, Governor, Cabinet.
4 First item on the Administration Commission agenda
5 is we're requesting approval of the minutes from the
6 October 14th meeting.

7 GOVERNOR CRIST: Is there a motion on the
8 minutes?

9 CFO SINK: Move it.

10 COMMISSIONER BRONSON: Second.

11 GOVERNOR CRIST: Moved and seconded. Show the
12 minutes approved without objection.

13 MS. SALIBA: Item Number 2 is our follow-up and
14 final action related to Area of Critical State
15 Concern. We have three actions that we're placing
16 before the Cabinet. We also have some speakers who
17 would like to make some final comments. On hand
18 today is Secretary Pelham with the Department of
19 Community Affairs, Mayor Mario DiGennaro with Monroe
20 County, Commissioner George Neugent, and
21 Commissioner Sylvia Murphy, both with Monroe County.

22 Then we also have speaking today Representative
23 Saunders and Debbie Harrison, representing the World
24 Wildlife Fund. We have several others on hand that
25 will not be speaking but are available should you

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1 have questions, secretary Mike Sole with the
2 Department of Environmental Protection and his
3 staff, Deborah Poppell and Geof Mansfied.

4 We also have Department of Health staff,
5 Mr. Gerald Briggs, with the on-site sewage programs,
6 available for questions. These speakers will do
7 very short concluding remarks, and then we'll move
8 the final action on the vote.

9 First up is Secretary Pelham, Department of
10 Community Affairs.

11 GOVERNOR CRIST: Morning, Secretary.

12 MR. PELHAM: Good morning, Governor and
13 Commission members. As you will recall, at your
14 September 28th meeting, you considered the DCA
15 report on Monroe County's progress in achieving the
16 ten-year work plan for dedesignation, and you
17 directed that a revised work plan be brought back to
18 the Commission at this meeting.

19 Since that time, the County, the Cities of
20 Islamorada and Marathon, the Departments of
21 Community Affairs, Environmental Protection and
22 Health, and key environmental stakeholders have
23 worked closely with Cabinet Affairs staff to develop
24 a revised work plan and to ensure that the details
25 of the work program are complete, accurate and

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1 feasible.

2 I am happy to report to you that all of these
3 participants have reached consensus on a revised
4 work program. We believe that the revised work
5 program is the road map we need to achieve
6 dedesignation of the Florida Keys Area of Critical
7 State Concern.

8 I hasten to add that the completion of the work
9 plan will require significant funding and staff
10 commitments by local governments and state agencies,
11 and the Commission should recognize that completion
12 of the plan will take several years.

13 However, as I believe the comments from other
14 participants this morning will indicate, there is
15 strong commitment to the work plan. Achieving
16 consensus on Florida Keys issues is a rare
17 occurrence.

18 I want to recognize the leadership and
19 contributions of several people who have worked very
20 hard to achieve this consensus. From the County,
21 Mayor Mario DiGennaro, County Commissioner Sylvia
22 Murphy and George Neugent, county administrator
23 Roman Gastesi and county growth management director
24 Andrew Trivette.

25 Also I want to point out that the Cities of

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1 Islamorada and Marathon have contributed greatly to
2 this effort, and they regret that they cannot be
3 present here today.

4 Finally, I want to recognize the hard work of
5 two important environmental representatives, Debbie
6 Harrison from the World Wildlife Fund and Richard
7 Grosso from the Keys Last Stand.

8 After other speakers have made their
9 presentations, our staff is available to answer any
10 questions you may have about the revised work plan.

11 GOVERNOR CRIST: Thank you, sir.

12 MS. SALIBA: Now we welcome Mayor Mario
13 DiGennaro with Monroe County.

14 GOVERNOR CRIST: Morning, Mayor.

15 ATTORNEY GENERAL McCOLLUM: Morning.

16 MR. DiGENNARO: Morning, Governor. How are
17 you?

18 GOVERNOR CRIST: Good, friend. How are you?

19 MR. DiGENNARO: Doing great, thank you. Good
20 morning, Governor. Good morning, distinguished
21 Cabinet. The State of Florida and Monroe County
22 lost a great friend in Representative Stan Mayfield.
23 And I will ensure his efforts to help us in the
24 Florida Keys are not to be forgotten. Our deepest
25 sympathy goes to his wife, Deborah, and family.

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1 I'm once again very proud to be speaking here
2 representing an unprecedented agreement on the
3 future path of Monroe County and the Florida Keys.
4 Before you today is your staff's recommendation,
5 which includes a further defined work program and
6 directive to state agencies.

7 Monroe County is ready to begin what will be a
8 very productive year, completing tasks outlined, and
9 we are excited about the opportunities that lay
10 ahead. I wholeheartedly ask you to accept and act
11 upon your staff's recommendation.

12 When I last addressed this body, Attorney
13 General McCollum offered a strong warning against
14 failure to making a solid effort towards progress
15 within the upcoming year. And, sir, you were
16 definitely right in doing so, definitely. And I
17 accepted it and we will move forward.

18 I would like to personally commit my energy as
19 mayor to making progress on the newly outlined task.
20 To demonstrate Monroe County's commitment, I have
21 with me today two of my colleagues, fellow
22 commissioners George Neugent, Sylvia Murphy, as well
23 as the county administrator, Roman Gastesi, our
24 growth management director, Andrew Trivette.
25 Together we represent a united majority and are all,

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1 as you will hear, fully invested in our plan for a
2 sustainable Florida Keys.

3 I now would like to introduce Monroe County
4 Commissioner Sylvia Murphy, who will further outline
5 our dedication to the vital work of this year and
6 each year to follow.

7 Thank you, Governor Crist, Cabinet members for
8 your continued support and for your recognition of
9 the strength of a united effort to forever protect
10 this national treasure, our home, the Florida Keys.
11 Thank you. Commissioner Murphy.

12 MS. MURPHY: Good morning, Governor, members of
13 the Cabinet. As a representative of the people of
14 Monroe County, I would like to thank the staff of
15 the Administration Commission, the staff of DCA,
16 Richard Grosso of the Everglades Law Center, and a
17 very special thanks to Barbara Leighty, Lisa Saliba,
18 Rebecca Jetton, Mayte Santa Maria, Richard Shine,
19 Charlie Gauthier and Craig Diamond.

20 I don't know all of you personally, but I'm
21 well aware of the many, many hours of hard work you
22 have put in to ensure that the government of Monroe
23 County serves the interest of its people.

24 I would also like to thank you, Governor Crist,
25 your Cabinet and Cabinet aides, especially Diana

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1 Sawaya-Crane, for your patience as we work our way
2 through issues that are larger than local action.
3 The path to substantial progress provided to you by
4 your staff requires that the Florida Keys complete
5 the intent of the Area of Critical Concern Program
6 by addressing the issues of carrying capacity,
7 habitat protection, land acquisition and wastewater
8 infrastructure development.

9 Each of these categories is essential to the
10 preservation of not only our resources and our
11 economy but also to the quality of life in the
12 unique string of islands that we all call home.

13 With the welcome addition of our new
14 administrator, Roman Gastesi, and a soon-to-be new
15 commission, I stand here today very, very proud of
16 my county and my state as we go forward toward the
17 twin goals of protecting our environment and
18 improving our economy. May we finally see a balance
19 between these two.

20 I recommend that you approve and act upon your
21 staff's recommendation today. I am excited to be a
22 part of this renewed partnership. I'm pledging my
23 support to these initiatives and I am confident that
24 we will succeed. At this time, I would like to turn
25 this podium over to our senior commissioner, George

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1 Neugent.

2 GOVERNOR CRIST: Morning, George.

3 MR. NEUGENT: Good morning. Good morning,
4 Governor, Cabinet members. This is a very wonderful
5 day for me, to be able to stand here before you,
6 recognizing that a consensus has been built amongst
7 our commissioners.

8 And after being in the minority for eight years
9 and scratching and fighting and trying to protect
10 what is so special to all of us, the Florida Keys --
11 and I know that all of you have been there. All of
12 you know the national treasure that we have there,
13 the Florida Keys National Marine Sanctuary.

14 And having said that and having sat on the
15 Sanctuary Advisory Council for ten years, our
16 regional manager Billy Causey told me to be sure and
17 tell you guys hello and hi and he's proud of this
18 day also.

19 As an elected representative of the residents
20 of Monroe County and a political subdivision of this
21 great state, I just can't tell you how excited I am
22 here today, with the support of Mayor DiGennaro,
23 with our new county administrator, Roman Gastesi,
24 and also our new young growth management director,
25 Drew Trivette, who has brought some things before us

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1 in a very brave way to propose to you and your staff
2 members.

3 And before I forget and remiss, Governor Crist,
4 I want to thank you so much for two people that are
5 very special to Monroe County. Your appointment of
6 Tom Pelham as secretary of DCA and also Mike Sole,
7 who has been very supportive, and also Deputy
8 Secretary Bob Ballard.

9 I want to thank them for their patience and
10 their understanding. It's been a long road for them
11 as well as myself and many others who will speak
12 before you today.

13 By recognizing and correctly interpreting the
14 overwhelming response of the electorate, our growth
15 management director has proposed and outlined as
16 essential in the path to substantial progress the
17 Planning the Balance.

18 It's something that I think that now the staff
19 members of your commission and your administration
20 have been working on, and we propose that it's
21 something that is so important to us and to
22 maintaining the national treasure and the state
23 treasure of the Florida Keys and protecting it
24 forevermore.

25 I'm here today to ask you to support your staff

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1 recommendations to change the Florida Statute of 380
2 to accept what's being proposed before you today. I
3 think that it is something that we've all worked
4 very hard for for the last 10, 15, 20 years.

5 And, Governor, I think that this is something
6 that we now support. We hope that you will support
7 this recommendation and move forward on it. And for
8 that, thank you for listening to us today and thank
9 you very much.

10 GOVERNOR CRIST: Thank you very much.
11 Appreciate it.

12 MR. DiGENNARO: We are united, finally. As you
13 can see, we are committed, excited and most
14 importantly unified in the completion of the intent
15 of Area of Critical State Concern Program. In the
16 coming months, we will continue to see great strides
17 through our partnership in the development of a
18 sustainable Florida Keys.

19 We will immediately begin working for our
20 legislative partners, including our veteran Ron
21 Saunders and many others, to ensure appropriation
22 monies towards our wastewater project and to alter
23 the statutory requirements for dedesignation. We
24 thank you for your support and look forward to the
25 challenge.

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1 And now we will return home to roll up our
2 sleeves and set in motion the most important work,
3 year to date, for our community. Armed with the
4 support of our great Governor and his Cabinet and
5 the great State of Florida, my fellow commissioners
6 and I, with my staff, are available to answer any
7 questions.

8 GOVERNOR CRIST: Mayor, thank you very much.
9 We appreciate you being here.

10 MR. DiGENNARO: Thank you.

11 GOVERNOR CRIST: General?

12 ATTORNEY GENERAL McCOLLUM: I have no
13 questions. I just want to say that we really
14 appreciate the efforts you're putting into this, and
15 it looks good right now, so keep it up.

