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WEKIVA RIVER AQUATIC PRESERVE

MANAGEMENT PLAN

DECEMBER 1986

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Department of Natural Resources

This plan was prepared by
The Bureau of Land and Aquatic Resource Management
Division of Recreation and Parks

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Chapter I

INTRODUCTION

This plan addresses the management of the Wekiva River Aquatic Preserve, located in Lake, Volusia and Seminole Counties, in central Florida. This Aquatic Preserve is one of the 39 officially designated preserves in the statewide system (Figure 1).

Of the Aquatic Preserves in Florida, Wekiva River is one of only two spring fed preserves, the other is Rainbow Spring in Marion County. It is the larger of the two and contains approximately 19,000 acres of wetland within its boundary. This environmentally sensitive and unique preserve harbors a variety of freshwater plant species, including floating, submerged and emergent types. These plants serve to stabilize bottom sediments, shoreline areas, and they provide food and shelter for a myriad of fish and other wildlife.

The Wekiva River Aquatic Preserve (Figure 2) is bounded by State Road 44 in the north. It continues south until it intersects Rock Springs Run. The preserve includes the St. Johns River from State Road 44 until it turns east and crosses I-4 where the boundary of the preserve ends.

AQUATIC PRESERVES
AQUATIC PRESERVES ARE ESTABLISHED BY THE FLORIDA LEGISLATURE AND INCLUDE ONLY STATE OWNED SOVEREIGNTY SUBMERGED LANDS. THE GOVERNOR AND CABINET SITTING AS TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND ARE MANAGERS OF THESE AREAS.
FOR MORE INFORMATION REGARDING AQUATIC PRESERVES CONTACT:
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF RECREATION AND PARKS
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FT. CLINCH
QUANA RIVER
MOSQUITO LAGOON
PINELLAS COUNTY
CHARLOTTE HARBOR
MATLACHA PASS
PINE ISLAND SOUND
ESTERO BAY
CAPE ROMANO 10,000 ISLANDS
COUPON BIGHT

Figure 1.

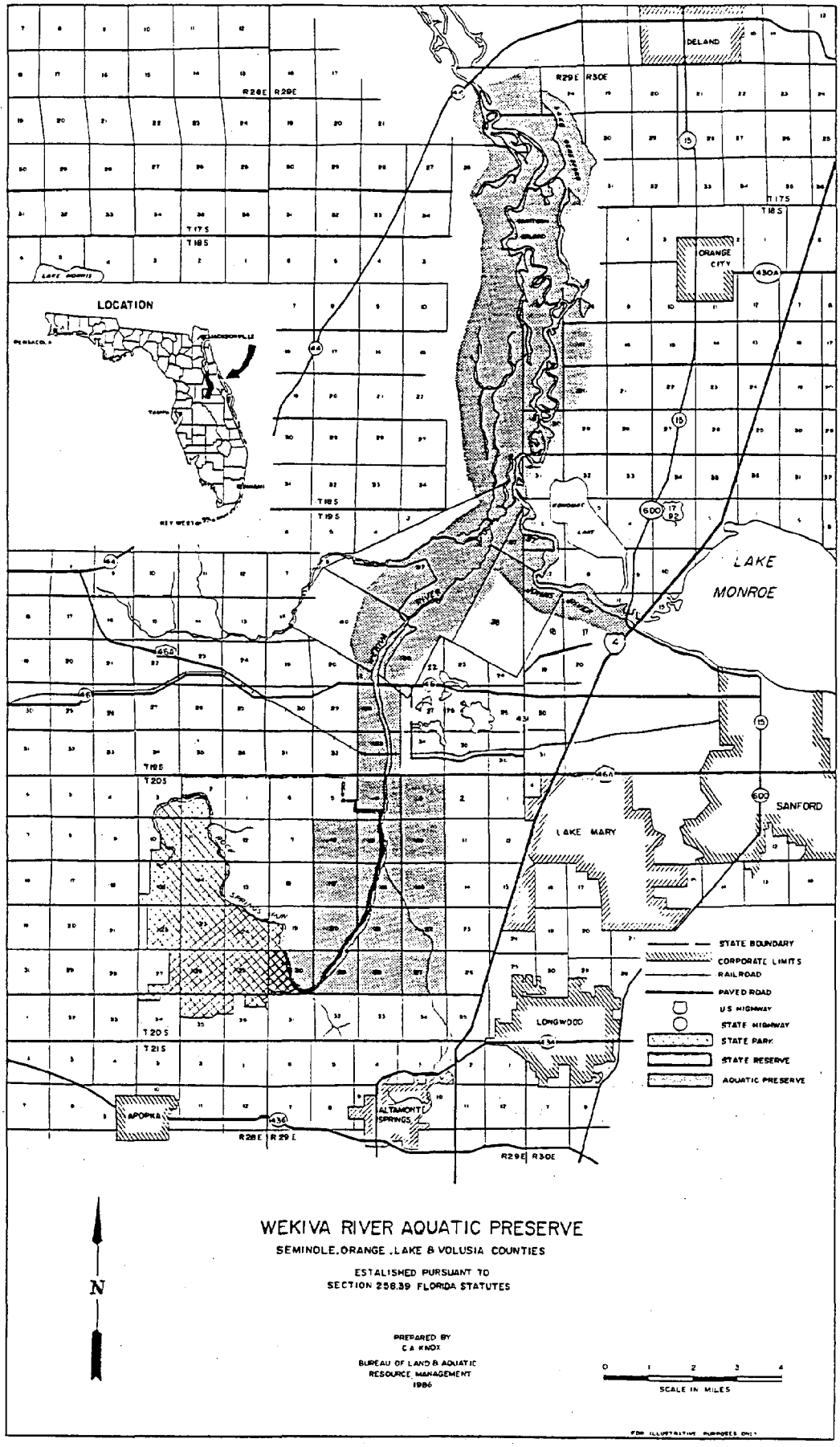
LOCATION
DELAND
ORANGE CITY
LAKE MONROE
SANFORD
LAKE MARY
LONGWOOD
ALTAMONTE SPRINGS
APOPKA
R28E R29E
R29E R30E
T17S
T18S
T19S
T20S
T21S
STATE BOUNDARY
CORPORATE LIMITS
RAILROAD
PAVED ROAD
U.S. HIGHWAY
STATE HIGHWAY
STATE PARK
STATE RESERVE
AQUATIC PRESERVE
N
WEKIVA RIVER AQUATIC PRESERVE
SEMINOLE, ORANGE, LAKE & VOLUSIA COUNTIES
ESTALISHED PURSUANT TO
SECTION 258.39 FLORIDA STATUTES
PREPARED BY
C.A. KNOX
BUREAU OF LAND & AQUATIC
RESOURCE MANAGEMENT
1986
0 1 2 3 4
SCALE IN MILES

Figure 2.

The boundary line of Figure 1 represents the gross boundary of the aquatic preserve. The actual preserve includes those sovereignty submerged lands located waterward of the mean high water line within this boundary area. This aquatic preserve will be managed to emphasize maintenance and enhancement of the existing conditions. As more site specific information becomes available, essentially natural conditions shall be identified and resources in disturbed areas restored to that condition where possible.

The Wekiva River is designated and will be managed as both an aquatic preserve and an Outstanding Florida Water (OFW). Note: the boundary was recently extended, and the new part has not been given the OFW designation yet. The actual aquatic preserve includes those sovereignty submerged lands located waterward of the ordinary high water line (ohw) within this boundary area. Outstanding Florida Waters are to be managed emphasizing the maintenance and enhancement of existing water quality conditions. As more site specific information becomes available, essentially natural conditions shall be identified and resources in disturbed areas restored to that condition, where possible.

Until April 1985 management of the preserve was provided by the staff at Rock Spring Reserve. At this time a full-time OPS biologist was hired and stationed at the Lower Wekiva River State Reserve. This person is responsible for onsite management of Wekiva River Aquatic Preserve. The original position is to be expanded to career service by December 1986. Currently, administrative management involves the Division of Recreation and Parks' personnel (both in the field and in Tallahassee) and the Division of State

Lands' personnel. These personnel cooperate in the review of applications for use of state-owned and related activities surrounding the preserve and interact with various government and non-governmental entities, interest groups, and individuals.

The central office coordinates activities with field personnel including project review and evaluation, local contract initiation, contractual services, conflict resolution and routine support (payroll, operating expenses, etc). Central office staff also develop administrative rule additions, deletions and revisions.

On-site management includes evaluations of projects applying for use of state-owned lands (i.e. dock permits, dredge and fill, etc.), research and evaluation of preserves, public interaction, emergency response, etc.

A major component of the aquatic preserve management is project review and evaluation. Central office staff review all proposed activities requiring the use of state-owned lands within the preserve. These activities are reviewed according to requirements established in Sections 258.42 and 258.44, Florida Statutes (F.S.). These sections require that projects be basically water dependent or water enhanced, not contrary to the lawful and traditional uses of the preserve, and not infringing upon the traditional riparian rights of the upland property owners.

This plan is divided into chapters according to their management application. Chapter II cites the authorities upon which this management program and plan

are built. Chapter III (Major Program Policy Directives) highlights the major policy areas that are within this plan. Chapter IV presents a brief resource description.

Chapter V presents the management objectives of both the on-site managers, who actually work in the preserve, and the administrative staff in Tallahassee.

Chapter VI addresses how this plan will interface with local, regional, state, and federal agencies and programs; as well as its relevance to non-governmental organizations, interest groups, and individuals.

Chapter VII through IX address the various uses, from public to private to commercial. Chapters X and XI address the use of the aquatic preserve for scientific research and environmental education, respectively.

Chapter XII is an internal management improvement section identifying problems and needs in the progressive improvement of this aquatic preserve management plan.

This plan was written by the Department of Natural Resources (DNR), Division of Recreation and Parks, Bureau of Land and Aquatic Resource Management (BLARM) staff. Funding for the plan was by a coastal management grant (CM-130) through the U.S. Department of Commerce's National Oceanic and Atmospheric Administration, Office of Ocean and Coastal Resource Management, and the Florida Department of Environmental Regulation (DER), Office of Coastal Management.

Chapter II

MANAGEMENT AUTHORITY

The primary management authorities available to the staff for implementing policy directives affecting aquatic preserves are found in Chapters 258 and 253, Florida Statutes (F.S.). These authorities clearly establish the proprietary management overview role of the Governor and Cabinet, sitting as the Board of Trustees of the Internal Improvement Trust Fund and are variously referred to as the "Trustees" or the "Board". Furthermore, all management responsibilities assigned to the Trustees by this plan may be fulfilled directly by the Governor and Cabinet or indirectly via staff or agents of the Trustees, pursuant to delegations of authority, management agreements, or other legal mechanisms. All subsequent references to the Board or Trustees should be presumed to potentially include staff and designated agents, in addition to the Governor and Cabinet. The staff of the Bureau of Land and Aquatic Resource Management (acting as "agents" for the Trustees) will review all requests for uses of state-owned sovereignty submerged lands within aquatic preserves. The review and subsequent staff comments are primarily designed to evaluate the environmental consequences of any proposed use of state-owned submerged land. The review is conducted within the confines of the criteria contained in the "maintenance" provisions for aquatic preserves in Chapter 258, F.S.

Formal review comments are provided to the Department of Natural Resources (DNR), Division of State Lands by the Bureau of Land and Aquatic Resource

Management for inclusion in the comments and recommendations accompanying agenda items for Trustees consideration. This mechanism allows the Trustees, sitting as owners of the land, to evaluate public interest and project merits within the context of environmental impact upon the preserve.