16 MR. DiGENNARO: Thank you, sir. We're united
17 there. We are going to preserve the Keys, not only
18 for the people of Monroe County but for every
19 Floridian, every U.S. citizen and for the world. We
20 love it down there. We will protect it. That's our
21 goal. Thank you.

22 ATTORNEY GENERAL McCOLLUM: It's truly a
23 national treasure. Appreciate it.

24 MR. DiGENNARO: Thank you. Come and visit us.
25 We love you down there.

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1 MS. SALIBA: We have Representative Ron
2 Saunders.

3 GOVERNOR CRIST: The esteemed Representative
4 Ron Saunders.

5 MR. SAUNDERS: Morning, Governor, Cabinet
6 members. I just wanted to echo the remarks of
7 Monroe County in thanking the state agencies,
8 particularly DCA and DEP, for their cooperative
9 efforts with us.

10 As Secretary Pelham pointed out, it's going to
11 take some money to make these things happen. And as
12 all of us are very painfully aware, the state budget
13 is not looking very good right now. And so now more
14 than ever it's important that we work together.

15 I pledge my efforts in the budget process to
16 try to find what we can. And I know that, Governor,
17 your staff is going to help us with their
18 legislative budget requests to make sure that they
19 ask for what is needed down there. So we look
20 forward to working together and getting done what we
21 need to get done. And thank you again to the
22 Governor and Cabinet and your staff for all your
23 help.

24 GOVERNOR CRIST: Representative, thank you very
25 much. Appreciate your efforts.

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1 MS. SALIBA: The last presenter is Ms. Debbie
2 Harrison.

3 GOVERNOR CRIST: Good morning.

4 MS. HARRISON: Thank you. For the record, my
5 name is Debbie Harrison. I'm here on behalf of
6 World Wildlife Fund. Some of you here today realize
7 what a historic moment this is. In 30 years of
8 working on growth management and environmental
9 issues in the Florida Keys, this has never happened.

10 I know that Secretary Pelham has battle scars.
11 We talked the last time I was here about the fact
12 that he is someone in Monroe County because he has
13 been hung in effigy. I know that some of our
14 commissioners who have been here for many years
15 remember the days of protests and bumper stickers
16 and demonstrations.

17 The commitment that has been displayed by
18 Monroe County makes me want to just say all of you
19 come up and let's hold hands together. It's a
20 wonderful, wonderful day.

21 I want to recognize that Richard Grosso has
22 asked me to speak also on his behalf. He was unable
23 to be here today because of previous trial
24 commitments. But I will tell you that Richard and I
25 are, as a couple of people who have been in the

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1 trenches for decades now in trying to get to this
2 day, we are very appreciative of the efforts of the
3 Department of Community Affairs -- and I would name
4 names, but I think they've all been named so far --
5 under the leadership our phenomenal secretary,
6 Secretary Tom Pelham. Thank you, Governor Crist.

7 We appreciate the work of the Department of
8 Environmental Protection, very unrecognized the
9 amount of work that goes on within DEP to try and
10 assist Monroe County in moving forward with the very
11 challenging issues of wastewater.

12 I would like to thank Barbara Leighty, who has
13 been a part of this process for many, many years and
14 recognizes how important today is. I want to thank
15 each and every one of your staff members. Your
16 cabinet aides have made this happen. They have
17 worked tirelessly to assist us in bridging
18 agreements and crafting resolutions, fine-tuning
19 language and brokering a negotiation.

20 In particular, Governor Crist, I cannot tell
21 you what a phenomenal star Diana Sawaya-Crane has
22 been through all of this. Thank you so much.

23 Again, we are so proud to be a part of this
24 monumental agreement between the State, the County,
25 the stakeholders. And we thank you so much for your

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1 leadership as members of this Cabinet in bringing
2 that to us today. Thank you so much.

3 MS. SALIBA: If there aren't any questions,
4 Governor, we would recommend that you accept and
5 affirm the three parts of the staff recommendation.

6 ATTORNEY GENERAL McCOLLUM: I move Item 2.

7 COMMISSIONER BRONSON: Second.

8 GOVERNOR CRIST: Moved and seconded. Show it
9 approved without objection.

10 MS. SALIBA: Thank you very much.

11 GOVERNOR CRIST: Thank you very much, and
12 thanks to all of you for being here today.

13 (Applause)

14 GOVERNOR CRIST: Travel back to the beautiful
15 Keys safely. We look forward to seeing you soon.
16 Thanks so much.

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1 GOVERNOR CRIST: Department of Environmental
2 Protection, Siting Board, Secretary Sole.

3 MR. SOLE: Good morning, Governor, Cabinet
4 members. On the Siting Board, Item Number 1 is
5 approval of the minutes from the July 29, 2008, and
6 August 12, 2008, Cabinet meetings.

7 GOVERNOR CRIST: Is there a motion to approve
8 the minutes?

9 CFO SINK: I move it.

10 ATTORNEY GENERAL McCOLLUM: Second.

11 GOVERNOR CRIST: Moved and seconded. Show the
12 minutes approved without objection.

13 MR. SOLE: Thank you. Item Number 2 is a
14 request for consideration of a final certification
15 by the Siting Board by adopting the administrative
16 law judge's order for Florida Power & Light's
17 Bobwhite-Manatee 230 kilovolt transmission line
18 project. The ALJ had his recommended order on
19 August 11, 2008, and the Public Service Commission
20 provided its need determination on August 28, 2006.

21 This transmission line will connect the
22 existing Manatee Energy Center switchyard to the
23 proposed Bobwhite Substation, which is located just
24 off of I-75 in Sarasota County. The line is
25 scheduled to be in service by December 2011, and the

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1 recommended route by the ALJ is approximately 26
2 miles long.

3 The ALJ presented a condemnation route. He
4 presented and approved the FPL proposed corridor and
5 also approved what was called a Consensus Corridor
6 as an attachment. So he mixed the two corridors.

7 In this case, there were approximately four
8 alternate -- other alternate corridors presented.
9 One was the Concession Corridor, which was objected
10 to by Manatee County as a result of impacting some
11 four additional miles more than the ALJ's approved
12 route.

13 There was also two proposals by John Falkner.
14 Those proposals recommended actually going along an
15 alignment of an existing transmission line. This
16 was objected to by the Public Service Commission
17 because, one, the purposes of this line is to
18 provide redundancy so there's an improved
19 reliability in the delivery of power in the region.

20 And, finally, there was a fourth alternative
21 corridor, Bridle Creek Homeowner Association. That
22 corridor was removed as a result of what's called a
23 Consensus Corridor being supported.

24 All in all, again, the ALJ found that the
25 corridor with the least overall impacts was a

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1 combination of the FPL Corridor as well as the
2 Consensus Corridor. And, again, the Consensus
3 Corridor was adopted by some 15 parties.

4 Governor, we have six speakers on this item.
5 And I'd be glad to answer any questions or bring the
6 speakers.

7 GOVERNOR CRIST: Let's hear the speakers.

8 MR. SOLE: All right. Our first speaker is
9 opposed. Mr. Roy Cohn, who is an attorney for John
10 Falkner. Mr. Cohn.

11 MR. COHN: Thank you.

12 GOVERNOR CRIST: Good morning.

13 MR. COHN: Good morning, Governor. Good
14 morning, Cabinet. If you would please refer to the
15 map of the transmission line area, at the top, the
16 orange line going west from the Manatee Energy
17 Center Power Plant then south and east to the place
18 where the Bobwhite Substation will be built depicts
19 an existing FPL right-of-way, which was chosen more
20 than 30 years ago and in which there already exists
21 several transmission lines which FPL operates and
22 maintains.

23 It is clearly in the best interest of the
24 public and the environment for the new power line to
25 be built in the existing right-of-way, an area that

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1 has already been disturbed for many years.

2 To build a new line where no transmission line
3 exists, across Gamble Creek, Tyre Creek, Water Hole
4 Creek, Gilley Creek, the front of the Ed Chance
5 Nature Preserve, across Lake Manatee, in front of
6 the Lake Manatee State Recreation Area, across the
7 Braden River and across the Heritage Ranch
8 Conservation Area would be an unnecessary disservice
9 to the public and to the environment.

10 FPL rejected building the new line in the
11 existing right-of-way without allowing the public
12 and the agencies to consider the existing
13 right-of-way as a viable option for the new line.

14 Further, by failing to include the existing
15 right-of-way in the study area that FPL established
16 for the project, the public and all agencies could
17 not consider building the new line in the existing
18 right-of-way. Therefore, the ALJ could not fully
19 consider building a new line in the existing
20 right-of-way.

21 The public policy of the State of Florida
22 favors co-location of new transmission lines with
23 existing transmission lines. Florida Statutes
24 provide that if the new transmission line is built
25 in the existing FPL right-of-way, then the new line

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1 is exempt from compliance with all certification
2 proceedings.

3 This means that if you deny certification, then
4 FPL can go ahead and build the new line in the
5 existing right-of-way. The ALJ recommended
6 certifying a route that combines two different
7 corridors. The ALJ's recommendation is not legal
8 unless and until either FPL files an amended
9 application that combines the two routes or another
10 party files an alternate that combines the two
11 routes.

12 Notice must be published on the combination of
13 the two routes prior to a rescheduled certification
14 hearing. This means that if at this point in time
15 you certify the route recommended by the
16 administrative law judge, you would be certifying an
17 illegal route, and the appellate court will reverse
18 your action and remand the case back to the ALJ so
19 that the statutory notice can be given for the
20 combination of the routes.

21 The proper action for you to take at this point
22 in time is one of two things; deny the certification
23 so FPL can build the transmission line in the
24 existing right-of-way, or remand the case back to
25 the ALJ for the ALJ to receive evidence from the

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1 public and all agencies on whether to build the new
2 line in the existing right-of-way, and so that a
3 proposal can be made by FPL or another party to
4 combine the routes suggested by the ALJ and the
5 required statutory notice can be published prior to
6 the rescheduled hearing.

7 In any event, granting certification at this
8 time would be neither just nor legal. It would be
9 an unnecessary disservice to the public and to the
10 environment, and the appellate court would reverse
11 the certification because statutory procedure was
12 not followed for combining two different routes.

13 Thank you for your time. I will answer any
14 questions that you have. Thank you.

15 MR. SOLE: Thank you, Mr. Cohn. Our next
16 speaker is Mr. John Moyle, who is counsel for the
17 Concession. John.

18 MR. MOYLE: Good morning. John Moyle on behalf
19 of the Concession. My client is the landowner that
20 has property adjacent to FPL's route that it
21 proposed and the Consensus route that is before you
22 today.

23 My client also proposed a route that -- I think
24 it's helpful to have a little bit of history about
25 this particular route. On the map it's the route

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1 that's depicted in red. And I wish my client could
2 claim expertise and knowledge and studying a whole
3 bunch of factors to come up with this route.

4 This route runs along existing roads, which is
5 a positive thing when you're locating a transmission
6 line. But this route was originally identified by
7 FP&L when it looked at a whole host of objective
8 criteria, such as co-locating with existing roads,
9 impacts on wetlands, the cost. This route is the
10 cheapest cost. Did this objective analysis, ran it
11 through a computer, and the computer spit out this
12 route as its top ranked route.