BACKGROUND

In many respects, the authorities supporting aquatic preserve planning and management are the cumulative result of the public's awareness of the importance of Florida's environment. The establishment of the present system of aquatic preserves is a direct outgrowth of public concern with dredge and fill activities rampant in the late 1960's.

In 1967, the Florida Legislature passed the Randall Act (Chapter 67-393, Laws of Florida), which set up procedures regulating previously unrestricted dredge and fill activities on state-owned submerged lands. That same year the Legislature also provided statutory authority (Section 253.03, F.S.) for the Trustees to exercise proprietary control over state-owned lands. In 1967, this governmental focus on protecting Florida's productive estuaries from the impacts of development led to the establishment of a moratorium by the Governor and Cabinet on the sale of submerged lands to private interests. In that same year, this action was followed by the creation of an Interagency Advisory Committee on submerged lands management. In late 1968, that Committee issued a report recommending the establishment of a series of aquatic preserves. Twenty-six separate waterbodies were addressed in the original recommendation.

Also in 1968, the Florida Constitution was revised, declaring in Article II, Section 7, the State's policy of conserving and protecting the natural resources and scenic beauty of the state. That constitutional provision also established the authority for the Legislature to enact measures for the abatement of air and water pollution.

It was not until October 21, 1969 that the Governor and Cabinet acted upon the recommendations of the Interagency Advisory Committee and adopted, by resolution, 18 of the waterbodies as aquatic preserves, including the Alligator Harbor Aquatic Preserve.

Prior to the October 1969 action by the Governor and Cabinet, the Legislature had created the Boca Ciega Aquatic Preserve. Subsequent Legislative action in 1972, 1973, and 1974, created the Pinellas County, Lake Jackson and Biscayne Bay Aquatic Preserves, respectively.

In 1975, the Legislature established a Florida Aquatic Preserve Act (codified in Chapter 258.35-258.46, F.S.), thereby bringing all existing preserves under a standardized set of maintenance criteria. Additional acts were passed subsequent to the 1975 action, such as the addition of the Cockroach Bay Aquatic Preserve in 1976 and the Gasparilla Sound--Charlotte Harbor Aquatic Preserve to the system in 1978.

The Charlotte Harbor Aquatic Preserve Management Plan, approved by the Trustees on May 18, 1983, was the first management plan for an aquatic

preserve. The following aquatic preserves also have approved plans: Estero Bay - September 6, 1983; North Fork--St. Lucie - May 22, 1984; Loxahatchee River--Lake Worth Creek - June 12, 1984; and Indian River Lagoon - January 22, 1985; Banana River - September 17, 1985; Indian River - Malabar to Vero Beach- January 21, 1986; Nassau River, St. Johns River Marshes and Fort Clinch State Park Aquatic Preserves - March 22, 1986.

In June 1985, the Legislature passed S.B. 762 which expanded the boundaries of the Banana River, Malabar to Vero Beach, Loxahatchee River--Lake Worth Creek, Wekiva River, and Rookery Bay Aquatic Preserves; and created Guana River Marsh and Big Bend Seagrasses Aquatic Preserves. Lemon Bay and Rainbow Springs were added as aquatic preserves by the 1986 Legislature.

The State Lands Management Plan, adopted on March 17, 1981, by the Trustees, contains specific policies. The Plan also establishes policies concerning spoil islands, submerged land leases, "Outstanding Native Florida Landscapes", unique natural features, submerged grassbeds, archaeological and historical resources, and endangered species. All of these issues provide management guidance to the aquatic preserve program.

ADMINISTRATIVE RULES

Chapters 18-21 and 18-20, Florida Administrative Code (F.A.C.), are two administrative rules directly applicable to the DNR's/Trustee's actions regarding allowable uses of submerged lands, in general, and aquatic preserves specifically. Chapter 18-21, F.A.C. controls activities conducted on

sovereignty submerged lands, and is predicated upon the provisions of Sections 253.03 and 253.12, F.S. The stated intent of this administrative rule is:

"(1) to aid in fulfilling the trust and fiduciary responsibilities of the Board of Trustees of the Internal Improvement Trust Fund for the Administration, management and disposition of sovereignty lands;

(2) to insure maximum benefit and use of sovereignty lands for all the citizens of Florida;

(3) to manage, protect, and enhance sovereignty lands so that the public may continue to enjoy traditional uses including, but not limited to, navigation, fishing, and swimming;

(4) to manage and provide maximum protection for all sovereignty lands, especially those important to public drinking water supply, shellfish harvesting, public recreation, and fish and wildlife propagation and management;

(5) to insure that all public and private activities on sovereignty lands which generate revenues or exclude traditional public uses provide just compensation for such privileges; and,

(6) to aid in the implementation of the State Lands Management Plan."

Chapter 18-20, F.A.C. addresses the aquatic preserves and derives its authority from Sections 258.35, 258.37, and 258.38, F.S. The intent of this rule is contained in Section 18-20.01, F.A.C., which states:

"(1) All sovereignty lands within a preserve shall be managed primarily for the maintenance of essentially natural conditions, the propagation of fish and wildlife, and public recreation, including hunting and fishing where deemed appropriate by the board of the managing agency.

(2) The aquatic preserves which are described in Section 258.39, 258.391, 258.392 and 258.393, F.S., Chapter 85-345, Laws of Florida and in Section 18-20.02, F.A.C., were established for the purpose of being preserved in an essentially natural or existing condition so that their aesthetic, biological and scientific values may endure for the enjoyment of future generations.

(3) The preserves shall be administered and managed in accordance with the following goals:

(a) Preserve, protect, and enhance these exceptional areas of sovereignty submerged lands by reasonable regulation of human activity within the preserves through the development and implementation of a comprehensive management program;

(b) To protect and enhance the waters of the preserves so that the public may continue to enjoy the traditional recreational uses of those waters such as swimming, boating, and fishing;

(c) To coordinate with federal, state, and local management programs, which are compatible with the intent of the Legislature in creating the preserves;

(d) To use applicable federal, state, and local management programs, which are compatible with the intent and provisions of the act and these rules, to assist in managing the preserves;

(e) To encourage the protection, enhancement or restoration of the biological, aesthetic, or scientific values of the preserves, including but not limited to the modification of existing man-made conditions toward their natural condition, and discourage activities which would degrade the aesthetic, biological, or scientific values, or the quality, or utility of a preserve, when reviewing applications, or when developing and implementing management plans for the preserve;

(f) To preserve, promote, and utilize indigenous life forms and habitats, including but not limited to: sponges, soft coral, hard coral, submerged grasses, mangroves, salt water marshes, fresh watermarshes, mud flats, estuarine, aquatic and marine

reptiles, game and nongame fish species, estuarine, aquatic and marine invertebrates, estuarine, aquatic and marine mammals, birds, shellfish and mollusks;

(g) To acquire additional title interests in lands wherever such acquisitions would serve to protect or enhance the biological, aesthetic, or scientific values of the preserves.

(h) To maintain those beneficial hydrologic and biologic functions, the benefits of which accrue to the public at large."

OTHER MANAGEMENT AUTHORITIES

Other Department of Natural Resources management authorities applicable to aquatic preserves include fisheries and marine mammal management and protection, and beach and shore preservation programs outlined in Chapters 370 and 161, F.S., respectively and land acquisition programs conducted under the Environmentally Endangered Lands authorities of Chapter 259, F.S. or the Conservation and Recreation Lands Program authorized by 253, F.S., will enhance the protection of the natural resources within the aquatic preserves.

Chapter 403, F.S., is an important adjunct to Chapter's 253 and 258, F.S. This governs, in part, the State's regulatory programs affecting water quality and biological resources. The Department of Environmental Regulation (DER), through a permitting and certification process, administers this program. Section 253.77, F.S., as amended by the Warren S. Henderson Wetlands

Protection Act of 1984, requires that any person requesting use of State-owned land shall have approval of the proposed use from the Trustees before commencing the activity. An interagency agreement between DNR and DER provides an avenue for staff comments on potential environmental impacts of projects in aquatic preserves through the DER permitting process. Additionally, the DER has designated, by administrative rule, a series of waterbodies with stringent use criteria called "Outstanding Florida Waters" (OFW). The inclusion of all aquatic preserve waters within this classification greatly enhances the protective provisions of Chapter 258, F.S. As the designated "306" Coastal Zone Management Agency, the DER also provides a source of funding for data collection and planning in areas such as the Alligator Harbor area, as well as being the state agency responsible for implementing the "federal consistency" provisions of the Federal Coastal Management Act.

The DER's administrative rules of primary significance to the aquatic preserve management program include Chapters 17-3, 17-4 and 17-12, F.A.C. These rules are based upon the authorities contained in Chapter 403, F.S. Chapter 17-3, F.A.C. addresses water quality standards and establishes the category of "Outstanding Florida Waters", while Chapters 17-4 and 17-12, F.A.C. address permit requirements and dredge and fill activities, respectively.

In December, 1982 a Memorandum of Understanding (MOU) between the DER, DNR, and the U.S. Army Corps of Engineers (COE) was executed. This MOU clearly establishes a process whereby the proprietary concerns of the Trustees, stated in Chapter 253, F.S. can be integrated into the DER/COE joint permit processing system.

Other opportunities for environmental review and input into activities potentially affecting aquatic preserves are afforded by the Department of Community Affairs (DCA), and the Department of State, Division of Archives, History, and Records Management (DAHRM). The Executive Office of the Governor also provides a mechanism for public input into federal projects via the State clearinghouse process.

The DCA is statutorily responsible for administering the "Development of Regional Impact" (DRI). The DRI program, authorized by Section 380.06, F.S. was established by the Legislature to provide a review and monitoring procedure for those development projects potentially affecting more than one county.

Chapter 267, F.S. establishes the state policy regarding preservation and management of Florida's archaeological and historical resources. This responsibility is legislatively assigned to the DAHRM, which holds title to those cultural resources located on state-owned lands. This also applies to sovereignty submerged lands, including aquatic preserves.

The Department of Health and Rehabilitative Services, under their public mandate, administers two programs directly affecting the aquatic preserve management program. These programs are (1) septic tank regulation, usually administered by county health departments and (2) arthropod (mosquito) control programs, usually implemented through local mosquito control districts. Each of these programs holds the potential for creating significant impacts upon the aquatic preserves. Establishment of close working relationships between

the aquatic preserve staff and the Department of Health and Rehabilitative Services will be a necessary element of the aquatic preserves management program.

Each of the above referenced programs may provide an effective means of protecting aquatic preserves and their ecologically sensitive resources.

Chapter III

MAJOR PROGRAM POLICY DIRECTIVES

This plan contains a number of management policy issues that are discussed either generally or definitively. This section highlights those major policy areas that comprise the basic thrust of this management effort. Adoption of these policies will provide specific staff direction for implementing the day-to-day aquatic preserve management program. Major program policy directives are:

(A) Manage all submerged lands within the aquatic preserve to ensure the maintenance of essentially natural conditions to ensure the propagation of fish and wildlife, and public recreation opportunities.

(B) Prohibit the disturbance of archaeological and historical sites within the aquatic preserve, unless prior authorization has been obtained from the Trustees and DAHRM, and such disturbance is part of an approved research design or authorized project.

(C) Develop a resource inventory and map natural habitat types within the aquatic preserve, with an emphasis on those habitat types utilized by threatened and/or endangered species.

(D) Protect and, where possible, enhance threatened and endangered species habitat within the aquatic preserve.

(E) Prohibit development activities within the aquatic preserve that adversely impact upon grassbeds and other valuable submerged habitat, unless a prior determination has been made by the Board of overriding public importance with no reasonable alternatives, and adequate mitigation measures are included.

(F) Prohibit the removal of saltmarsh and other natural shoreline vegetation within the aquatic preserve, except when necessitated by the pursuit of legally authorized projects and local protection ordinances.

(G) Provide research and educational opportunities for scientists and other interested researchers within the framework of a planned research program in the aquatic preserve.

(H) Acquire, where feasible, privately owned submerged lands located within the boundaries of the aquatic preserve pursuant to the authorities contained in Section 253.02(4), F.S.

(I) Prohibit the drilling of oil and gas wells, the mining of minerals, and dredging for the primary purpose of obtaining upland fill within the aquatic preserve.

(J) Prohibit non-water dependent uses of submerged lands within the aquatic preserve except in those cases where the Board has determined that the project is overwhelmingly in the public interest and no reasonable alternatives exist. This prohibition shall include floating residential units, as defined in Section 125.0106(2), F.S.

(K) Prohibit storage of toxic, radioactive, or other hazardous materials within the aquatic preserve.

(L) Prohibit those mosquito control practices within the aquatic preserve that would result in habitat modification or manipulation (i.e. diking, ditching) unless there are no reasonable alternatives and failure to conduct such practices would result in a threat to public health.

(M) Limit pesticide and biocide use within the aquatic preserve to those that are approved by the Environmental Protection Agency (EPA) for wetland and aquatic application.

(N) Prohibit the construction of new deep water ports within the aquatic preserve boundaries.

(O) Insure that any artificial reef construction does not adversely impact environmentally fragile areas within the aquatic preserve and that the construction will maintain the essentially natural condition while enhancing the quality and utility of the preserve.

(P) Manage any state-owned spoil islands within the aquatic preserve as bird rookeries and wildlife habitat areas.

(Q) Encourage public utilization of the aquatic preserve, consistent with the continued maintenance of its natural values and functions.

(R) Develop a well coordinated aquatic preserve management mechanism that recognizes and utilizes local government programs and authorities.

(S) Require, through the efforts of DER and the water management districts, the maintenance of the naturally high water quality of the estuary and ensure the natural seasonal flow fluctuations of freshwater into the estuary.

(T) Apply the management criteria contained in the adopted Alligator Harbor Aquatic Preserve Management Plan to all subsequent legislative additions of land to the aquatic preserve.

(U) Encourage the assistance of federal, state, and local government agencies in implementing the aquatic preserve management plans, especially in the areas of protection of natural and cultural resources and the enforcement of applicable resource laws and ordinances.

(V) Prohibit marinas in Class 1 or 2 Resource Protection Areas.

(W) Identify and document any problems caused by fishing activities and report them to the Marine Fisheries Commission.

Chapter IV:

RESOURCE DESCRIPTION

Part 1

The Resource Setting

A Profile of the Wekiva Area

A. Historic Notes

Over geologic time, changes in sea level formed the region now occupied by the Wekiva River and its tributaries. The river occupies the physiographic region known as the Wekiva Plain, an area slightly lower in elevation than the surrounding Marion Uplands, Mount Dora Ridge and Orlando Ridge. The Wekiva Plain was apparently "cut down" during periods of receding sea level. When recurrent rises in sea level inundated the lowered areas, deposited sediments contributed to form the present Wekiva Plain. The surface and near surface deposits in the area range from unconsolidated sands to well hardened limestones and dolomites (White 1970). The Hawthorn Formation, a sandy phosphatic limestone of late middle Miocene age (approximately 13 MYBP) underlies the entire area, and outcrops of this formation are exposed at Rock Springs and Wekiva Spring (U.S. Geological Survey 1980).

From an archaeological perspective, the Wekiva area provided abundant natural resources for prehistoric communities, the spring runs, river, hardwood hammocks and dense forests offered food, water, shelter and breeding sites for many forms of wildlife and provided excellent plant and animal foods for human inhabitants (Milanich and Fairbanks 1980).

The Rock Springs/Wekiva Area is considered to be one of the most important archaeological areas in Orange county (Stewart 1982). Over 20 archaeological and historical sites are known to occur along the Wekiva River from Rock Springs to the St. Johns River. Several of these sites are recorded in the Florida Master Site File. Although a systematic archaeological site assessment has not yet been conducted in the area, several mound sites have been examined by Dr. Marilyn Steward of Rollins College. Many of the sites contain freshwater snail remains, pottery sherds, animal bones, turtle shells or deer antlers. Artifacts are characteristic of the St. Johns I cultural era (500 B.C. - A.D. 100) (Stewart 1982).

Evidence of earlier Paleo-Indian to Middle Archaic peoples (ca 12,000 B.C.) underlie and are masked by these later sites, but in other areas remains of these sites have been found in river beds (Department of Natural Resources 1986).

The Timucuan Indians were descendants of the peoples of the St. Johns period and occupied areas along the St. Johns River when Europeans first ventured into Florida. Cultural changes related to Hernando de Soto's 1539-1540 Florida expedition marked the beginning of the decline of Florida's native Indian populations. During the next 150 years the Timucuans were forced onto Spanish missions and ranches where many succumbed to European diseases. The cultures of other tribes, fleeing invasions of their homelands in southwest and southern Georgia, merged with that of the Timucuans. By 1763, when St. Augustine fell into British control, the Timucuan population was decimated and for the remaining few, much of their original cultural pattern had been

altered (Milanich and Fairbanks 1980). In the early 1800's Seminole Indians frequented the headwaters of the Wekiva to hunt; they also used the river as a route to the St. Johns River (Strofner 1982).

During the 1840's early settlers and winter visitors began to populate the Wekiva area. A hotel, newspaper and winery were located in the town of Clay Springs, now Wekiva Springs. In 1875, Clay Springs supported a wharf and warehouse for cargo steamers navigating up the St. Johns to the Wekiva River from the town of Mellonville, which is now Sanford (Shofner 1982).

Modern land use, population characteristics and development pressures in the Wekiva Basin are discussed more completely in the following sections.

B. Present Population Characteristics

The East Central Florida Region (Orange, Seminole, Lake, Osceola, Brevard, and Volusia counties) has experienced phenomenal growth over the past 16 years. Influenced by the opening of Walt Disney World in the early 1970's, the regions population grew from 900,000 in 1970 to 1.3 million in 1980, an increase of 41 percent. Between 1980 and 1984, the total population increased to 1.55 million. Official estimates for 1986-1989 predict an increase of 13.1 percent, bringing the total population to 1.85 million (East Central Florida Regional Planning Council 1985). Orange, Seminole and Lake counties were among the top third highly populated counties in the state in 1984. Orange county, with its 530,424 residents was the 7th most populated county in the state, while Seminole County, with its 214,870 residents was ranked 15th out of the 67 Florida counties. Lake County was 27th with 119,902 residents (Department of Commerce 1985).

Growth in Orange County from 1974 to 1984 was slower than growth in Lake and Seminole counties (25.2 percent in ten years, compared with 38.0 and 60.2 percent, respectively). The 60.2 percent increase in Seminole County over the ten year period was the 12th fastest growth rate in the state. Growth rates for the ten year period in Orange and Lake Counties ranked 42nd and 25th, respectively, out of the 67 Florida counties (Department of Commerce 1985).

The projected population growth of Orange, Lake, and Seminole counties during 1985-1989 indicates the addition of over 64,251, new residents for Orange County, approximately 13,000 new residents for Lake County, and over 35,000 new residents for Seminole County. These new residents represent increases of 11.6 percent for Orange County and 15.49 percent for and Seminole County during the five year period, bringing the total population by 1989 to 618,910 and 265,299, respectively. A 10.5 percent increase is expected for Lake County, bringing its total population to 137,273 by 1989 (East Central Florida Regional Planning Council 1985).

Traditionally, central Florida was characterized as a vacation and retirement center, but in recent years the contributions of the highly successful tourism industry has accelerated growth patterns. Population increases in the region are based on immigration, with new residents requiring additional consumer services (food, housing, etc.,) and other improvements to the areas infrastructure which help sustain the growth pattern.

In 1984, almost half the regions total population fell within the 25-44 and 45-64 age groups, representing a large supply of working age adults to meet

the demand of local employers for trained and skilled workers. The 25-44 age group is expected to increase by 1989, in response to the new job opportunities anticipated for the region. 15.5 percent of the total 1984 population of the region were in the 65+ age group. This group is also expected to increase by 1989, as more retirees immigrate to the area.

The immigration of new residents has created housing demands. Housing requirements are variable from county to county and are primarily a function of socio-economic factors such as income, age, and number of household members. In south Orange County, near Walt Disney World low cost and rental housing is in demand to meet the needs of many trade and service workers. Lake County has attracted a large number of retirees on fixed incomes, which has created a demand for a cheap form of housing such as mobile homes. Many high paid professionals residing in Seminole County prefer more elaborate and expensive housing (East Central Florida Regional Planning Council 1985).

The availability of affordable housing is a major problem in most of the Region. The average cost of a new single-family home is presently beyond the financial reach of many residents of the area and is becoming increasingly more so. During the next five years, a high rate of population growth as well as employment expansions are expected, creating a major challenge for the housing industry to produce affordable housing to meet the needs of new residents.

In summary, the population profile for the area is one of continued growth with an expanding economy helping to sustain the growth.

C. Economic Development Issues

Economic growth and development within the Wekiva Basin is directly proportional to regional growth. Tourism, the largest industry in the region, is the primary growth source. In 1984, over 7.5 million tourists visited the Orlando area. Walt Disney World, EPCOT, Sea World and Kennedy Space Center accounted for the majority of all attraction admissions.

The tourism and convention industry are responsible for a significant amount of development. Commercial projects, retail trade, office construction and industrial and research parks are also contributing greatly to the economic growth of the area. Seventy-seven major development projects are planned or underway in Orange and Seminole counties for 1985-1989, with the majority in Orange County. Total dollar value of these projects is close to 7 billion dollars and approximately 121,845 new jobs will be created.

A large percentage of the labor force are employed in tourist related jobs. In 1984, trade and service workers supporting tourism accounted for 59 percent of the total employment distribution for the region. Manufacturing, Financial-Insurance-Real Estate and Transportation-Communications-Utilities sectors accounted for 13.7, 5.9 and 5.6 percent of employment distribution for the region, respectively. Agriculture accounted for 2.7 percent.

Trade and Service workers were, however, among the lowest paid employees in 1984 with salaries averaging $12,028 and $15,690, respectively. Transportation-Communications-Utilities work were among the higher paid

(averaging $22,731) as were Manufacturing workers (averaging $21,283). Agricultural workers were the lowest paid employees in 1984 (averaging $10,484).

From 1978 to 1983, per capita income in the region increased 65 percent. Compared to state and national per capita incomes, the rate of increase in east central Florida has been consistently higher than the rate of increase for the state and the nation over the same time period. Per capita income in most of east central Florida, however, was lower than that of state and national per capita incomes ($11,593 and $11,687, respectively). Per capita incomes for Orange, Seminole and Lake counties in 1983 were $11,520, $11,747, $10,595, respectively. Only Seminole County had per capita incomes higher than that of the nation. The predominance of lower paying Trade and Service jobs and a relatively large proportion of retirees on fixed incomes account for the regions comparatively low per capita income (East Central Florida Regional Planning Council 1985).

Estimates for 1989 indicate an increase in per capita income for the region, but the predominance of low paying Trade and Service jobs and continued immigration of retirees on fixed incomes will keep the region's per capita income below the national value. Orlando and Orange County are economically orientated toward tourism, retirement, and more recently, the electronics industry. On the urban fringe of the Orlando metropolitan area, Seminole County is experiencing economic trends similar to Orange County. Lake County has an agricultural-based economy, and in 1983, was the second largest citrus county in Florida (Department of Environmental Regulation 1983).