13 FPL subsequently went in another direction.
14 But during the course of discovery, another entity,
15 SMR, who you will hear from, they asked for all this
16 information, analyzed it and said, why didn't they
17 go with this route, this looks like the best route.

18 During the hearing, about halfway through the
19 hearing, some folks got together and made a deal.
20 And what you have before you is the result of this
21 deal. It's called the Consensus route. But really
22 it came about for the first time during the hearing.

23 And it was never identified before, in part
24 because it runs through two miles through a
25 conservation easement. And FPL's team of experts,

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1 they identify conservation easements as a siting
2 constraint. We don't want to run transmission lines
3 through conservation easements.

4 This route was identified and then it was
5 subsequently put forward. My client picked up the
6 old route that FPL identified as the best initially,
7 that SMR put forward, and said let's go ahead and
8 move forward with this.

9 On your map you can see the departure from the
10 yellow line to the red line. There's another
11 important feature in addition to the conservation
12 easement. This line runs through this conservation
13 easement. They'll tell you, well, it has minimal
14 impact. It's pasture land.

15 But the Fish and Wildlife Commission looked at
16 it and said that this has environmentally sensitive
17 areas and that they would prefer that it be located
18 along existing roads, which is what the Concession
19 route does.

20 Another significant environmental impact that I
21 wanted to briefly make you aware of and argue some
22 law that's applicable, the route that you're being
23 asked to certify runs along a state park, the Lake
24 Manatee State Park, which is a nice resource.
25 People go out there and hike and canoe. It's a very

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1 pristine area.

2 The State of Florida, the Legislature last
3 session set forth policy that said, let's not run
4 transmission lines through state-owned property if
5 there's a prudent and practical alternative. We
6 would argue there is a prudent and practical
7 alternative. You can run the transmission line
8 along existing roads, the Concession route, rather
9 than running it through the state park.

10 Now, what you will hear today is, well, we're
11 not really sure if it's going to go in the state
12 park. It could, it could not. But I don't think
13 you'll get a definitive answer to that question.

14 It seems to my client that the State
15 Legislature articulated the policy of not running it
16 through the park. And in environmental permitting
17 cases, you have to assume the worst case scenario.
18 There's case law out there that says that. So if
19 you assume the worst case scenario, that it is going
20 to be run through the state park, then you should
21 pursue, as directed by the Legislature, the
22 alternative, which is to follow the Concession
23 route.

24 The Concession route is proper for
25 certification. There was evidence that it meets all

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1 of the other criteria. It's before you today for
2 consideration, and we would urge that, given the
3 impacts on the state park that are likely and the
4 bad precedent of running it through the conservation
5 easement, that you go ahead and approve the
6 Concession route.

7 One final point and I'll sit down. One of the
8 factors that the judge considered when he went ahead
9 and recommended this Consensus route is one of the
10 landowners, SMR, said, look, we kind of understand
11 there's some bad environmental impacts with running
12 this thing through the conservation easement. We'll
13 donate 600 acres here that will offset that.

14 Well, that may be well and good, but this
15 Transmission Line Siting Act is very specific. It
16 tells you what size type you have to put notice of
17 in the paper. There's no statutory authority to
18 allow for this off-site mitigation, and we would
19 argue it's a bad precedent because your next one,
20 somebody is going to come in and say, well, you know
21 what, I'll make a \$500,000 contribution to a local
22 environmental group. I've got some property over
23 here I'll give you.

24 The statute contemplated an analysis of impacts
25 on the land affected, not that you could go out and

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1 mitigate off site.

2 So we would ask that you consider this matter,
3 apply the law and approve the Concession Corridor.
4 Thank you, and I'll be happy to answer any
5 questions.

6 MR. SOLE: We have four additional speakers in
7 support of the ALJ's recommended order. Our first
8 speaker is Mr. Richard Gumm with the East County
9 Homeowners Association, or Organization. Mr. Gumm,
10 good morning.

11 ATTORNEY GENERAL McCOLLUM: You may proceed.
12 The gavel has been handed over here for a second.

13 MR. GUMM: Good morning, Cabinet members. My
14 name is Richard Gumm. I am the president of the
15 East County Homeowners Organization, an organization
16 of 220 home owners in Eastern Sarasota and Manatee
17 Counties. I have traveled here to the tundra of
18 North Florida to speak about the ALJ's decision and
19 urge you to approve his decision and the Consensus
20 Corridor.

21 I can tell you that this has been a very
22 important matter for the people in my organization
23 now for almost two years. We've gone to the trouble
24 of raising money to hire a lawyer, an expert
25 witness. We have attended two public hearings

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1 en masse, testified at the hearing. This is very
2 important to my people because they are concerned
3 about the potential impacts to their homes and to
4 the environment which they very much love.

5 It has been our pleasure to originally support
6 the original FPL Corridor. Later on we were able to
7 work with Schroeder-Manatee Ranch, the environmental
8 groups, FPL, Sarasota County, to develop what is now
9 referred to as the Consensus Corridor.

10 I consider that to be exactly the type of
11 process that we want in this state, diverse groups
12 working together and pulling together to find the
13 best solution.

14 The problem with the Concession Corridor, which
15 was picked by a computer and without regard to
16 conditions on the ground, is that it impacts far too
17 many home owners in the area. The roads that are in
18 question here are very narrow, rural roads that are
19 really not appropriate for this type of
20 construction.

21 I can tell you, talking to my people, they're
22 much more worried about the value of their homes,
23 especially today, as we see housing prices plummet,
24 than they are about any minor incursion onto the
25 state park. And these are people who live next to

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1 the state park. This is not a big deal to them.

2 In contrast, they feel that this is the route
3 that impacts only 40-some homes instead of over 160
4 homes with the Concession Corridor, and that's just
5 far too many.

6 As for Mr. Falkner, I could tell you that the
7 route that the judge selected was on the -- was on
8 the table, was publicly noticed from the very
9 beginning and then subsequently when we filed the
10 Consensus Corridor.

11 The only route that has had no public notice is
12 Mr. Falkner's route. And I continue to struggle
13 with his argument, whether the problem is a lack of
14 notice to the public or the fact that he wants you
15 to approve a route that can be built without public
16 notice.

17 I can tell you that my people are very
18 concerned and very troubled by the prospect of any
19 route being approved without notice to the public.
20 I thank you for your careful attention to this
21 matter. I urge you to approve the ALJ's decision.
22 Thank you. I'll take questions if you have any.

23 MR. SOLE: Thank you, Mr. Gumm. Our next
24 speaker is Susan Schoettle-Gumm, with the Gum Slough
25 Preservation Foundation.

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1 MS. SCHOETTLE-GUMM: Good morning, Governor
2 Crist and members of the Cabinet. I want to thank
3 you for this opportunity to express my support for
4 the Consensus Corridor and the ALJ's decision on
5 behalf of the Gum Slough Preservation Foundation and
6 as a 15-year resident of Sarasota County.

7 Through a lengthy two-year process of public
8 input and hearings and opportunities for the public
9 to look at alternatives and talk to representatives
10 of FPL and a very unusual collaboration between two
11 environmental organizations, a homeowner's
12 organization, major property owners and a number of
13 large developers, we identified this portion of the
14 Consensus Corridor as best achieving the balance
15 between providing reliable electrical service, as
16 identified by the PSC, and achieving a balance
17 between preserving environmental quality and the
18 quality of life of residents in eastern Manatee and
19 Sarasota County.

20 Through the process of identifying the
21 Consensus Corridor, representatives of ManaSota-88,
22 a very well respected and generally not a friend of
23 FPL environmental organization and myself and other
24 representatives of the Gum Slough Preservation
25 Foundation have actually walked the area along the

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1 edge of the Heritage Ranch Conservation Easement.
2 We've identified Gum Slough as an area, as has
3 Sarasota County, as a protected environmentally
4 sensitive area in northern Sarasota County.

5 In walking the Heritage Ranch Conservation
6 Easement, the portion of the easement that the
7 transmission line would traverse is significantly
8 impacted and damaged already. And what happens is
9 by placing the line there, in fact, it provides a
10 buffer from incursion of additional development.
11 That provides additional protection to the Gum
12 Slough area. In addition, additional acreage will
13 be added that helps protect the drainage into Gum
14 Slough and again helping preserve and enhance that
15 area.

16 I think it's extremely unusual, the alliance of
17 interests that came together to identify the
18 Consensus Corridor and helped identify this
19 transmission line that the ALJ has approved.

20 Again, I appreciate the time to speak to you
21 today and hope that you will approve the ALJ's
22 decision. Thank you.

23 MR. SOLE: Our next speaker is Mr. Doug Hall,
24 who is the attorney for the Schroeder-Manatee Ranch.
25 He's with Carlton Fields.

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1 MR. HALL: Good morning. I am Doug Hall. I
2 represent Schroeder-Manatee Ranch in this case. I
3 am one of the survivors of the four-week
4 administrative hearing that we held down in Manatee
5 County to look at the proposed routes for this
6 transmission line.

7 When this route was originally proposed by FPL,
8 SMR opposed it because so much of the route was on
9 SMR's property. As we went through this process of
10 examining the alternatives, we came up with an
11 alternate route that was supported by a large number
12 of people that were participating in the hearing.

13 And the route that's been recommended by the
14 ALJ still will go on approximately six miles of
15 SMR's property. SMR is willing to accept that
16 because we believe that it's an acceptable balance
17 between the need for the line and the impact that
18 the line will cause.

19 We've heard several people talk about the
20 Heritage Ranch Conservation Easement. This is an
21 easement that SMR created a few years ago to protect
22 Gum Slough. It's about a 2,000-acre easement.

23 The area in which the transmission line will be
24 located is in an area that originally wasn't going
25 to be part of the easement. It's in cow pasture.

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1 It's already impacted. There are jeep trails.
2 There are fire breaks there.

3 The ALJ found that there are no significant
4 environmental features there. It's a good place to
5 put this line. Sarasota County holds the
6 conservation easement, manages this area and
7 supports this.

8 The total amount of acreage within the
9 conservation easement that would be impacted by the
10 right-of-way for this transmission line is somewhere
11 between 18 and 28 acres. To offset even that very
12 small environmental impact, SMR has agreed to
13 protect 600 acres of environmentally sensitive
14 property.

15 A hundred and forty of those acres will be
16 donated to the Heritage Ranch Conservation Easement.
17 They'll protect Gum Slough. Another 460 acres will
18 be protected through restrictive covenants that will
19 protect that area in perpetuity.

20 The ALJ found that no other route that has been
21 proposed offers that net environmental benefit, an
22 unusual thing in a transmission line siting
23 proceeding, that results from protecting this
24 additional area.

25 We recommend that you -- we urge that you would

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1 adopt the ALJ's recommendation. Thank you.

2 MR. SOLE: Our last speaker is Ms. Carolyn
3 Raepple, attorney for Florida Power & Light, with
4 Hopping, Green & Sams.

5 MS. RAEPPLE: Thank you, Secretary Sole. Good
6 morning, Governor Crist, members of the Cabinet. I
7 am Carolyn Raepple with Hopping, Green & Sams,
8 representing Florida Power & Light. The corridor
9 that's been recommended to you today is the result
10 of extensive work and coordination between Florida
11 Power & Light and the community, the agencies with
12 regulatory jurisdiction, the local governments,
13 civic organizations, environmental groups and the
14 parties to this proceeding, in addition to four
15 weeks of testimony before Administrative Law Judge
16 Bram Canter.