In summary, the Wekiva area is in the process of urbanizing as part of the East Central Florida Region, or more locally, the Orlando/Altamonte Springs metropolitan area. Regional development will continue to affect growth in the Wekiva area, and contribute to the area's economy. Tourism is presently the largest component of the regions economy, but industrial and research expansions are beginning to diversify it.

D. Land Use and Infrastructure

Several large land parcels, totaling over 20,000 acres, bordering the Aquatic Preserve are in public ownership and are maintained as parks or reserves. The headwaters of Rock Springs Run are located within Kelly Park (200 acres), maintained by Orange County. Rock Springs Run is bordered on the east by Rock Springs Run State Reserve (RSRSR) (8,723 acres) and on the west by Wekiva Springs State Park (6,400 acres), both maintained by the Department of Natural Resources. The west bank of the upper reaches of the Wekiva River south of State Road 46 is bordered by RSRSR, except for a two mile stretch of land south of State Road 46 which consists of residential lots, a 100-acre private park/campground "Wekiva Falls", and pastureland. The east bank of the upper reaches of the Wekiva River, south of State Road 46 is prime property for housing development, and several sub-divisions have already been constructed, are underway, or are proposed. Residential development is rapidly advancing northward along the undeveloped sections of the Little Wekiva River and merging with development along the east bank of the Wekiva River. The southernmost sections of the Little Wekiva Sub basin are heavily urban and commercial, with stream flow extensively channelized. North of State Road 46,

a two mile segment of the east bank supports residential units, a fish camp and a mobile home/camping facility. One mile of the west bank immediately north of S.R. 46 is undeveloped land in private ownership and is presently for sale (1,100 acres). Lower Wekiva River State Reserve (5500 acres) borders the remainder of the Wekiva River until its confluence with the St. John River, four miles upstream.

Land use trends indicate continued urbanization on private lands within the basin. A recent report by the Friends of the Wekiva (FOW) indicated the present trends of land use intensification along the east banks of the Little Wekiva and Wekiva Rivers in Seminole County will have negative impacts on the water resources of the Wekiva Basin (Technical Committee of the Friends of the Wekiva River 19___). The Seminole County Comprehensive Land Use Plan designates this area as General Rural with one unit per acre maximum density, not requiring infrastructures support. Development in this area over the past ten years has resulted mostly in the one-acre residential sites, with septic tank disposal of wastes, a mixture of private well systems and public water supply, and little investment in road improvements. The report indicates densities of one unit per acre require urban level infrastructure support and that the lack of such support, in addition to increase pressures from conversion of forested or pasture lands to one-acre or more dense development can only result in the degradation of the water resources of the basin.

A report by the Wekiva Basin Study Committee reviewed developments in the same area referred to by FOW to determine both gross and net densities. Gross density of the existing platted subdivisions was based on the number of lots

and the gross acreage of the development, while net densities were based on gross acreages minus the flood prone areas. Of the twelve active and two proposed subdivisions, all were zoned A-1 except one active development, which was zoned R-1AAA. Land area for the fourteen subdivisions totaled 1508 acres. The subdivisions ranged from 9.5 to 610 acres with from 8 to 193 units. Net densities ranged from .52 to .84 units/acre with an average of .73. The report notes that when wetlands, marginal soil and hydrological problems are taken into consideration and deducted from the development area, density will increase, and that lack of definitive wetland information may have yielded density projections somewhat lower than actual density.

Several proposed Planned Unit Developments (PUD) are included in this development corridor. One PUD is currently under appeal before the Land and Water Adjudicatory Commission (Plantation) and three additional PUD applications are anticipated with gross densities of three or more units per acre. The four PUD's total 3,275 acres. When considered as a planning unit, and if the proposed PUD's are approved, the combined PUD and existing development areas total 4,783 acres, with a net density of 1.17 units/acre (slightly higher if wetlands are considered).

Any PUD's with densities higher than one unit/acre conflict with the County Comprehensive Plan policy for the area, and must be presented before the Seminole County Planning and Zoning Commission and two County Commission public hearings requesting rezoning amendments to the Comprehensive Plan. The County Commission has maintained a policy of denying all applications which would effect a change in the community character from "rural" to "urban", as

such a change is not in conformance with the Comprehensive Plans designation of the area as "General Rural". Section 163.3194, Florida Statutes, mandates that: "After a comprehensive plan... has been adopted, all actions taken into regard to development orders by governmental agencies shall be consistent with such plan".

The inability of environmentally sensitive areas to absorb impacts associated with higher population densities has been demonstrated in many aquatic environments throughout Florida, and even with the most prudent planning and management strategies some degree of alteration to the balance of the natural system can occur (East Central Florida Regional Planning Council 1984). In recognition of the significance of the Wekiva River system, advocation of higher population densities in areas adjacent to the Wekiva River should be discouraged.

Developments within the Wekiva Basin are subject to regulation criteria defined by County, State, and Federal agencies. Table 1 outlines current regulations applicable to construction in Seminole County.

Table 1.

Current Regulations applicable to construction in Seminole County (from Wekiva River Basin Study Committee Report [Clabaugh, et al. 1985]).

FP-1 Floodprone Classification: No structures constructed and no land filling or grand level changes permitted which inhibit the flow of flood and drainage waters.

200 Foot Setback (2/22/72 Resolution): Prohibits the issuance of building permits in the 200 foot area parallel to the mean high water mark of the East Bank.

Wetlands (LDC 6.4.2.2 Drainage Design Standards): No site alteration shall cause the siltation of wetlands or reduce the natural retention or filtering capabilities of wetlands.

Drainage and Water Conservation Easements (DWCE): Mandatory dedication of easements over floodprone and wetland areas to maintain the natural storage and water quality enhancement functions of these areas (LDC 6.4.6.12(a) 19.).

Dredge and Fill Permits (LDC Chapter 10): Permits are required for boat docks, seawalls, outfalls and drainage structures, dredging and filling, and removal of shoreline vegetation.

Arbor Permits (LDC Chapter 8): Permit required for the removal of trees 3" in diameter or larger.

Site Runoff (LDC 6.4.6.2): Requires storage and controlled release of excess stormwater so that post development conditions are not substantially greater than pre-development conditions. Requires the use of retention and detention facilities to attenuate peak flows, remove solids, and remove nutrients.

Groundwater Table and Runoff to Surface Waters (LDC 6.4.6.2): Prohibits the use of canals, channels, ditches, storm water systems which rapidly convey runoff to receiving waters without treatment or to reduce the groundwater table.

Erosion Control (LDC 6.5.10): Seeding, mulching, sodding and other appropriate measures required to prevent erosion during construction activities.

Borrow Pit (LDC Section 9): Permits required for the removal of any materials. Over 500 cubic yards requires DRC review and a public hearing.

Water Conservation (Building Code): County Building codes require that water closets have a maximum 3.5 gallon capacity on residential units and 3 gallon maximum on flush valve units; showerheads and water faucets are required to have flow restriction devices which limit flows to 3 gallons per minute.

Part Two:

Natural Systems and their Components

A. Wekiva River Basin

The Wekiva River System is comprised of artisan spring flow, small creeks, numerous tributaries and secondary drainage. A tributary of the St. Johns River, the Wekiva represents one of the major routes of surface drainage from portions of Orange, Seminole and Lake Counties (Orange County Pollution Control Department 1977). The Wekiva, Little Wekiva and Rock Springs Run form a basin of approximately 130 square miles (U.S. Army Corps of Engineers 1974). Upstreams of Blackwater Creek, a major tributary of the Wekiva, is additional drainage of 112 square miles in Lake County (Technical Committee of the Friends of the Wekiva River 19___).

The Wekiva River Basin is comprised of many diverse and productive habitat characteristic of natural Florida. Extensive areas of wetlands border a major portion of the river. Pine flatwoods, scrub, and sandhills interspersed with lakes and sink holes occur throughout the basin.

Elevations within the basin range from 15 to 30 feet MSL near stream channels, while sandhills rise abruptly to elevations ranging from 60 to 100 feet MSL (Technical Committee of the Friends of the Wekiva River 19___).

The climate is subtropical, with an average annual temperature of about 72 degrees. Daily maximum temperature in the summer approaches 90° Fahrenheit. Mean annual rainfall over the Wekiva Basin is 52 inches, most of which occurs

during the June-October rainy season (U.S. Army Corps of Engineers 1974).

The Wekiva River System can more adequately be described in terms of its components: Rock Springs/Rock Spring Run, Wekiva Springs, Little Wekiva Sub-basin, Big Wekiva, and Blackwater Creek.

Rock Spring/Rock Spring Run

Rock Spring is located within Kelly Park, a 200-acre facility owned by Orange County. The park is utilized by the public for swimming, picnicing, camping, nature study, and is maintained as a wildlife preserve.

Rock Spring represents one of the few areas in central Florida where the limestone of the Hawthorn Formation is exposed. The Hawthorn Formation, which contains impervious layers of marl and clay, overlies the Floridian aquifer and acts as a confining bed for the artesian water present in the area. Crevices and solution channels have developed in the Hawthorn providing an outflow for the Floridian aquifer (Orange County Pollution Control Department 1977).

The principal discharge from Rock Spring originates at the base of a partly submerged limestone bluff. Average discharge is about 41.7 MGD. A large public swimming area is located several hundred feet below the spring, where some of the flow has been diverted and partly retained by concrete walls. Overflow from the swimming area is directed back to the spring run via a concrete weir. Rock Spring Run flows northward about 1.5 miles, then turns southward. The width of the flood plain in this area is approximately three

miles in an east-west direction (Rosenau et al. 1977). Rock Spring Run meanders for approximately nine miles before meeting Wekiva Spring Run to form the Wekiva River. One mile of Rock Spring Run is included in the Aquatic Preserve. The springhead and eight miles downstream of the springhead are not included in the Aquatic Preserve.

Wekiva Springs

Wekiva Springs and its spring run are located within Wekiva Springs State Park, a 6,400 acre publicly owned state park, managed by the Department of Natural Resources.

The springs discharge from at least five horizontal caverns 14 feet below the water surface forming a kidney shaped pool. The pool bottom is mostly sand, except for an area in the southeast section which is rock of the Hawthorn Formation. Openings in this rock allows water to percolate, creating the pool.

The spring run flows in a northeasterly direction for approximately one-half mile until its confluence with Rock Springs Run forming the Wekiva River.

Witherington Springs, forms a small pool about 60 feet in diameter, and is located near the center of Wekiva Springs State Park. Discharges from Witherington Springs form the headwaters of Mill Creek, which flows east through a swampy area and then eventually joins Rock Springs Run (Rosenau et al. 1977).

Little Wekiva River sub-basin

The Little Wekiva River sub-basin occupies approximately 43 square miles located in the north central portion of Orange County and the western portion of Seminole County (Central Regional Planning Council 1980).

Areas of extensive urban development border the lower reaches of the Little Wekiva from its headwaters at Lake Lawne in western Orlando to approximately one mile north of State Road 434 in Seminole County. Most of the natural vegetation in these areas has been replaced by housing, commercial and industrial enterprises, pasture, citrus grove and other economic activities. The impacts of development within the sub-basin has been the reduction of natural drainage patterns and flow ways creating stormwater management problems. Several sections of the river have been channelized and numerous ditches, canals and storm drains discharge directly into the river (Central Regional Planning Council 1980).

Prior to 1977, several sewage treatment plants (STP) discharged poor quality water into the Little Wekiva (Pine Hills STP, Lake Lawne STP, Faisvilla STP). Subsequent water quality problems prompted local government to effect more stringent wastewater and wetland regulations, which ceased most wastewater discharges and initiated restoration procedures on several lakes within the sub-basin. Recent studies have indicated improved water quality within the Little Wekiva sub-basin, but high nutrient loading still exists in some areas.

In Orange County, ground water exfiltration contributes to stream flow, but the primary source of stream flow is storm water runoff. In Seminole County,

upstream of several springs, the Altamonte Regional Wastewater Facility and Hi Acre Citrus Processing Plant constitute about 85 percent of the stream flow (Department of Environmental Regulation 1982).

The areas surrounding the upper reaches of the Little Wekiva in Seminole County one mile north of State Road 434 are much less developed, and here the river flows through about six miles of unaltered stream bed. One wastewater facility, however, discharges into the river along this reach (Wekiva Hunt Club).

Approximately three miles south of its confluence with the Big Wekiva, the Little Wekiva receives discharge from Seminole, Palm, and Starbuck Springs. The combined 14 MGD increases the river's flow and dilutes the pollutants remaining from the upstream point sources. Bacteriological and biological data from Orange County Pollution Control indicate improved water quality downstream of the spring discharges (Orange County Pollution Control Department 1977). Downstream of the springs, the spring flow represents approximately 71 percent of total flow, and dominates stream flow until confluence with the Big Wekiva. For three miles south of its confluence with the Big Wekiva, the Little Wekiva is bordered by undeveloped swamp. These three miles of the upper reaches of the Little Wekiva River are designated as Outstanding Florida Waters (OFW) and are included in the Aquatic Preserve.

Wekiva River

The headwaters of the Wekiva River begin at the confluence of Wekiva Springs Run and Rock Springs Run. The waters forming the upper portion of the Wekiva

River arise from both the Floridian aquifer in the form of natural springs, and from drainage of approximately 130 square miles of water shed in north Orange County and northwest Seminole County (Department of Natural Resources 1986).

From the convergence of the Wekiva Spring and Rock Spring Runs, the upper Wekiva flows about 0.25 mile to where it receives discharge from Miami Spring Run/Canal. The Little Wekiva River converges with the Upper Wekiva River about 3.75 miles downstream from Miami Spring Run/Canal (Orange County Pollution Control Department 1977). As the river passes through the Wekiva Swamp, the region between the inflow from the Wekiva Springs Run and Little Wekiva river contains numerous small islands which divert the flow. Low current velocity caused by the islands and submerged vegetation enhances the deposition of silt and organic debris along this reach. Eel grass (Vallisneria americana) is common along this reach and Brazilian elodia (Egeria densa), is present also. Water hyacinth (Eichhornia crassipes) an exotic floating macrophyte, also contributes to organic siltation in this area. Approximately six miles downstream from Wekiva Springs the floodplain narrows and the sediments change from organic silt to sand, where Brazilian elodea becomes the dominant aquatic plant (Courtney, unpub. data). From here the Wekiva River meanders northeastly towards the St. Johns River. Wekiva Falls run, a 92,000 foot tributary originating at Wekiva Falls campground, merges with the Wekiva River just south of State Road 46. Wekiva Falls issues from two flowing wells, one with a 14-inch diameter and the other with a 24-inch diameter, and have a combined discharge of 40 MGD. Approximately one mile south of its confluence with the St. Johns River, the Wekiva is joined by Blackwater Creek.

Discharges from Wekiva Springs (48 MGD), Rock Springs (41.8 MGD), Sanlando Springs (14 MGD) and Sheppard Springs (11 MGD) contribute to the high base flow rate of the Wekiva River, which increases seasonal drainage within the basin. The flow gradient is one of the steepest in east central Florida averaging a drop of 1.6 feet per mile along the rivers boundary in eastern Lake County until meeting the lower elevations of the St. Johns River Floodplain.

Average discharge of the Wekiva River at State Road 46 is 186 MGD. A distinct stream habitat is created by, and is dependent on, the consistency of this flow (East Central Florida Regional Planning Council 1985).

Blackwater Creek

Blackwater Creek is a major tributary to the Wekiva River. Almost entirely in Lake County, Blackwater Creek flows approximately 28 miles from its headwaters at Lake Dorr to its confluence with the Wekiva. As an important surface drainage system for Lake County, the creek provides flood drainage relief for an area of approximately 125 square miles. The creek's 100-year floodplain varies greatly in width from 800 feet at State Road 44A to 5,100-7,000 feet along upstream and downstream reaches (East Central Florida Regional Planning Council 1985).

Agricultural land drainage has affected water quality in some areas of the creek's floodplain, but most areas remain undisturbed. Land use in the Blackwater Creek basin is predominantly rural and agricultural, and many areas bordering the creek are remote and inaccessible.

South of State Road 44, Blackwater Creek flows through a portion of the Seminole Springs tract, a 8,820 acre parcel located just west of Lower Wekiva River State Reserve. This land is currently under review for inclusion on the C.A.R.L. Priority Acquisition List. The property contains over 50 springs of various sizes, the largest of which are Seminole Springs, which issues approximately 30.1 MGD and Messant Springs, which issues 95 MGD. Seminole and Messant Creeks, along with numerous other small tributaries, converge with Blackwater Creek.

The area surrounding Blackwater Creek was heavily logged in the early 1900's, but mixed hardwood swamp, cypress swamp, and hydric hardwood plant communities have been reestablished within the creeks floodplain.

Approximately 1800 acres bordering the lower reaches of the creek are protected as part of the Lower Wekiva River State Reserve. Three miles of the lower reaches are included in the Wekiva River Aquatic Preserve.

B. The Aquatic Environment

Rock Springs Run has excellent water quality resulting from the consistency of spring flow originating at Rock Springs. The unaltered watershed and few urban and agricultural land uses limits stormwater runoff and associated water quality problems. There are no large tributaries to Rock Springs Run, but significant inflow from surrounding swamps occurs during periods of high rainfall (Department of Environmental Regulation 1983).

The USGS has collected flow and temperature data at Rock Spring head since 1931, and additional parameters have been monitored since 1959. Since 1972, Orange County has collected data from Rock Spring Run approximately one mile downstream of the spring head.

USGS data from Rock Spring indicate consistently excellent water quality since monitoring began in 1959 (Department of Environmental Regulation 1983). Turbidity, color, organic-N., ammonia-N and dissolved oxygen are low, while total phosphorous, nitrate-N and conductivity are slightly elevated. Low dissolved oxygen is characteristic of many artesian springs. Elevated levels of nutrients may be attributed to the limestone feeding the spring source. As the water flows downstream, it gains oxygen from aeration and from photosynthesis during the daytime (Hynes 1970). Dissolved oxygen levels at Rock Spring Run from Orange County data during 1976-1982 were above standards, and averaged 6.4 mg/l.

Water quality data from several stations in the Wekiva River, just downstream of its confluence with Rock Springs Run, are also available from USGS and Orange County. These data also indicate excellent water quality in those areas reflecting the excellent quality of the spring flow.

The little Wekiva River has experienced severe water quality problems in the past resulting from sewage discharge and stormwater runoff. Several sampling sites along the Little Wekiva are monitored by either USGS, FDER or Seminole County. Recent improvements in water quality have been indicated at some stations along the lower Little Wekiva.

Water quality in the upper reaches of the Little Wekiva improves as a result of dilution from Sanlando, Palm, and Starbuck Springs. Water quality of these springs is similar to that of Rock Springs (Department of Environmental Regulation 1983).

Excessive amounts of aquatic vegetation are present in some reaches of the upper Little Wekiva. It is suspected that nutrient enrichment from sewage discharge is contributing to aquatic plant growth. However, in areas where a forest canopy shades the river, there is little aquatic vegetation (Canfield and Hoyer 1985). It has been suggested that the availability of light may be the limiting factor controlling aquatic plant growth in these areas (EPA, 1981; Seminole County, 1981; Canfield, 1981). Canfield and Hager (1985) suggested that past dredging operations may have encouraged the growth of aquatic plants by providing substrate through sedimentation of many formerly deep areas. Another cause of increased plant growth may be the reduction of shade through the removal of forest canopy. A three year study to determine the nutrient assimilation capacity of the Little Wekiva river is currently in progress. The study will also look at the effect of shading and includes a comparison of rivers throughout Florida ranging from those with no major discharges of treated effluent, to those with significant nutrient loadings. The Wekiva River is included in this study to determine the effect of discharges from the Little Wekiva on the Wekiva river further downstream (Canfield and Hoyner 1985).

C. Plant Communities

The Wekiva River Basin is located in a region of biological transition between two climatic zones, where the range of temperate zone plants overlaps the northern limit of many tropical species, this creates an area of diverse floral composition.

Although many areas within the basin were extensively logged during the 1920's and 1930's, when cypress dominated the wetland forests, much of the forest has revegetated and the river's floodplain is now almost entirely wooded. Plant communities characteristic of the basin and representative plant species include:

Mixed hardwood swamp - tupelo, red maple water ash, bald cypress, sweet gum, button bush, willow, pond apple, wax myrtle, dahoon holly.

Cypress swamp - predominately bald cypress with a lesser percentage of hardwoods similar to those found in mixed hardwood swamp.

Hardwood hammock - sweet gum, magnolia, tupelo, live oak, laurel oak, water oak, hickory, wax myrtle, sweet bay, cedar, American holly, red maple.

Pine flatwoods - pond pine, loblolly pine or slash pine, longleaf pine, saw palmetto, wire grass, gallberry.

Scrub - stagger bush, rosemary, silk bay, wild olive, blueberry, gopher apple, prickly pear cactus, wire grass, lichens.

Scrubby flatwoods - slash pine, chapman's oak, myrtle oak, saw palmetto, runner oak, wire grass.

Freshwater marsh - saw grass, arrowhead pickerelweed, coastal plain willow, button bush, red maple, bald cypress.

Bayhead - loblolly bay, sweet bay, red bay, black tupelo, red maple, loblolly pine, dahoon holly, coastal plain willow, gallberry, wax myrtle.

A more complete list of plant species characteristic of the Wekiva basin, including many aquatic species, is maintained in the resources inventory files located in the central office.

D. Wildlife

The water related resources of the Wekiva River support an abundance of wildlife. The river, its tributaries, associated hardwood and cypress swamps provide food, shelter and breeding sites for many native species, as well as several designated as endangered, threatened, rare, or of special concern.

White tail deer, otter, grey fox, bobcat, raccoon, opossum, wild turkey, pileated woodpecker, and raptor species such as the red-tailed hawk, red-shouldered hawk, barred and great horn owl are typical inhabitants of the

Wekiva basin. Osprey, anhinga, cormorant, great blue heron, great egret, green backed heron, several other wading birds, shore birds and water fowl are more closely associated with the river.

The reserved areas of the basin offer dense and relatively isolated habitats with protection for many endangered, threatened, rare or species of special concern. Designated species identified within the Wekiva basin include:

Mammals - Florida black bear, Sherman's fox squirrel, Florida mouse, southeastern shrew, Florida weasel, round-tailed muskrat.

Birds - wood-stork, white ibis, little blue heron, Louisiana heron, snowy egret, limpkin, sandhill crane, southeastern kestrel, Florida scrub jay.

Amphibians and Reptiles - American alligator, gopher tortoise, sand skink, eastern indigo snake, southern leopard frog.

Fish - snail bullhead, bluenose shiner.

A more complete list of wildlife characteristic of the Wekiva Basin is included in the resource inventory file in the central office.

E. Summary of Natural Systems

The Wekiva River , its tributaries, associated wetlands and uplands are a unique ecological resource in east central Florida. The system supports a

productive and diverse array of aquatic and upland natural systems and is a refuge for many threatened, endangered and rare species.