17 Nothing that you've heard today from the
18 opponents, counsel for John Falkner and for the
19 Concession Development, is new. All of these issues
20 have been argued to the judge. They've been
21 addressed in the recommended order and should be
22 rejected by you for the reasons that he provided.

23 And I just want to touch a few of them briefly.
24 Mr. Cohn, John Falkner's counsel, said that Florida
25 Power & Light rejected the placement of the

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1 transmission line on the existing right-of-way and
2 didn't allow agencies and the public to even
3 consider placing the transmission line there. And
4 that's just not right.

5 The use of the existing right-of-way as an
6 alternative was presented to the Public Service
7 Commission, which as you know, in that need
8 proceeding, that is a proceeding open to the public.
9 And the PSC, in their final order, rejected use of
10 that existing right-of-way for both reliability and
11 cost reasons.

12 In addition, use of that existing right-of-way
13 would be contrary to the mandatory reliability
14 standards enforced by the North American Electrical
15 Reliability Corporation, whose standards are also
16 adopted by the Florida Reliability Coordinating
17 Council. And so use of that existing right-of-way
18 is just not an option.

19 Mr. Cohn also said that use of a -- or
20 certification of a combination of routes would be
21 illegal. That also is not true. First of all,
22 there's precedent for that. This Siting Board
23 approved a corridor in a prior Transmission Line
24 Siting Act proceeding, the Levee-Midway proceeding,
25 which was a combination of corridors.

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1 In that case there were two alternate corridors
2 and a piece of the original applicant's corridor
3 that were combined to provide for the certified
4 corridor.

5 And the definition of "corridor" in the
6 Transmission Line Siting Act is broad enough to
7 allow it. And certainly every inch of the corridor
8 that's been recommended by the judge has been
9 subject to notice to the public, has been the
10 subject of extensive testimony and evidence at the
11 hearing.

12 Again, just briefly, Mr. Cohn indicated that
13 his client owns property adjacent to the Consensus
14 Corridor in the area that's being recommended. And
15 actually it's not quite adjacent.

16 The Consensus Corridor is 450 feet separated
17 from the golf course portion of the Concession's
18 property and separated by at least 700 feet for the
19 rest of its property and is over 825 feet from the
20 closest residential lot.

21 The Concession's counsel also indicated that
22 there would be significant environmental impacts.
23 There are extensive findings of facts in the
24 recommended order about that. He mentioned with
25 regard to the state park, that there would be

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1 prudent and practical alternatives.

2 As you know, this line cannot go in that state
3 park unless you, sitting as the Board of Trustees,
4 authorizes it. And what he didn't mention about the
5 prudent and practical alternative test is that there
6 is a definition of that in your policy, that has now
7 been adopted by statute, that defines practical and
8 prudent alternative. It means you compare social,
9 economic and environmental impacts.

10 That is a decision you will make. If you
11 decide the balance of those considerations does not
12 warrant placing this transmission line immediately
13 inside the park fence line, on an existing cleared
14 fire break, then it won't go there. There's room
15 within the recommended corridor to place it outside
16 the state park. But that's a decision that you will
17 make in the future.

18 And finally, with regard to mitigation, the
19 type of mitigation that is being offered in order
20 for the line to be placed through the Heritage Ranch
21 Conservation Easement has been accepted previously.
22 Again, this Siting Board in the Levee-Midway
23 certification proceeding accepted very similar
24 mitigation for placement, in that case, on lands of
25 the Water Management District.

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1 Florida Power & Light urges you to approve
2 certification as recommended by the judge in order
3 that it may timely put into service this critical
4 infrastructure project to ensure the adequate and
5 reliable service of electricity in the Manatee and
6 Sarasota County areas.

7 If you have any questions, I'd be happy to
8 answer them. And I have with me today a number of
9 my expert witnesses in case your questions get too
10 technical. Thank you.

11 GOVERNOR CRIST: CFO.

12 CFO SINK: Thank you. I am very concerned
13 about the conversation around the line going through
14 the Lake Manatee State Park. And it's my
15 understanding that there's the south side of the
16 corridor. Would FP&L be willing to say that the
17 line will not be constructed through the park
18 property, the state-owned lands?

19 MS. RAEPPLE: The corridor that is being
20 recommended does include a very small part of the
21 state park along State Road 64. There is a fence
22 line there. And on the inside of the fence, there
23 is a cleared fire break.

24 If the transmission line were placed in that
25 area, it would be immediately, like five feet inside

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1 the fence line, in that existing cleared area, and
2 it would only go there if you, the Siting Board,
3 sitting as the Board of Trustees, approves it.

4 If you do not approve it, then yes, we will go
5 immediately outside the fence. And, of course, in
6 this area, if we went inside the fence, we would
7 have to show that it was in the public interest.
8 And so that would hardly be a worst case situation.
9 But that's going to be your decision.

10 CFO SINK: Well, is that a decision we can make
11 today?

12 MS. RAEPPLE: It's not before you today. And
13 you would be -- it would not be a decision made by
14 the Siting Board. It would be made by this body
15 sitting as the Board of Trustees, and it's not on
16 that agenda.

17 CFO SINK: Okay.

18 MR. SOLE: Can I add something to that, CFO?

19 CFO SINK: I wish you would.

20 MR. SOLE: Always here to help, sometimes. The
21 siting process really is -- and it's just a
22 reminder. When it comes to transmission lines, it's
23 a phased process. We start out with the large
24 corridor. But as we go through and further develop,
25 as part of the conditions of the siting, the

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1 refining of actually where the right-of-way is
2 placed is actually further down the road.

3 And as Ms. Raepple noted, we will have to come
4 back, we will have to -- if there's a proposal to
5 actually place the right-of-way within the state
6 park, it will have to go before the Acquisition and
7 Restoration Council and then subsequently come
8 before you as the Board of Trustees for
9 consideration.

10 I'm confident we'll continue to work with FPL
11 to get a favorable siting as part of this overall
12 review. But it's hard to affirmatively say what
13 that final siting is until the further detail is
14 accomplished.

15 CFO SINK: Well, I'm just -- Governor. I'm
16 just worried that, you know, we make a decision
17 today and then you come back, and you say we have a
18 choice, but then sometimes the choice is not really
19 a choice.

20 So for my part, since we have representatives
21 from FP&L here and you're here, I'm really -- would
22 very strongly encourage FP&L not to come back with a
23 final plan that would force us to choose something
24 that none of us might like, which is to reject our
25 policy, which is to not put these lines over

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1 state-owned -- particularly state parks.

2 GOVERNOR CRIST: Commissioner.

3 COMMISSIONER BRONSON: Thank you, Governor.

4 I'm going to be the monkey wrench in this lovefest
5 here simply because -- not that I'm against the
6 proposal. I'm willing to vote for the current
7 siting situation. But I find it fundamentally
8 wrong -- and I need to talk to the legislative
9 members who have stated that these types of projects
10 should not go across state lands and that type of
11 thing -- simply because if you go back and remember,
12 we bought this property from private landowners and
13 call it now either state parks or state forest or
14 something. And we bought it because of its
15 characteristics.

16 Private landowners own the same land with the
17 same characteristics, with the same type of wildlife
18 and everything else on it, and yet as stated,
19 usually in the policy, if it's in the interest of
20 the people of the state to put a line somewhere so
21 that the majority of the people in that area benefit
22 from that siting, I think it's wrong for us to even
23 indicate that we're willing to say at all cost, even
24 if it's going to cost more money or whatever, that
25 we will not site lines on state land, when we say to

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1 the public, we deem it that this line is going to go
2 on your private property and we deem it in the
3 interest of the people of the state, when we're
4 willing to exempt it from state lands under the same
5 characteristics, just because it's state land. I
6 find that fundamentally wrong if we're actually
7 saying that.

8 Now, if moving that line five feet doesn't make
9 any difference one way or another, then, you know,
10 I'm fine there. But to say we have this piece of
11 state land now that is somehow held in awe, when it
12 was originally private land bought by the State and
13 we would have told that private landowner, you must
14 site this line there because it's what we decided to
15 do, then I think it's wrong for the State to say,
16 but we're not willing to take the millions of acres
17 of state land in the interest of the public of the
18 state to put in power lines, or whatever other
19 public interest is there, and remove those state
20 lands from consideration.

21 I think that's kind of a double standard on the
22 people of the state that we're forcing this on as
23 private landowners. So I disagree -- I understand
24 where you're coming from, but I disagree on the
25 principle because if we're going to force this on

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1 private landowners, then the State ought to be
2 willing to do it under the same conditions for the
3 interest of the people of the state, even though it
4 is maybe a park or maybe a state forest, that if
5 it's in the true interest of the people of the
6 state, it should be sited appropriately and not
7 considered out of bounds.

8 That's just -- I'm just one member of this
9 board, but that's my personal feeling. And I think
10 it's a fairness issue, in my opinion.

11 MR. SOLE: Governor, may I respond?

12 GOVERNOR CRIST: Please.

13 MR. SOLE: I think it's worth noting,
14 Commissioner, that during last legislative session,
15 actually, legislation was passed to try to identify
16 that, yes, state lands can be used, and largely I
17 think for some of the specific reasons that you've
18 identified.

19 There's been so much good acquisition that
20 eventually there is going to be the need to site
21 transmission lines through some state lands. So the
22 law was changed to basically identify that, yes,
23 state lands can be used to site these transmission
24 lines. However, they should be avoided if possible
25 and if they can be avoided, that's appropriate. If

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1 they can't be avoided, then the law was changed to,
2 yes, allow for it. So I just wanted to point out
3 that that is one of the things --

4 COMMISSIONER BRONSON: I may have
5 misunderstood. I thought there was a --

6 MR. SOLE: No. That occurred just this last
7 session.

8 GOVERNOR CRIST: Any other questions? Thank
9 you. General?

10 ATTORNEY GENERAL McCOLLUM: I move Item 2.

11 COMMISSIONER BRONSON: Second.

12 GOVERNOR CRIST: Moved and seconded. All in
13 favor please signify by saying aye.

14 CFO SINK: Aye.

15 ATTORNEY GENERAL McCOLLUM: Aye.

16 COMMISSIONER BRONSON: Aye.

17 GOVERNOR CRIST: Aye. All opposed, like sign.
18 Motion carries. Thank you.

19 MS. RAEPPLER: Thank you.

20 MR. SOLE: Thank you, Governor.

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1 GOVERNOR CRIST: Board of Trustees, Secretary
2 Sole.

3 MR. SOLE: Item Number 1 is submittal of the
4 minutes from the September 16th, 2008, Cabinet
5 meeting.

6 GOVERNOR CRIST: Is there a motion to approve
7 the minutes?

8 COMMISSIONER BRONSON: Motion on Item 1.

9 ATTORNEY GENERAL McCOLLUM: Second.

10 GOVERNOR CRIST: Moved and seconded. Show the
11 minutes approved without objection.

12 MR. SOLE: Thank you. Item Number 2 is a
13 request for consideration of approval of a contract
14 for sale for some 17.82-acre parcel of
15 non-conservation lands to the Orlando-Orange County
16 Expressway Authority. The sale price is \$1,158,300,
17 which is a hundred percent of the appraised value.