Most of the Wekiva River is designated Outstanding Florida Waters including Rock Springs Run and three miles of the lower reach of the Little Wekiva River. The last three miles of the Wekiva are also designated a Scenic and Wild River.

Publicly owned lands along the river provide the opportunity for diverse water and land oriented recreational activities utilizing the natural resources of the area. Located in an area that is rapidly urbanizing, demands on the river system are increasing; protection of this natural resource is vital to future enjoyment by the public.

Chapter V:

RESOURCE MANAGEMENT GOALS, OBJECTIVES AND POLICIES

A. Resource Management Introduction: The Use of Management Directives.

The aquatic preserve background presented in Chapter II and the description of the Wekiva Basin provided in Chapter III collectively provide the informational base for effective management. This chapter on resource management provides a directional context for goals, or long range achievements around which all management activities for the aquatic preserve will be oriented. The goals represent optimum conditions for preservation of water quality and living natural resources and address program administration strategies. Objectives provide a means of achieving goals, and policies are specific directives providing guidance for decision makers.

This chapter represents the principal source of guidelines for those involved in making decisions with application to the aquatic preserve. Succeeding chapters discuss more procedural aspects of program implementation, program needs and management plan updates and amendments.

B. Resource Issues with Implications for Management

The natural resources of the Wekiva River have been described in Chapter III. Several resource issues resulting from the increasing pressures of population growth and human activity on the river are recognized. This section discusses

those resource issues which are most likely to require reference to management directives.

Urban Development

The most immediate concern regarding the Wekiva River Aquatic Preserve is the ecological impact of urban residential development along the east bank of the Little Wekiva and Wekiva River in Seminole County. This area within Planning Area 5, the Markham/Paola Area as identified in the Seminole County Comprehensive Plan. Six new housing developments covering approximately 4,248 acres with approximately six miles bordering the Aquatic Preserve are proposed for this area. Potential impacts to the Wekiva River resulting from increased urban developments are primarily related to water quality and water quantity.

Water Quality

The maintenance of the exceptional water quality of the Wekiva River is dependent upon the balance of a myriad of interrelating environmental factors associated with water quantity, velocity of streamflow, aquatic flora and fauna, surrounding wetlands, upland recharge areas, etc. Activities associated with urban development may affect any or all of these factors and should be closely monitored by all agencies involved.

Wastewater - Zoning within this area of the basin is General Rural with one unit per acre density, permitting the septic tank method of wastewater treatment. Several proposed PUD's with densities of three or

more units per acre, if approved, will require central wastewater facilities. At the present time, insufficient data exists to analyze the impacts of increased sewage disposal through septic tanks, percolation ponds or spray fields on wetlands and the Wekiva River system. Studies are currently in progress to determine septic tank densities that would not have significant effects on the Wekiva River. Further assessments by appropriate agencies are required to establish guidelines to effect wastewater management without detriment to the Wekiva River.

Saltwater Intrusion - The Wekiva Basin lies within an area where the freshwaters of the Floridian aquifer overlie more salty waters, which are remnant of an earlier geologic era when the sea level was much higher than its present level. The top 1,000 feet of the Floridian aquifer generally contains large quantities of potable water. Excessive withdrawals or lack of rainfall for adequate recharge, may induce the upward movement of more salty water from the greater depths. Increased population density would necessitate additional groundwater withdrawals. Rock Springs and Wekiva Springs discharge directly from the Floridian aquifer and any dramatic increases in chloride concentration resulting from increased groundwater withdrawals could negatively affect stream biota. In addition, the quality of potable water now available to residents would be diminished. To date, the hydrological capabilities of the groundwater resources in the Markham/Paota area have not been determined. Hydrological investigations should be performed by appropriate agencies to determine the capabilities of the ground water resource of the area, to provide information for adequately evaluating the water supply potential, and to evaluate possible impacts to the groundwater resource from increased use.

Stormwater Runoff - Excess nutrients (nitrogen, phosphorus) and heavy metals (lead, zinc, copper) in stormwater runoff originate from increases in impervious surfaces associated with residential and commercial development. The degrading properties of runoff waters have been well documented, and the use of retention/detention ponds has become common practice to either prevent the discharge of runoff waters into receiving lakes and streams or to treat them prior to release. The effectiveness of retention/detention ponds in removal of excess nutrients has not been fully investigated. Several system designs require periodic maintenance to maintain their efficiency, which may or may not be performed (the SJWMD is responsible for monitoring the efficiency of such systems). Urban stormwater runoff is presently not a problem in the proposed development area, but as development pressures increase, so will the potential for problems associated with untreated stormwater.

Recreational Pressure

The Wekiva River System along with state and local parks and preserves are a significant recreational resource. Swimming at the spring heads and picnicing are major attractions drawing visitors from throughout Florida. In 1985, over 495,000 people visited Rock Springs at Kelly Park. 225,657 people visited Wekiva Springs State Park in 1985. The entire length of the Wekiva River and Rock Springs Run is a State Canoe Trail and is one of the most heavily canoed trails in the state. Sport fishing is an important recreation to local people and also anglers from other parts of the state.

As a result of all this activity, damage to eel grass beds has been noted in some areas along the spring run and river. Erosion of the stream bed and increased siltation downstreams of these areas can be damaging to the river and its biota. Refuse associated with recreational use has also been observed at many places along the river.

Recreational pressures can only increase as Central Florida continues to develop. An effective management policy must be developed to prevent large-scale disturbances that may be created by over use.

C. Water Quality Goals, Objectives, and Policies

Management Goal

Departmental programs, activities and project review responses will be oriented toward the long term goal of preserving the existing water quality of the Wekiva River in those areas where water quality is excellent and improving the water quality elsewhere.

Objectives concerning data collection and decisional guidelines are established to help achieve this goal and are presented here along with their accompanying policies.

Data Objective

The Department will collect available historic and current data concerning water quality within the aquatic preserve and vicinity and maintain the currency of such data.

Management Policy

a. Field personnel will assemble historic data concerning water quality from the Department of Environmental Regulation, Orange County Pollution Control, Seminole County Environmental Services, St. Johns Water Management District, U.S. Geological Survey, as well as any other sources available.

b. Field personnel will maintain the currency of water quality data in such a manner that it may be readily available for evaluative purposes. Numerical, graphic, and tabular data will be in such forms that it may be readily cross referenced to U.S.G.S. Quad sheets for the Wekiva Basin.

c. Field personnel will prepare for the central Bureau office an annual technical report describing current water quality trends relative to historic baseline data. Technical reports should also identify any particular problem areas, areas requiring close monitoring, short term events affecting water quality, and any other matter of special concern.

d. Central Bureau office staff shall distribute for local government and media use a summary, in non-technical language, of field personnels annual technical report. The summary shall include a one page map depicting boundaries of the aquatic preserve and highlighting specific areas mentioned in the report. The summary shall be distributed at a minimum to the chairmen of the Orange, Lake and Seminole County Commissions and to the offices of the Orlando Sentinel and Sanford

Herald. In addition, the summary and full technical report shall be provided to such persons involved in the preparation or administration of Orange, Lake and Seminole County Comprehensive Plans, and to the office of the East Central Florida Regional Planning Council, the St. Johns Water Management District, and the Department of Environmental Regulation (District Office at Orlando).

e. Field personnel shall suggest to the Central Bureau office staff additional needed information or research which would be of benefit to the long term management of the aquatic preserve. The Central Bureau office staff shall review suggestions and may refer them to appropriate researchers or academic contacts or recommend that the department fund the project.

f. Field staff shall maintain current records of activities that may affect long term water quality. Such data shall include land use and infrastructure considerations, recreational boat and canoe usage, and state and local park and preserve visitation.

Decisional Guideline Objective

Departmental decisions, recommendations, or positions with regard to any current or proposed activity likely to have a measurable impact on the water quality of any part of the Wekiva River Aquatic Preserve shall be promulgated on the basis of non-degradation to overall water quality over time.

Management Policy

a. The probable negative impacts on water quality from the following categories of activities are sufficiently well documented to justify their prohibition anywhere within the aquatic preserve boundary: dredging for fill, dredging for the purpose of creating access to a private dock, placement of underwater utility lines.

b. Any proposed activities which are not prohibited and require the Departments concurrence shall be evaluated on an individual basis. Possible negative impacts identified by evaluation shall require adequate mitigation as a condition of approval.

c. Field personnel shall be responsible for monitoring the condition of any activities authorized by the Department, including compliance with mitigation measures or other specific conditions of approval.

d. The Department may provide general or detailed comments and recommendations concerning impacts to water quality from authorized or proposed activities in the vicinity of the aquatic preserve to appropriate parties.

e. The Department may provide water quality data, maps, and recommended policy language to the governing bodies of Orange, Lake and Seminole Counties supporting the development and administration of comprehensive plans with regard to water resource management, conservation, recreation, land use, stormwater management and infrastructure.

D. Living Natural Resources Goal, Objective and Policies

Management Goal

Departmental programs, activities and project review responses shall be oriented toward the long term goal of maintaining the integrity of existing natural habitats to insure the propagation of plant and animal species.

Objectives concerning data collection and decisional guidelines are established to help achieve this goal and are presented here along with their accompanying policies.

Data Objective

The Department shall collect and maintain information concerning the living natural resources of the Wekiva River System.

a. Field personnel will maintain the currency of the initial baseline species list as established and recorded in the resource inventory file in the central office, adding species as they are confirmed by reliable sources. Rare species or species in decline shall be noted in the lists with specific reference to their present and former status.

b. Field personnel shall be familiar with current published literature and works in progress pertinent to the living natural resources of the Wekiva River System.

c. Field staff will be aware of natural and manmade alterations that may affect existing plant and animal communities (erosion, storm drainage, disturbance to eel grass beds from canoes and boat propellers).

d. Field staff will prepare a living natural resources map using USGS Quad sheets depicting the location of plant communities and verified or most likely locations of animal species of special interest.

The efficient description and location of resources within such a large area requires the use of remote sensing techniques. This work will be done in conjunction with DNR's Marine Research Laboratory's Assessment of Fishery Habitat Loss Study in the Alligator Habor area. Marine Research Laboratory personnel have developed resource and habitat identification mapping through the use of LANDSAT (satellite) imagery and aerial photography.

The vegetation and land use mapping done in this study will become the basis for the development of a Resource Protection Area management system in the aquatic preserves. This mapping system will identify and classify various resources within the aquatic preserves that require protection by the management program. This mapping system will also give acreage totals for each land use and vegetation classification in the preserves. The vegetation portion of the mapping will be augmented over time by wildlife and fisheries information (endangered species, bird rookeries, etc.), archaeological and historical site information and other resource factors deemed crucial to the continued health and viability of the aquatic preserves.

The onsite managers will supplement this mapping with the above information to develop and update a Resource Protection Area (RPA) mapping program. The RPA mapping system is based on three levels of resource classification. The Class 1 level will contain resources of the highest quality. Uses proposed for these areas will receive the most rigorous review. The Class 1 level will include one or more of the following: marine grassbeds; beaches; saltwater marsh; oyster bars; archaeological and historical sites (upland and submerged); endangered species habitat; colonial water bird nesting sites; and other appropriate factors.

The Class 2 areas will be defined as those areas containing the resources of Class 1, but in a transitional condition compared to Class 1. These resources will either be building toward Class 1 status or declining to Class 3 status. Class 2 areas will require careful field review as to the specific area's sensitivity to each proposed use. In some respects, these areas may be as sensitive or more sensitive to disturbances as Class 1 areas. The resources of Class 2 will include: marine grassbeds; salt marsh species colonizing new lands; and other resources of Class 1 type that fit in the Class 2 condition.