18 Those funds would be deposited in the
19 University of Florida Institute of Food and
20 Agricultural Sciences Relocation and Construction
21 Trust Fund.

22 COMMISSIONER BRONSON: Motion on Item 2.

23 ATTORNEY GENERAL McCOLLUM: Second.

24 GOVERNOR CRIST: Moved and seconded. Show it
25 approved without objection.

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1 MR. SOLE: Thank you. Item Number 3 is request
2 for consideration of an option agreement to acquire
3 207.8 acres within the Clear Creek/Whiting Field
4 Florida Forever Project. This acquisition is from
5 the Nature Conservancy.

6 This parcel is an A List, top 21 project,
7 located in Santa Rosa County adjacent to Whiting
8 Field. Consideration is for \$1,143,441, which is 85
9 percent of the appraised value.

10 ATTORNEY GENERAL MCCOLLUM: Move Item 3.

11 GOVERNOR CRIST: Is there a second?

12 CFO SINK: Governor?

13 GOVERNOR CRIST: Yes, CFO.

14 CFO SINK: My lawyers have advised me that I
15 should recuse myself from this item, since I
16 happened to be serving on the board of the Nature
17 Conservancy at the time the property was purchased.

18 GOVERNOR CRIST: Okay. It is noted.

19 COMMISSIONER BRONSON: Governor, I've got --

20 GOVERNOR CRIST: Commissioner.

21 COMMISSIONER BRONSON: My issue here is -- and
22 I looked at the parcels, and I'm not sure exactly
23 our role in acquiring that land. I know it's next
24 to the military. One is -- one actually leaves a
25 hole between the military property and the other

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1 piece of property to be acquired.

2 And inholdings are something that are, as
3 someone who is over state forests with our forestry
4 division, can be a real pain when you're leaving a
5 hole sitting there that you've got to deal with, and
6 in some cases at a much higher price down the road
7 than you're dealing with today.

8 And so I have been torn as to our role in
9 acquiring these two pieces of property next to the
10 federal pieces of property and where it actually
11 gets us in this process.

12 And access is another one of those issues. And
13 I would assume the military base is not going to
14 want access to state lands right next to a fortified
15 piece of military base that's going to have to be
16 defended. You certainly don't want people running
17 through a state park or a state forest all over the
18 place right next to federal lands that may have some
19 security issues.

20 So I've been kind of torn on this one as to our
21 need to acquire this for the State of Florida, what
22 we're going to do with it and how we're going to
23 take care of it after we acquire it under those
24 restriction conditions. Maybe we can get those
25 questions answered.

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1 GOVERNOR CRIST: Can you shed some light,
2 Secretary?

3 MR. SOLE: I'd love to, Governor. This is the
4 beginning of this Florida Forever Project. This is
5 the first acquisition. Actually, there's a much
6 bigger vision when you look at the overall Florida
7 Forever effort.

8 And I'm going to move to the map and just
9 identify real quickly. The two parcels in this
10 acquisition is located here and here. What's
11 interesting to note is that the County has already
12 acquired these parcels in pink and the -- I think
13 the Division of Forestry is also looking at working
14 at acquiring this parcel here.

15 The concept for this vision is the opportunity
16 not only to acquire these lands to help provide
17 military buffer, but also looks at acquiring these
18 lands for recharge improvement and a trail that will
19 circumscribe the actual base itself for recreational
20 value.

21 So when you look at this project in whole,
22 there is great benefit to the people of Florida who
23 can use this area to recreate. This area is
24 proposed to be an off-road recreational area, which
25 is something that we've continued to pursue because

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1 of the recreational value that provides.

2 COMMISSIONER BRONSON: Which part were you
3 talking about? Excuse me, Governor.

4 GOVERNOR CRIST: Of course.

5 MR. SOLE: Commissioner, I apologize. In this
6 region right here. And, again, this parcel does
7 provide two purposes. It does give us the
8 recreational value in the area, and it will take
9 time, because the Commissioner is correct. Current
10 access is quite limited as a result of these first
11 two acquisitions. But as time goes on, access is
12 expected to be developed, trails developed and
13 further recreational value.

14 It also does provide that buffer around Whiting
15 Field Naval Air Station. I think it's worth noting
16 that the Navy does support this more so than just
17 through general support. In fact, the Navy has
18 agreed to contribute some 25 percent to the
19 acquisition.

20 And we do have with us Commander Thomas Vinson,
21 who is the operational officer at Whiting Field NAS.

22 GOVERNOR CRIST: Commander, can you speak to
23 this acquisition?

24 MR. VINSON: Good morning, Governor. Good
25 morning, members of the Cabinet. I'm Commander Tom

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1 Vinson, Operations Officer, NAS Whiting Field,
2 representing Captain Rick Sadsad. He is our
3 commanding officer. He very much wanted to be here
4 today. Unfortunately, he was called away to
5 Norfolk, Virginia. But he felt strongly enough
6 about addressing our partnerships with the State of
7 Florida, the DEP, that he sent myself and our
8 community planner, Mr. Randy Roy here, to make sure
9 that we had the opportunity to speak with you.

10 I'd say, a little personal note. I've been in
11 this business for about 20 years, and I have never
12 seen the sort of relationship that we enjoy with the
13 State of Florida and the County of Santa Rosa as far
14 as support for our mission.

15 NAS Whiting Field was established 65 years ago,
16 during World War II, to start training Navy pilots,
17 and we have done so since then. Our mission has
18 grown over the years. We currently train -- 65
19 percent of all Naval aviators learn how to fly
20 airplanes at NAS Whiting Field. That's a huge
21 number.

22 One hundred percent of all Navy, United States
23 Marine Corps and United States Coast Guard
24 helicopter pilots, 100 percent of those get their
25 Wings of Gold at NAS Whiting Field.

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1 Our operation makes up over ten percent of all
2 USN and USMC air operations worldwide. It is a huge
3 quiet little base that we have in the Florida
4 Panhandle. And I don't want to steal anything from
5 the Keys, but I consider NAS Whiting Field -- I
6 consider NAS Whiting Field to be a true national
7 treasure in the Panhandle of Florida.

8 That said, we -- to continue our mission on, we
9 rely heavily -- and I cannot overstate this -- we
10 rely heavily on our partnerships with Florida and
11 with Santa Rosa County. Santa Rosa County actually
12 has also been acquiring lands around the base. In
13 order to continue our mission successfully, it's
14 important that we manage the growth around the
15 airfield.

16 And as you well know, Santa Rosa County is
17 growing quite rapidly, and north seems to be the
18 only way to go. There's some sort of a water thing
19 out to the south.

20 So from the Navy's perspective, this is a very
21 important partnership that we continue. They feel
22 so strongly about it that even in the budgetary
23 constraints that we see today, they have put
24 \$5 million aside to make sure that we have monies
25 available to contribute to such projects.

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1 GOVERNOR CRIST: Thank you, sir. Appreciate
2 you being here. Any other questions? Commissioner?

3 COMMISSIONER BRONSON: If I could ask the
4 commander a question. Commander, are you indicating
5 that the fact that they're going to use this
6 property surrounding the base as a recreational area
7 for the public, that the Navy would not have a
8 problem with that as far as, you know, access to
9 that property by the public?

10 MR. VINSON: Sir, we will have easements to
11 give us appropriate buffer. That said, we have
12 discussed this before, and we certainly believe that
13 we can come to an agreement with the State for
14 access to lands buffering up against our gate or our
15 fence line. And as far as use, we believe this to
16 be a compatible use with our mission.

17 GOVERNOR CRIST: Given that, I'll second it.
18 And are there any other questions or comments? All
19 in favor signify by saying aye. Aye.

20 ATTORNEY GENERAL McCOLLUM: Aye.

21 COMMISSIONER BRONSON: Aye.

22 GOVERNOR CRIST: Opposed, like sign. Motion
23 carries. Thank you.

24 MR. SOLE: The last item is --

25 GOVERNOR CRIST: Thanks for being here,

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1 Commander. It helped.

2 MR. SOLE: Item Number 4, this item was
3 withdrawn from the August 12, 2008, agenda. And
4 this is a consideration of request by the applicant,
5 Mitigation Services, for an extension of an existing
6 mitigation agreement covering the Lemon Grove
7 property within the Pal-Mar Florida Forever Project.
8 This is located in Palm Beach County. In addition,
9 the applicant requests authorization to operate a
10 mitigation bank on the property.

11 Just for a quick historical perspective, the
12 Board of Trustees purchased this property, some
13 2,000 acres, in 2002. Of that 2,000 acres
14 approximately 263 acres carried with it this
15 mitigation agreement for a ten-year period that
16 expires in March of 2009.

17 The project-by-project mitigation agreement
18 outlined in the agreement is at the sole cost of the
19 owner of the rights, which in this case is now
20 Mitigation Services. It was originally owned by
21 John D. and Catherine T. MacArthur Foundation.

22 The agreement called for the owner of the
23 mitigation rights to submit a mitigation plan some
24 four years into the agreement. Unfortunately, that
25 was never submitted.

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1 Finally, right now, the Mitigation Services,
2 which is the applicant, would again like to extend
3 that mitigation agreement and also establish an
4 authorization to operate a mitigation bank.

5 Governor and Cabinet, the DEP recommended
6 denial of the applicant's request. And there are
7 two bases for that recommendation. I just want to
8 hit those real brief.

9 One, just to be clear, when we looked at the
10 mitigation agreement, it was our interpretation, and
11 we've had our counsel look at that, that the
12 mitigation agreement did not authorize a mitigation
13 bank. It did authorize the applicant to go do what
14 we call project-by-project mitigation, but not a
15 specific mitigation bank.

16 You may ask, what's the difference? And this
17 is where it gets a little tricky.
18 Project-by-project mitigation, if I'm an entity and
19 I'm going to impact five acres of wetlands, I will
20 go work with the DEP to get a permit. I will also
21 have to identify specific mitigation for that
22 impact.

23 That mitigation is what we call
24 project-by-project mitigation. The actual
25 mitigation is reviewed directly in association with

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1 the impacts that were authorized. The difference
2 between that and a mitigation bank, under a
3 mitigation bank, an applicant or a banker will
4 actually do significant restoration of impaired or
5 affected properties and create wetland restoration.

6 There is no impact project associated with it.
7 Basically they establish this restoration, and they
8 get credits. And they subsequently sell those
9 credits to an entity who, unfortunately, cannot
10 avoid wetlands and needs to do mitigation. So it's
11 more of a business transaction than a regulatory
12 transaction. I'm sorry to go into that difference
13 because it's -- it's somewhat minor, but there is a
14 nuance.

15 Also the other reason for the Agency's
16 recommendation of denial is in 1998 the Board of
17 Trustees actually identified that mitigation banking
18 on state-owned lands were rejected. The agency
19 brought that forward to the Board of Trustees at
20 that time. The Board of Trustees did acknowledge
21 and approve the use of project-by-project mitigation
22 on Board of Trustees lands but did reject the
23 concept of mitigation banking.

24 There's a lot of ways that we can go on this.
25 This is a complicated issue, Governor. And one of

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1 the things that I'll say is that a very wise, sage
2 man told me to always keep an open mind.

3 One of the things that we've looked at is if
4 the Board of Trustees wants to pursue authorization
5 of a mitigation bank on this property, one, I want
6 to be very clear, it's a new authorization. I do
7 not believe -- and we've had staff look at the
8 capability to extend the existing right. We do not
9 believe we can extend the existing right.

10 The Board of Trustees would have to issue a new
11 authorization, and we would suggest that be in the
12 term of a lease. We would also believe that in that
13 application, the Board of Trustees would need to be
14 a co-applicant because there is, without question,
15 concern about what mitigation gets done -- right now
16 this property is managed by the Fish and Wildlife
17 Conservation Commission -- and what changes are made
18 need to be made and that it's consistent with their
19 management plans. And finally, if there's a concept
20 to pursue this, there would need to be just and
21 equitable compensation.

22 Right now mitigation banks, normally, if I'm
23 the banker, I go acquire land. I create the
24 restoration or the mitigation, and then I sell my
25 credits. In this case there is no acquisition.

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1 It's currently, Governor, your land and, Cabinet,
2 your land. So there needs to be some way and
3 mechanism for just compensation or equitable
4 compensation.

5 I do have one speaker, Mr. Dave MacIntosh, who
6 is the principal of Mitigation Services, LLC, and
7 we'd be glad to answer any questions as well.
8 Mr. MacIntosh.

9 MR. MACINTOSH: Thank you. Good morning,
10 Governor, members of the Cabinet. In this
11 precarious position of being the last impediment to
12 adjournment, I'll be brief.

13 I spent considerable time with your aides, and
14 I thank you for making them available because
15 they've been very patient, very understanding, very
16 professional in dealing with me. I've met with them
17 individually, and then last week I stood at this
18 podium and spent 20 or 30 minutes babbling on about
19 some of these issues, because as the secretary said,
20 they are complicated. To present a whole thing at a
21 trial, a lawyer would stand here and spend an hour
22 and half doing it, I promise you.

23 But the secretary is wrong on some issues that
24 he just mentioned. He's wrong about the mitigation
25 plan not being filed. He's wrong about differences

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1 between project and banking, because both of them
2 have the same ecological trade-off. In banking it's
3 still function and value of what's mitigated, the
4 mitigation area with function and value of what's
5 impacted. There is no difference. It's number of
6 customers that's the difference.

7 He's wrong about your ability to extend the
8 contract. You're a party to a contract. You can
9 extend it. You don't have to wait until it expires,
10 open it again for rebidding, charge a fee on it,
11 that type of thing. And he's especially wrong about
12 what our contractual rights are.

13 My name is Dave MacIntosh, and I thank you for
14 this time. I'm not here as a lobbyist, a lawyer or
15 a consultant but as principal. I've been in
16 business in Florida for 40 years, and I'm an
17 ecologist now.

18 What we seek from you is recognition,
19 ratification and protection of our legal rights that
20 DEP has refused to acknowledge. We also request
21 from you an extension, as a matter of fairness of
22 those rights, under fair and practicable terms, so
23 that we can do what we thought we had the right to
24 do when we initially contracted for this.

25 And I want to point out to you that I think in

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1 doing that, although it's not central to the issue,
2 that we'll be providing tangible and substantial
3 value to the State.

4 Here is how we got into this. The MacArthur
5 Foundation sold land to Palm Beach County with a
6 retained mitigation right; two parties to that
7 contract, the Foundation, Palm Beach County. Each
8 of them in writing agreed that that right included
9 the right to conduct mitigation banking on that
10 property.

11 The words in the contract don't preclude it.
12 Each of the parties to it, the only parties to it
13 acknowledged in writing that they contemplated and
14 they approved of mitigation banking on that
15 property.

16 The Foundation sold their land to the State.
17 We bought -- I'm sorry. The County sold it to the
18 State. The Foundation sold their rights to us. So
19 it used to be a contract between those two. It's
20 now a contract between us.

21 We formed a company to do that, an exclusive
22 wetland mitigation banking company. We promptly and
23 very expensively -- we've spent probably \$400,000 in
24 this process already -- applied for a permit to the
25 South Florida Water Management District. And

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1 interestingly, right after we did that, DEP was
2 aware of that. They were aware of our initial
3 filing. They sat in on some of the permit meetings.
4 And now they say they weren't aware that we were
5 going to do that.

6 Interesting as well, our bank, our proposed
7 bank, Lemon Grove Mitigation Bank, was on their
8 website, on their website in a spreadsheet listing
9 as a bank in process and on their map of banks. So
10 they knew about it.

11 The State permitting agency, the Water
12 Management District, said to us, well, of course, in
13 doing this on somebody else's land, we need the
14 consent of the landowner. That's when we tried to
15 contact DEP. And it's been three and a half years
16 trying to get their consent. We still can't do
17 that.

18 They said to us, you know, the possible
19 resolution of this is to have the Trustees address
20 it. So that's why we're here. So what I say to you
21 is there are things that matter in this and there
22 are things that don't matter. What matters is the
23 wording of the contract. This is a contract we're
24 dealing with, number one. Number two is the intent
25 of the parties, the only parties to it. We have

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1 both of those in writing. And, three, that those
2 rights, under each side, were assignable. Nobody
3 disagrees with that. In the 2004 acquisition of the
4 property by the State from the County, the DEP
5 report said we take the property subject to those
6 rights.

7 I listed to your aides last week some 14
8 different items that had been thrown up that are
9 very confusing and I think misleading as to what
10 we've done. I can go through and I can nail every
11 one of them, and that's what the intent of the State
12 was and so on.

13 What I can tell you, though, is that we don't
14 intend to change state policy. It's not my job to
15 do that. All I want to do is to say we believe that
16 our contractual rights supercede state policy in
17 this case and become an exception, a one-off
18 exception to state policy.

19 We also seek an extension of our rights as a
20 matter of fairness, and importantly we do that under
21 terms that we believe have to be practical to us.
22 We can't get a one-year extension because this is a
23 long-term project where we may spend \$5 million
24 improving state land at our cost and doing it now,
25 when the alternative is we don't do that, it's your

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1 property -- and I've heard Commissioner Bronson say,
2 one of the problems we have today is we have all
3 this land and we don't have any money to restore it
4 or even to maintain it. We'll do that private
5 sector and we'll do it, as I say, our cost, and
6 we'll do it in a responsible way that meets the
7 permitting criteria of the South Florida Water
8 Management District, which by the way, is probably
9 the most sophisticated permitting agency in the
10 country for mitigation banks.

11 DEP has stated that the rights should expire in
12 March of '09 and then be rebid out. That's not
13 accurate, and we don't believe that the State should
14 get a fee for this. Palm Beach County never
15 contemplated a fee for this. And what the State has
16 proposed actually is about a hundred percent of the
17 profit that we project for it. It's a \$1.3 million
18 fee. We don't agree with that at all.

19 We bargained for and we paid for assignable
20 rights that are clear by the very words of the
21 rights, and if there was any doubt, they were
22 ratified by the only two parties to the rights, by
23 Palm Beach County on June 23rd of 2003 and by the
24 MacArthur Foundation when they were aware of this
25 disagreement in writing on September 18th of 2008.

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1 We believe that both we and the State are
2 contractually bound by the terms of that agreement.
3 We don't seek any amendment to state policy. Our
4 contractual rights are continued, were continued
5 when the State bought the property. We're just an
6 exception to that.

7 I think what happened was this. DEP made a
8 mistake in 2004 because they misinterpreted those
9 rights. They didn't tell the Cabinet aides and they
10 didn't tell the Cabinet that there were mitigation
11 rights. A legitimate disagreement perhaps. And the
12 aides and the Trustees, in making the decision to
13 acquire the land, understandably relied on that
14 opinion. Well, that opinion was wrong. It's a good
15 agency with good people that we respect. They've
16 treated me very professionally, although we
17 vehemently disagree with each other.

18 One more comment. Although it's not central to
19 the legal issue here, it is worth noting that we're
20 providing Florida taxpayers and citizens with value
21 in this bank. We'll spend millions of dollars to
22 restore this small area of land in a very important
23 ecological region. We'll provide a permanent
24 endowment for its maintenance and we'll do it now
25 versus whenever the funding might occur.

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1 And we actually end up creating something that
2 might be important today. It's an economic
3 development tool that will allow responsible
4 development, not approved by us, but approved by
5 states and regions and counties and anybody else
6 around it that's got legitimate permitting authority
7 to develop something of economic significance and
8 value.

9 Now, I didn't intend to come here to ask you to
10 be a civil court. I understand what it sounds like.
11 But I've exhausted all the other remedies. And in
12 fact, DEP said, you know, if the Trustees tell us
13 that you're right, we'll be good soldiers and we'll
14 certainly carry out their instructions.

15 So what I ask for is that you -- you know, and
16 we've heard possibilities that, well, you bought
17 defective rights from the Foundation, go sue them.
18 Well, they weren't defective rights. Why don't we
19 give the property back and swap with Palm Beach
20 County. Well, that puts me right back in the
21 situation where I was before. I don't think that's
22 fair either.

23 What we ask is that you recognize our rights,
24 that you instruct the state agencies to cooperate
25 with us as representatives of the landowner in our

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1 permit process and that you extend those rights so
2 that we have a reasonable amount of time to do our
3 business and to exercise our contractual rights.
4 Thank you very much.

5 GOVERNOR CRIST: And questions or comments?
6 Commissioner?

7 COMMISSIONER BRONSON: Thank you, Governor.
8 Once again this is -- you know, and I reconfirmed
9 with Jim, my cabinet aide, about the acquisition of
10 this property originally, and as to whether -- and I
11 didn't remember being told that there were already
12 some mitigation rights that were going to be held by
13 the Foundation.

14 And I don't know when the Foundation sold the
15 mitigation rights and why we were not told about
16 that at the time of the Foundation sale of those
17 rights to a private concern, because that legal
18 documentation had an effect on the property that we
19 purchased from the County.

20 So there are some issues here that are
21 sounding -- here I am a cowboy from Kissimmee
22 talking about legal issues. But it sounds to me
23 like these are legal issues that are going to
24 probably have to go to a court somewhere else.

25 But it does put us in a bind because there were

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1 mitigation issues involved with holding those issues
2 by the Foundation under the original sale to the
3 County, of which we bought up the property and all
4 of those legal agreements that went with it.

5 But it does appear to me that we should have
6 been told, either DEP and DEP to us, that the
7 Foundation was selling those rights to a private
8 concern. So that bothers me from that standpoint.

9 I feel like we're kind of caught between a rock
10 and a hard place on a legal issue here that we were
11 not truly a part of, because we knew nothing about
12 that. So maybe the secretary can tell us where
13 they're suggesting this thing go from here.

14 MR. SOLE: Governor. Commissioner, just as a
15 point of clarification, in 2002 when this was
16 brought to the Cabinet, it was identified that there
17 were mitigation rights associated with part of the
18 acquisition.

19 Your point is correct. We were unaware that
20 MacArthur Foundation sold those rights to Mitigation
21 Services, but they were legitimately, and I agree
22 with Mr. MacIntosh, they were transferable, so there
23 was no ill issue there.