Class 3 areas will be characterized by the general absence of the attributes of the above two classes. Class 3 areas may have small localized Class 1 or 2 areas within them. Class 3 will generally have deep water areas or areas with no significant vegetation or wildlife attributes. Nearshore and bottom areas significantly modified by man will be designated Class 3.

These RPA maps will require periodic revisions as the onsite managers learn more about the resource's reaction to man's uses. Scientific research and

other data additions may also require modification of this system. Natural changes will also require modification of this classification system. Periodic checking by LANDSAT satellite imagery will become useful for remote sensing monitoring as its use is more fully developed.

The RPA maps will become a planning tool for both onsite and central office staff. More detailed field review will still be required to supplement this information on a case by case basis, as necessary.

The initial development, as well as periodic review, will require support and assistance of the many other resource regulating and managing agencies, as well as local and regional government entities. Support will also be requested from the colleges, universities, foundations and other interest groups and individuals.

E. Cumulative Impact Analysis

Cumulative impacts are the sum total of major and minor changes or effects upon a natural system. Taken singularly these effects may not constitute a notable change in the condition of the natural system, but as these single changes or uses accumulate, their combined impact may result in a substantive environmental disturbance or degradation of the natural system.

The review of proposed uses in the aquatic preserve from the perspective of cumulative impact analysis requires a thorough knowledge of the natural system and the various interactions and dynamics within that system. This aquatic preserve management program will initiate development of a cumulative impact

analysis program. The evaluation of cumulative impacts shall include the following criteria from Chapter 18-20, F.A.C.:

(1) The number and extent of similar actions within the preserve which have previously affected or are likely to affect the preserve, whether considered by the Department under its current authority or which existed prior to or since the enactment of the Act; and,

(2) The similar activities within the preserve which are currently under consideration by the department; and

(3) Direct and indirect effects upon the preserve which may reasonably be expected to result from the activity; and

(4) The extent to which the activity is consistent with management plans for the preserve, when developed; and

(5) The extent to which the activity is in accordance with comprehensive plans adopted by affected local governments, pursuant to Section 163.3161, F.S., and other applicable plans adopted by local, state and federal governmental agencies.

(6) The extent to which the loss of beneficial hydrologic and biologic functions would adversely impact the quality or utility of the preserve; and

(7) The extent to which mitigation measures may partially off-set adverse impacts. Proposed mitigation to compensate for damages to resources in the preserve will only be considered when no other reasonable alternatives exist.

The availability of onsite preserve staff who are familiar with the distinctive characteristics of this system, coupled with their ability to access LANDSAT imagery and mapping, and other data sources, is the key to development of a successful cumulative impact analysis program. As cumulative impacts are identified for specific areas and/or resources, they will become an integral part of the project analysis and decision-making process.

Departmental decisions, recommendations, or positions with regard to any proposed or current activity with the potential to impact the living natural resources of the Wekiva River shall be promulgated on the basis of providing maximum protection to existing habitats or encouraging the restoration of essentially natural conditions.

a. The clearing of shoreline vegetation shall be kept to a minimum and allowed only for providing access in those areas where no other alternative exists.

b. Herbicide use in the aquatic preserve shall be limited to those areas threatened by the profileration of exotic plant species. Only those chemicals approved by the U.S. Environmental Protection Agency for wetland and aquatic systems may be used, and only licensed applicants or representatives of state agencies may apply such chemicals.

c. Any state owned islands in the aquatic preserve shall be maintained as bird rookeries and wildlife habitat and may be posted by field personnel as off-limits to human visitors.

d. Evidence of any resource violations shall be reported immediately to staff at Lower Wekiva River State Reserve, Rock Springs Run State Reserve, or the Florida Game and Freshwater Fish Commission.

F. Administrative Goal, Objective and Policies

Administrative Goal

Departmental programs and activities shall be administered in accordance with the long term goal of a well organized, efficient, and coordinated operation which can prioritize immediate and long term needs, work productively with other public agencies, deal fairly with landowners and the general public, and communicate readily with all concerned parties. Objectives concerning operations, communications and future directives are established to help achieve this goal and are presented here along with their accompanying policies.

Operations Objective

Aquatic preserve program operations shall be conducted in such a manner so as to expedite permit reviews and other development or project reviews within a coordinated framework.

Management Policy

a. Central Bureau office staff and field staff shall coordinate their review procedures for permits and all other matters so that any required communication with applicants or other agencies occurs as early in the review process as possible.

b. Departmental determinations, recommendations, or positions with regard to permit applications or other projects under review shall not be any less stringent than pertinent requirements of the Seminole County Comprehensive Plan or the East Central Florida Regional Policy Plan.

c. Field staff shall conduct periodic monitoring of approved permits and projects to ensure compliance with the conditions of the permit.

Communication Objective

Departmental activities shall include a mechanism for regular communication with interested parties regarding aquatic preserve issues with which the Department is involved.

Management Policy

a. Field staff shall be available to make presentations about the Wekiva river and the aquatic preserve program to any interested local, civic or school group.

b. Field and Central Bureau office staff shall initiate and maintain contact with key academic departments and individuals in the state university system to inform them of research needs and opportunities.

Future Directives Objective

Daily administration duties shall include data acquisition and routine work scheduling to accommodate long range program needs in manageable increments.

Management Policy

a. Field personnel shall provide site evaluations and other supporting information for proposed inholding acquisitions or aquatic preserve boundary extentions.

b. Field personnel and Central Bureau office staff shall communicate on a regular basis to insure that work tasks, assignments, and time frames are well coordinated.

c. All goals, objectives and policies applicable to the existing aquatic preserve shall be applicable to boundary extensions or acquired inholdings.

Chapter VI

MANAGEMENT IMPLEMENTATION NETWORK

This chapter of the management plan will address the various relationships of aquatic preserve management to the different government agencies and programs, non-government entities, interest groups, and individuals within the aquatic preserve area. The activities of both field personnel and central office staff as they relate to these other organizations will be presented.

A. FEDERAL

Many federal agencies have property interests, land and wildlife management programs, research activities, construction activities, and regulation programs existing or potentially existing within the aquatic preserve, The objective of the aquatic preserve management program will be to complement the various activities wherever possible. The field personnel will assist those federal agencies in areas where they have common goals. The field personnel and central office staff will also review the federal activities as to their effect on the objectives of the aquatic preserve management. The review shall be coordinated through the DER's Office of Coastal Management for the purposes of enforcing the provisions of the Federal Coastal Zone Management Act of 1972, as amended.

1. United State Fish and Wildlife Service. The Aquatic Preserve program will be involved in the review of proposed preserve uses in conjunction with the

Fish and Wildlife Service. The USFWS reviews dredge and fill requests and other federal level permitting under the Fish and Wildlife Coordination Act.

Another management program in which the field personnel could possibly interact with the Fish and Wildlife Service is the protection and recovery of endangered species and bird rookeries within the aquatic preserve. Field personnel will become involved in using available recovery techniques for this purpose, as necessary.

2. U.S. Army Corps of Engineers. The U.S. Army Corps of Engineers (COE) is charged with providing technical guidance and planning assistance for the nation's water resources development. The COE also provides supervision and direction to many engineering works such as harbors, waterways and many other types of structures. Their major responsibility, as it applies to the aquatic preserve, is the protection of navigable waters, pollution abatement and maintaining water quality and the enhancement of fish and wildlife.

The COE activities in the Wekiva River area include their involvement with the DER in the dredge and fill permitting process, technical oversight of channel, inlet and canal maintenance, and evaluating requests for new channels, canals and other such public works projects. The field personnel will become familiar with the various programs, policies and procedures as they apply to the aquatic preserve.

The field personnel and central office staff will also review activities proposed by the COE for conformance to the objectives of the aquatic preserve management plan. This involvement should begin in the early stages of project

planning in order to facilitate the best protection of the aquatic preserve possible.

3. U.S. Geological Survey. The U.S. Geological Survey (USGS) under the Department of the Interior has the responsibility to perform surveys, investigations, and research pertaining to topography, geology, and the mineral and water resources of the United States. USGS also publishes and disseminates data relative to those preceding activities. In the past the USGS has conducted many studies on various resources in the region.

The field personnel and central office staff will become familiar with these studies and the data results as they apply to their management activities.

4. U.S. Environmental Protection Agency. The U.S. Environmental Protection Agency (EPA), in cooperation with state and local governments, is the federal agency responsible for the control and abatement of environmental pollution. The six areas of pollution within which the EPA is concerned are air, water, solid waste, noise, radiation and toxic substances. The DER is the state agency responsible for handling most of these programs on a state level in lieu of a federal program. Within the aquatic preserve, the field personnel will assist the EPA in planning field activities and where there are common goals.

B. STATE

Many state agencies have programs which affect the resources or regulate activities within the aquatic preserve. There are other DNR programs that are within or affect the Alligator Harbor Aquatic Preserve management.

1. Department of Environmental Regulation. The Department of Environmental Regulation (DER) is the state agency in charge of state-wide regulation of water quality. The DER is also the local contact in the aquatic preserves area for the initiation of dredge and fill applications in conjunction with the COE and DNR. With respect to water quality and dredge and fill regulation, the DER is one of the most important agencies to the management of the aquatic preserve. Maintaining water quality in the preserve is critical to the health of the River, and dredge and fill activities are one of the most potentially destructive activities affecting water qualtiy within the preserve. The DER also monitors and regulates other potential forms of pollution, such as air pollution, wastewater discharges, and hazardous waste, all of which can affect the ability to maintain essential natural conditions.

The field personnel will become familiar with the water quality, dredge and fill, and other regulatory programs that are important to the aquatic preserve. The field personnel should develop a close working relationship with DER staff and become familiar with DER field activities and programs that are in common with the objectives of the aquatic preserve management program. The field personnel should open the most efficient line of communication with the local offices to receive advanced copies of the permit applications from DER to improve the response time within the review process.

The DER, Office of Coastal Management is charged with coordinating activities related to coastal management in the state and reviewing federal actions for consistency with the State Coastal Management program, Section 380.20, F.S.

The central office staff will maintain a close relationship with the Office of Coastal Management for assistance in the review of federal actions, data and research needs, and other program support.

2. Department of Community Affairs. The Department of Community Affairs (DCA) is responsible for determining Developments of Regional Impact (DRI) and for recommending to the Administration Commission Areas of Critical State Concern (ACSC). DRI's are major developments that have impacts on a scale which is greater than county level and require a regional review from neighboring local governments and state agencies. Both the central office staff and field personnel of the aquatic preserve program will be involved in reviewing DRI's. The field personnel should receive notice of a DRI through the central office staff and will proceed with the field review. The central office staff will coordinate the field review findings and work with the other state agencies in Tallahassee in the review of the DRI.

The ACSC program is intended to protect the areas of the state where unsuitable land development would endanger resources of regional or statewide significance. When an area is identified as a possible ACSC, a Resource Planning and Management Program (RPMP) is established. The RPMP evaluates the resources, and the local government's land development practices. After this evaluation is complete, the RPMP committee makes recommendations to the local governments on how their land development practices could be improved to ensure an orderly land well-planned growth that would protect the critical resources. When these modifications are not made to the RPMP committee's approval, areas of local government that are not in conformance could be

designated an ACSC or the entire area may be designated an ACSC by the Legislature. The Wekiva River Aquatic Preserve area is not currently designated an ACSC.

3. Department of Natural Resources. The aquatic preserve management program is associated with several other Department of Natural Resource (DNR) programs in the Wekiva River area.