24 I think the argument again -- and I hate to use
25 that word, but the disagreement, which is a better

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1 word, is that we've always been open and receptive
2 to mitigation on these lands. And the State of
3 Florida is very comfortable in allowing Mitigation
4 Services to do that project-by-project mitigation.
5 It's something we've done on other state-owned
6 lands. It's not an unusual course of business.

7 The issue that we've been very clear about is
8 that to operate a mitigation bank, which has a
9 long-term commitment and a long-term revenue stream,
10 was not contemplated as part of that agreement.

11 We've gone through that legal review. I still
12 firmly believe that is the case. It's not an issue
13 of a mistake. I firmly believe that the mitigation
14 rights that were retained by now Mitigation Services
15 do allow for mitigation but not the operation of a
16 mitigation bank.

17 Now, the Board of Trustees can again convey a
18 new right to Mitigation Services if they so wish.
19 It would be, in my opinion, new policy. But, again,
20 some of the issues -- and I'm going to be candid
21 with you. I think mitigation banks are something
22 that are overall a favorable thing for Florida. You
23 do get large-scale restoration with such an
24 activity.

25 But is -- the question in front of us, to me,

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1 is using Board of Trustees lands the best location
2 to site these mitigation banks, because if there is
3 no just compensation to the State of Florida for
4 using these lands, I would say Mitigation Services
5 has an unfair competitive advantage to the other
6 mitigation banks that are in the area, folks who had
7 to buy land or buy interest in land to operate a
8 mitigation bank.

9 So those are some of the issues that I think we
10 still will need to address. And if there is a
11 desire for the Cabinet to move forward, I would ask
12 that you give me the opportunity to help develop a
13 lease to bring back to the Board of Trustees. But
14 we're kind of on this issue of current board policy
15 based upon 1998 is not to authorize a mitigation
16 bank on state-owned lands. If we want to look at
17 that differently, we can.

18 GOVERNOR CRIST: General.

19 ATTORNEY GENERAL McCOLLUM: Governor, obviously
20 I wasn't a member of the Cabinet when that policy
21 was set, and I understand there is a policy and
22 perhaps a good reason why. But I have read -- I've
23 looked at the letters that are before me here that
24 Mr. MacIntosh referred to. The MacArthur Foundation
25 letter of September 18 explicitly says, prior to

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1 releasing those mitigation rights, we informed Palm
2 Beach County that pursuant to the mitigation
3 agreement, the foundation intended to assign the
4 mitigation rights to a mitigation banking
5 organization and confirm the right to create, among
6 other things, a mitigation bank.

7 And then in the letter that -- I'm not going to
8 read all of it, but the letter that the County has
9 that he referred to of June of 2003, they clearly
10 referred to a mitigation bank.

11 And I've looked at this contract. Now, I
12 know -- I'm a lawyer, so I may have to -- who knows,
13 we might be representing you down the road on this.
14 So I'm not trying to interpret the law. I'm just
15 trying to create the concern I have here today with
16 you.

17 The actual contract language that I think is
18 pertinent says, in paragraph two, retain mitigation
19 rights, A, for a period of ten years from the date
20 hereof, term, Foundation shall retain the exclusive
21 rights to use the property, mitigation property to
22 mitigate the impacts of the development of other
23 properties as such properties may be designated by
24 Foundation from time to time.

25 And it goes on to talk about those but without

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1 any other specificity. And I know your team of
2 lawyers must have looked at this and interpreted
3 that to be the case-by-case type of proposition.
4 But clearly that was not what was intended by the
5 parties, if they're telling the truth in these
6 letters that they wrote, Palm Beach County and
7 MacArthur Foundation. And under law, of course, the
8 State assumes the status of this property at the
9 time and with this understanding there that
10 Mr. MacIntosh's company has.

11 So I'm worried that we're here today with a
12 point where we could get involved in a protracted
13 bit of litigation for the State that might be
14 unnecessary. There certainly at the very least is a
15 case -- what they call a case in controversy here,
16 as to interpreting this, and with the two original
17 parties to this saying there's a mitigation bank
18 right.

19 I think we ought to be doing something here
20 that's logical, and it seems to me it would be to
21 provide in some format today a direction to you to
22 go forward with allowing this mitigation bank,
23 perhaps as an exception to our normal rule or our
24 policy, I guess it's a policy, with regard to state
25 land. But there's every reason to think that.

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1 Plus it looks to me like this has been before
2 you for a long period of time. And it would have
3 been fairer perhaps to Mr. MacIntosh and his firm if
4 this had gotten before us or you denied it or
5 something had been resolved before now. This has
6 been several years sitting there. Now we're up
7 against this, extend it or not. And that disturbs
8 me as well.

9 So I would like to think we can work this out,
10 Governor, in some way and let this banking operation
11 exist, as it apparently was intended by the parties,
12 whether or not the contract literally says that or
13 not. I can't define the law here. I can just say
14 that apparently the parties intended that.

15 GOVERNOR CRIST: Thank you.

16 CFO SINK: General, are you making a motion?

17 ATTORNEY GENERAL McCOLLUM: Well, I would make
18 the motion to approve --

19 CFO SINK: Because I might second it.

20 ATTORNEY GENERAL McCOLLUM: -- to approve Item
21 4.

22 COMMISSIONER BRONSON: As is?

23 ATTORNEY GENERAL McCOLLUM: Well, we've got a
24 question of what -- Mike Sole wants to do other
25 things with this. We could send it back for

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1 something, but I'm not sure that I'm prepared today
2 to want to propose we do something that offers the
3 compensation he wants, since that wasn't part of the
4 original agreement. I think we're getting into
5 what's fair.

6 I don't know whether a new contract or new
7 authorization is what we want or whether an
8 extension, but I don't see forcing the mitigation
9 bank to do something they weren't originally
10 intending to have to do.

11 So I would offer the motion as it is, and I'll
12 entertain a -- if somebody else wants to amend it,
13 I'll entertain an amendment to it or change to it.

14 GOVERNOR CRIST: Is that a motion to approve?

15 ATTORNEY GENERAL McCOLLUM: To approve Item 4.

16 MR. SOLE: I was going to ask for some
17 guidance.

18 COMMISSIONER BRONSON: Governor, if I might,
19 this thing is getting very delicate here as to -- we
20 have a motion to approve it as stated in our
21 paperwork.

22 CFO SINK: What is it?

23 COMMISSIONER BRONSON: Which would be -- well,
24 actually, I need to figure out where this is going
25 to go because the original purchase from the County

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1 had a mitigation issue in it that I was -- I don't
2 know that I was aware that the mitigation issue was
3 in it originally.

4 However, there's a difference between the word
5 mitigation on 260 acres and mitigation bank on 260
6 acres, simply because that will be a private
7 mitigation bank on state-owned land, which to my
8 knowledge has not been done before.

9 And if we're going to be competing with private
10 landowners on mitigation banking, the State is going
11 to win hands down. And the final question would be,
12 why would we have a mitigation bank on state land
13 when technically state land is not going to be used
14 for anything else and there's no need for a
15 mitigation bank on state land. So those are -- I
16 mean, those are some pretty big issues that I
17 certainly would like some clarification on before we
18 vote on this thing.

19 CFO SINK: Well, Governor, it seems to me that
20 it's a -- I mean, this is a mess. And part of the
21 mess is because we inherited something that was
22 already existing. So it's not -- there was a
23 contract that was entered into between the MacArthur
24 Foundation and Mr. MacIntosh. And we inherited it
25 through a couple of iterations, I guess. Is that

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1 not right, Secretary Sole?

2 It went to Palm Beach County. Then it came to
3 the State. And so what's happening here is we've
4 inherited a contractual agreement. And, General
5 McCollum, like you, I went back and looked at the
6 original mitigation agreement. And I could easily
7 interpret it to say, it doesn't say that you can't
8 operate a mitigation bank. Clearly, the applicant
9 thought -- I mean, he's put a lot of money into this
10 property thinking that he could operate a mitigation
11 bank.

12 And so I agree with you, that this doesn't --
13 this should not at all set a precedent for our
14 policy and the point that you made about this
15 mitigation banking in general. To me, this is just
16 this one particular deal that we got caught up in,
17 not addressing the fact that there were already
18 contractual rights to do something on property that
19 just happened to end up in state hands.

20 That would be the way that I'd look at it. And
21 so I'm -- I guess if the request is here to extend
22 the agreement, then authorize them to operate a
23 mitigation bank on this 263 acres, then I'm going to
24 officially second your motion.

25 COMMISSIONER BRONSON: Governor, if I might.

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1 GOVERNOR CRIST: Sure, Commissioner. Moved and
2 seconded.

3 COMMISSIONER BRONSON: I can see the
4 consternation on your faces as to this discussion.

5 GOVERNOR CRIST: I'm not consternated.

6 COMMISSIONER BRONSON: Okay. I feel like I'm
7 in a real bind to vote for this, even though it's
8 been -- the motion has been made and a second,
9 because I'm still confused about the total
10 contractual agreements, whether we truly -- and I
11 guess the position is, you've got two people making
12 the motion and the second that were not here when
13 all this went down. I was here, and I still don't
14 remember, and my staff is not remembering that we
15 were told that there was a mitigation issue here
16 with a third party, if you will, to the proceedings.
17 What we're about to do here is to really set a
18 precedent on state lands. And so I'm getting --

19 ATTORNEY GENERAL McCOLLUM: Let me -- I don't
20 think we are. I think the precedent issue is based
21 upon the idea that there was an existing -- or a
22 contract when the State acquired this. And
23 obviously somebody didn't understand it, didn't see
24 it. And it's been protracted. I think this is a
25 very unique circumstance.

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1 I would like to go on record as saying I don't
2 see this as precedent for normally doing what we're
3 going to do, and I'm willing to revisit in the
4 future the question of policy as a broad spectrum
5 thing. But I don't think this is a policy change,
6 as such. I would not consider it that.

7 CFO SINK: Well, I agree, General. I'm not
8 going to support it if it's a policy change.

9 GOVERNOR CRIST: It may not be a policy change
10 but it may be a first.

11 CFO SINK: This is a fix. Well, this is a fix
12 for acknowledging that someone had rights, believed
13 and had a contract and had a right to perform an
14 activity on land that just ended up in our hands,
15 and we didn't deal with it at the time.

16 I mean, what should have happened, I guess, is
17 at the time, if we were aware that there were these
18 mitigation rights, these mitigation banking rights,
19 then we should have gone back and negotiated those
20 away. We could have done that, couldn't we,
21 Secretary Sole? And we didn't negotiate them away.

22 MR. SOLE: In fact, we affirmatively -- I want
23 to be very clear. At the time of 2002, when this
24 was brought to the Board of Trustees, we identified
25 that there is mitigation rights with this

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1 acquisition and that at the time, the MacArthur
2 Foundation does retain the right to do mitigation on
3 the lands. And we actually reduced the value of the
4 lands a small bit by that. So it was part and it
5 was cognitively accepted that the mitigation was --
6 or mitigation rights existed on this over 200 acres
7 of land.

8 What is the only difference of interpretation
9 is, does that -- did that convey a right to do a
10 mitigation bank, because that is a significantly
11 different, albeit minor nuance difference, issue.
12 You know, here, yes, they have the right to do
13 mitigation. They can do project-by-project
14 mitigation. To operate a mitigation bank on public
15 property, it was not conveyed in that way during the
16 presentation of the item.

17 And that's the only issue that I think really
18 is at dispute, is was there an agreement to do
19 mitigation. The State of Florida says, yes, there
20 was. Was there agreement to do a mitigation bank?
21 We continue to assert that, no, there was not
22 agreement. And unfortunately it's taken this long.
23 And that's part of the challenge that we've got in
24 front of us. So we are ready to take some direction
25 and --

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1 ATTORNEY GENERAL McCOLLUM: Mike, let me ask
2 you this. If we withhold the motion that I've made
3 and CFO Sink has seconded, can you work out
4 something with Mr. MacIntosh's company, come back at
5 the next Cabinet meeting, I mean, something that
6 would be agreeable, knowing -- I hope I'm speaking,
7 I don't know if I am, for all of us, because we've
8 had some dispute. Charlie didn't want to be --

9 COMMISSIONER BRONSON: I'm certainly more
10 inclined do that, Governor, than I am to vote on it
11 today, I can tell you that.

12 ATTORNEY GENERAL McCOLLUM: But what I'm
13 looking at is a direction for you --

14 MR. SOLE: Yes, sir.

15 ATTORNEY GENERAL McCOLLUM: -- that we, at
16 least I feel, and I believe CFO Sink says she does,
17 too, that we need to acknowledge this and not get
18 into more problems with it. We need to resolve it
19 now -- it's been too long -- and favorably to the
20 bank. That's the way I see it.

21 Now, what the terms -- if there are some
22 problems because of the uniqueness of this that need
23 to be worked out and things that are little T's and
24 I's dotted that you might not have fully
25 appreciated, expecting us perhaps just to go along

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1 with the denial recommendation, then I'd be willing
2 to send it back. Would that be all right with you,
3 CFO Sink, if we waited another two weeks? Is that
4 two weeks until the next Cabinet meeting?

5 GOVERNOR CRIST: November 20th.

6 CFO SINK: Well, I'd like to hear what
7 Secretary Sole says.

8 MR. SOLE: There are two things that I would
9 seek direction on or seek your guidance on. One, if
10 you want to ask us to enter into a lease with
11 Mitigation Services to allow a mitigation bank on
12 this property, we can go forward, work with
13 Mitigation Services to develop that lease.

14 I continue to convey, and I just talked with
15 one of my Office of General Counsel staff, that we
16 cannot extend this agreement. We just don't have
17 the authority to extend it. It's not a right that
18 you technically have.

19 Technically, the only entity that has the right
20 to do mitigation is Mitigation Services. So you
21 don't have the capability to extend that. We would
22 have to enter into a new lease with Mitigation
23 Services.

24 If the direction is, DEP, please negotiate with
25 Mitigation Services a new lease that allows them to

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1 do a mitigation bank on this property, we can go
2 work with Mitigation Services, try to develop a fair
3 lease that all can agree to. I might need more than
4 two weeks to do that.

5 CFO SINK: Well, what about -- what about the
6 idea of directing you to begin to negotiate --
7 negotiate a new lease --

8 MR. SOLE: Yes, ma'am.

9 CFO SINK: -- for a five-year term with maybe
10 some options, but then you have to come back to us
11 and get our approval?

12 MR. SOLE: Yes, ma'am.

13 CFO SINK: Would that work?

14 ATTORNEY GENERAL McCOLLUM: It would work with
15 me. I think as long as we're clear what we're
16 doing. We're not -- you said it might take you
17 longer than two weeks. But I don't want this to sit
18 around -- it seems to me that's part of the problem.
19 This has sat around for too long.

20 COMMISSIONER BRONSON: Can I -- Governor, if I
21 might. According -- and we had our attorneys look
22 at this, too. And while they were under -- and
23 we've got some pretty good land attorneys working
24 for the Department of Agriculture, I might add.

25 And they were under the opinion that the Board

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1 did have the ability to address mitigation issues,
2 but they were not conclusive in here that the Board
3 had any ability to consider mitigation banking,
4 which is -- there is a difference between the two
5 issues, mitigation issues, and how you address those
6 and mitigation banking, which is more of a private
7 concern, on state land.

8 And our attorneys did not feel that we had the
9 ability to consider banking, but we did have
10 consideration to do mitigation, that may be able to
11 work out with the private concern for mitigation
12 issues, but not necessarily mitigation banking.

13 So that's why I'm drawing back from this and
14 would rather hear more about it, just from the legal
15 opinion of our attorneys as well.

16 GOVERNOR CRIST: If I might.

17 MR. SOLE: Please.

18 GOVERNOR CRIST: It sounds to me like my
19 colleagues -- and, General, maybe you would be the
20 most appropriate one to do this, would want to
21 entertain a motion to defer, with some guidance for
22 the Department to negotiate and come back to us at
23 the December meeting with their proposal.

24 ATTORNEY GENERAL McCOLLUM: Well, Governor, I
25 will accept that as an indication, and I will

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1 withdraw my motion, with the consent of CFO Sink,
2 that is on the table, and instead move to defer, as
3 you suggested, with the direction for negotiations
4 and coming back to us -- at what date would you
5 suggest?

6 GOVERNOR CRIST: At the December meeting.

7 ATTORNEY GENERAL McCOLLUM: At the December
8 meeting.

9 MR. SOLE: Yes, sir.

10 CFO SINK: Governor, I would like to hear
11 Mr. MacIntosh, because we're talking about -- I get
12 this all the time. My staff talks about me as if
13 I'm not in the room. Sometimes I like to hold up my
14 hand and say, "I'm here." Does that happen to you,
15 Governor?

16 GOVERNOR CRIST: No.

17 MR. MACINTOSH: I'd just like to make it clear
18 one more time, in response to Commissioner Bronson.
19 We're not trying to make policy, sir. We don't want
20 to do that. We're saying that what happened was
21 there was a contract between the Foundation and Palm
22 Beach County, clearly, where both sides agreed that
23 mitigation banking should be on that property.

24 You bought an asset and inherited the
25 responsibilities with that. We bought an asset and

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1 inherited the responsibilities. It's the same
2 contract. It's the same words. It's still governed
3 by the same words that are in those two letters that
4 say mitigation banking is contemplated, it's
5 allowed, it should be approved.

6 We're just parties to that. We're not changing
7 state policy. This contract and our rights under it
8 trump that policy. If we go back and do what you
9 suggested now, I'm afraid, you know, it's going to
10 make us -- it's going to make it impractical because
11 we're going to hear from DEP, well, this is a new
12 lease, we need a lot of compensation for it. A
13 five-year term, frankly, isn't going to be enough to
14 create -- to finish the permitting and to create and
15 operate and sell out a mitigation bank today.

16 It might have been -- it was going to be that
17 before, but in today's economic circumstances, we're
18 not going to sell those credits in five years.
19 We're not going to get the permitting. We're not
20 going to sell them.

21 That's why we asked for what we asked for, just
22 a recognition of our contractual rights, not a
23 change in state policy, and a fair extension of time
24 to do what we thought and what we bargained for in
25 that process.

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1 GOVERNOR CRIST: Excuse me. Are you interested
2 in doing this?

3 MR. MACINTOSH: Very much so, absolutely.

4 GOVERNOR CRIST: Well, then why is this -- do
5 you object to a deferment until December?

6 MR. MACINTOSH: If it's under the
7 circumstances, Governor, of a new lease, that's
8 going to mean compensation. That's what's going
9 to --

10 GOVERNOR CRIST: I would hope so. The
11 taxpayers own the land.

12 MR. MACINTOSH: Well, the taxpayers own the
13 land because they bought it from Palm Beach County,
14 who was expecting no compensation. Again, what I'm
15 saying is, whatever rights Palm Beach County had is
16 what the State bargained for and purchased.

17 And I'm just asking for a continuation of that
18 based on the circumstances, not changing anything.
19 But that's a major change. And it brings in all of
20 the practical considerations of what's the fair
21 lease.

22 As I told you, they proposed a ten percent, or
23 something like that, charge on our gross income,
24 which takes all of the net income away. Under those
25 circumstances, no, sir, I'm not interested in doing

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1 this project. That's not fair.

2 GOVERNOR CRIST: So you want to use the
3 people's property to make your profit and the people
4 don't get a benefit from it, economically.

5 MR. MACINTOSH: The people do get a benefit
6 from it, probably to the tune of \$5 million, because
7 it's money that we're going to spend restoring and
8 maintaining the property that the State never will
9 have to expend. It's a huge benefit to the State,
10 and we're doing it now rather than whenever DEP gets
11 the money to do it. It's an enormous taxpayer
12 benefit in that regard, and it's a huge
13 ecological --

14 GOVERNOR CRIST: Is that how much you're
15 committing to pay to improve the --

16 MR. MACINTOSH: Well, what will happen is, it
17 will be something like that.

18 GOVERNOR CRIST: On the record today?

19 MR. MACINTOSH: Well, I don't know what it's
20 going to be, Governor, because it's going to be --
21 it's going to be whatever the Water Management
22 District tells us to do and whatever we can best
23 negotiate to get those very specific ecological
24 criteria met. If we could do it for \$2 million, I'd
25 love to do that. If we could do it for \$8 million,

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1 we'll have to do it for that if we want to be in
2 business.

3 It's not our choice as to how much we want to
4 spend, sir. It's whatever we're told by the water
5 management district we need to do ecologically.

6 GOVERNOR CRIST: Anything else?

7 ATTORNEY GENERAL McCOLLUM: No, Governor. I
8 think that if it's sent back, this can be discussed
9 and brought back and we can readdress it.

10 GOVERNOR CRIST: Did you have any questions?

11 MR. SOLE: We'll bring it back in December.

12 ATTORNEY GENERAL McCOLLUM: Do we need to vote
13 on it?

14 GOVERNOR CRIST: That would be good.

15 MR. SOLE: I'm sorry. I spoke prematurely.

16 GOVERNOR CRIST: We have a motion. Is there a
17 second?

18 CFO SINK: Second.

19 GOVERNOR CRIST: All in favor? Aye.

20 COMMISSIONER BRONSON: Aye.

21 ATTORNEY GENERAL McCOLLUM: Aye.

22 CFO SINK: Aye.

23 GOVERNOR CRIST: Opposed, like sign. Motion
24 carries.

25 MR. SOLE: Thank you, Governor.

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1 GOVERNOR CRIST: We're adjourned. Thank you.

2 (Whereupon, the meeting was concluded at 11:25

3 a.m.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

Reporter,

counsel

I, Jo Langston, Registered Professional

do hereby certify that the foregoing pages 5 through 105,
both inclusive, comprise a true and correct transcript of
the proceeding; that said proceeding was taken by me
stenographically and transcribed by me as it now appears;
that I am not a relative or employee or attorney or
of the parties, or a relative or employee of such attorney
or counsel, nor am I interested in this proceeding or its
outcome.

IN WITNESS WHEREOF, I have hereunto set my hand
this 15th day of November 2008.

JO LANGSTON
Registered Professional Reporter

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