DNR's Marine Research Laboratory in St. Petersburg, under the Division of Marine Resources, has several studies and programs ongoing statewide involving Fisheries habitat loss which will benefit the aquatic preserve program. The Resource Protection Area mapping developed as part of these studies will also be used in the management of Wekive River aquatic preserve. The data currently available from these studies are incorporated into this management plan.

The Division of State Lands within the DNR is charged with overseeing uses, sales, leases or transfers of state-owned lands. The aquatic preserve staff will interact with State Lands in all transactions concerning submerged lands within the aquatic preserve. These would include the potential acquisition of privately titled submerged lands or contiguous uplands important to the integrity of the preserve.

The Division of Resource Management, through the Bureau of Aquatic Plant Research and Control, is responsible for various aquatic plant programs potentially affecting the aquatic preserve. Staff will establish

communication links with this Division to ensure that adequate consideration is given to potential impacts upon the preserve that may result from the conduct of their various programs.

The Division of Recreation and Parks, in addition to the work related to aquatic preserves by BLARM and the Florida Park Service, is also involved in the management of State parks and recreation areas nearby. The aquatic preserve program will work closely with these programs as they relate to aquatic preserve management objectives.

4. Florida Game and Fresh Water Fish Commission. (GFWFC) The GFWFC's Environmental Services office in Tallahassee sends biologists into the preserve to review projects which may have potential impacts on local fish and wildlife habitat as necessary. The central office will use the GFWFC's assistance in their review process, when possible, and in developing fish and wildlife management for the aquatic preserve.

The GFWFC also has law enforcement officers working in this area. The field personnel will interact with these officers where there are common goals of protecting wildlife and other resources within the Wekiva River.

The GFWFC is also the state coordinator of the Non-Game Wildlife and the Endangered Species Programs in Florida. The Field personnel and central office staff will work with GFWFC personnel in developing program needs in this area.

5. Department of Transportation. (DOT) The DOT has its State headquarters office in Tallahassee and District office in Orlando, and the aquatic preserve field personnel and the central office will work with the resident engineer on anticipated projects having possible impacts on the aquatic preserve. The field personnel and administrative staff will review any major highway or bridge projects that may be proposed in the future.

6. Department of State. The Division of Archives, History and Records Management (DAHRM) in the Department of State will have a close working relationship with the field personnel and central office staff in the protection of archaeological and historical sites. The field personnel will be directed by DAHRM, through the central office, in any activities or management policy needs for these sites.

7. Health and Rehabilitative Services. (HRS) Both the central office staff and field personnel will establish communication and coordination linkages with HRS and their locally conducted programs of septic tank regulation and mosquito control. Although mosquito control serves a useful public function, the effects of pesticides (adulticides and larvacides) in the waters of the preserve are a primary concern. Additionally, the central office staff will become involved in future meetings and management programs developed by the Governor's Working Group on mosquito control. Subsequent policy recommendations coming out of this group will be evaluated for applicability to the ongoing aquatic preserve management program.

C. REGIONAL

The regional level of the management implementation network as it applies to the Wekiva River Aquatic Preserve will include the St. John River Water Management District and The East Central Florida Regional Planning Council. These organizations have activities that are broader than the local government, but are on a smaller scale than the state level.

1. Water Management District. The St. John River Water Management District includes Lake, Volusia and Seminole Counties. The water management district administers permitting programs for consumptive water use, management and storage of surface waters well drilling and operation, regulation of artificial recharge facilities, and works of the district. This includes the withdrawal and use of water from rivers, streams, and wells. The types of water uses they permit in the preserve area include irrigation and public water supply. The field personnel will become familiar with the review and permitting procedures as they might apply to water supply in this basin. The water management district is also involved in various studies on water supply and management, and other related research that may be of use to aquatic preserve management.

2. Regional Planning Councils. The East Central Regional Planning Council (ECRPC) serves as a regional planning body for the local governments of Lake, Volusia and Seminole Counties. Other east central Florida counties are served by these regional planning councils, as well. Among its duties, the ECRPC:

a. aids local governments with planning expertise;

b. is the regional representative for the Development of Regional Impact (DRI) review process;

c. serves as regional clearinghouse for state and federal projects and programs;

e. conveys information from the local governments to the state and federal levels; and

f. prepares and administers the regional policy plan.

The field personnel will become familiar with the various projects, programs, and data sources that the ECRPC has within their administration that may affect or prove useful to the aquatic preserve program.

The DRI review of projects which affect the aquatic preserves will be reviewed by the central office staff, with the field personnel's field review, when necessary. DRI's for large marinas, large subdivisions on the uplands above the preserve, and commercial or industrial developments will require a field review by the field personnel as to their effect on the aquatic preserve.

D. Local Governments and Special Districts

This section will address the relationship of the aquatic preserve management program to the various local government agencies, special districts and their

programs. The local governments for Wekiva River Aquatic Preserve involve Lake, Seminole and Orange Counties. The various special districts (drainage and mosquito control) and their relationship to aquatic preserve management, are also presented.

The field personnel will be the local liaison for the aquatic preserve to these local government entities to assist them in modifying their policies and practices to conform to the objectives of the aquatic preserve's management plan, and to exchange information and expertise for mutual benefits.

1. Relationship to local management plans: Local (municipal and county) governments are required by the Local Government Comprehensive Planning Act of 1975 (Section 163.3161, F.S.) [as ammended by Chapter 85-55, Laws of Florida, to the Local Government Comprehensive Planning and Land Development Regulation Act] to update their local plans and among other requirements adopt land development regulations and improve coastal management protection. The coastal management element of the LGCP along with the land use and conservation elements establishes long range plans for orderly, and balanced development, with particular attention to the identification and protection of environmental resources in the planning area. Conformance with the criteria, policies and practices of a local government comprehensive plan is required for all development within the local governmental jurisdiction.

The intent of the aquatic preserve management program and this plan is to guide Lake, Volusia and Seminole governments during their comprehensive planning toward developing local plan criteria and standards to be consistent

with the objectives of the aquatic preserve program. Field personnel will become acquainted with local planning efforts and local officials and lend assistance for this purpose.

2. Relationship to local development codes. The local zoning and development codes (e.g. building codes) provide the major local regulation that defines what an owner can do on a particular parcel of property. The zoning prescribes the allowable uses and the intensity of those uses. Certain uses along an aquatic preserve can potentially have a profound effect on a preserve.

This section will operate in conjunction with the preceding section on local management plans. The field personnel will become familiar with the local zoning, development codes and their potential effects on the nearby aquatic preserve. The field personnel will assist local planning and zoning officials in identifying areas where changes in zoning would better conform to the objectives of environmental protection for the aquatic preserve management. The field personnel will also offer to assist local planning and zoning officials in the review of proposed subdivisions upland of the preserve.

3. Special Districts (Drainage, Inlet and Mosquito Control). The special districts are taxing districts established to correct drainage and mosquito control problems. Lake, Volusia and Seminole Counties have mosquito control districts.

These districts may not have an official comprehensive management plan, but they do have management policies and program statements that are similar to

such a plan. The field personnel will become familiar with these policies and the activities of these districts and will monitor their effect on the aquatic preserve. For example, the field personnel might recommend identifying areas that should not receive mosquito spraying or other alternative management because of remoteness to inhabited areas and because of possible damage to the resources of the aquatic preserve; or drainage districts might be asked not to use certain types of herbicides or to use them only at certain times of the year.

E. Other Entities

This section will apply to the numerous entities that have an interest in the aquatic preserve but are non-governmental agencies. They include the environmental interest groups (i.e., Friends of Wekiva River, Inc., Audubon Society, Sierra Club, Plant Society, and others), universities and the fishing and sporting groups. The relationship of these entities to aquatic preserve management might include the coordination of activities, such as scientific research, environmental education, management of rookeries or other natural areas, or numerous other possible activities. A worthwhile aquatic preserve management process will depend on the continued support and help of these interest groups in all of the aquatic preserves. The field personnel will be active in communicating the aquatic preserve management process and activities to the various groups and consulting with them for their help in their areas of expertise.

Chapter VII

PUBLIC USES

This chapter addresses the public use of the aquatic preserve. The public in this case shall refer to the general public or those persons without riparian rights. The "Florida Aquatic Preserve Act of 1975" (Section 258.35, F.S.) allows for the lawful and traditional public uses of the aquatic preserve, such as sport fishing, boating and swimming (as adapted from Section 258.43[1], F.S.) These and other traditional uses that do not involve a commercial intent or the use of a riparian right to place a structure in the preserve, and do not degrade or otherwise destroy the preserve will be considered public uses. This section will be further divided into consumptive and non-consumptive uses as applicable to each resource.

A. Consumptive Uses.

Consumptive uses involve the removal of resources from the preserve. These uses include fishing, hunting, shellfishing, and other related activities. They also include the unintentional removal of resources by propeller damage to grassbeds. The management of these uses (see Chapter V, Resource Management, Section B: Onsite Management Objectives) will include the observation and monitoring of the effects of these uses on the resources. The field personnel will periodically assess the impacts through the use of the Marine Research Laboratory's LANDSAT capabilities for habitat losses or disturbances in the Wekiva River area plus any other studies or data sources that might

become available. This management will also include the protection of the resources from unlawful or excess practices of these uses. The legality of these uses will be controlled by existing applicable state laws and local ordinances. Field personnel, for example, will become familiar with and monitor the success of rules adopted by the Game and Freshwater Fish Commission. These will include regulations on fishing gear, bag and size limits, closed areas, seasons, etc.

Consumptive uses will also be monitored for their effect on other resources (e.g., bird rookeries, grassbeds, archaeological and historical sites). The field personnel will also be sensitive to additional enforcement needs (i.e., the need for additional enforcement staff during nesting seasons).

B. Non-consumptive Uses.

These uses are those which do not generally remove resources from the preserve. Examples of these uses include swimming, diving, boating, bird-watching and other related activities. The management practices involved with these uses will be the same as those previously described under Section A., except that these uses are not generally controlled by law. The guiding principle in these cases will be whether or not the activity causes a disruption of the preserve's resources (e.g., destroys grassbeds, or disturbs rookeries). Only in the event of these disruptions will the field personnel become involved. Some of these uses may possibly be involved in environmental education programs (Chapter XI).

Chapter VIII

PRIVATE NON-COMMERCIAL USES

This section will apply to those private, non-commercial uses which are associated with riparian land ownership. The management of the aquatic preserve recognizes the traditional riparian rights of upland property owners. The right of ingress, egress, boating, swimming, fishing and other incidental uses of sovereignty lands, historically has allowed for the placement of certain structures, such as docks, within the preserve. The right to make any preemptive use of sovereign lands is a qualified one and can only be exercised with the prior consent of the Board after a finding that such uses will not impair public uses, or destroy or damage areas of environmental significance. The review of proposed activities will require the interaction of the Resource Protection Area mapping with administrative and possible field review and later monitoring by field personnel as projected by Chapter V., Section B.

Private non-commercial uses shall be designed to avoid critical Resource Protection Areas (Class 1 and 2) and shall be designed to reduce the uses' impact to the preserve in general. Individual applications for these private non-commercial uses shall be reviewed by the applicable Resource Protection Area Map and criteria. In addition, private dock proposals will be reviewed by the criteria described in Section 18-20.04(5) F.A.C. of the revised Aquatic Preserve Rule.

Seawalls should be placed, when allowed, in such a way as to be the least destructive and disruptive to the vegetation and other resource factors in

each area. Approved uses which do disrupt or destroy resources on state-owned lands will require mitigation. This mitigation will include restoration by the applicant or other remedy which will compensate for the loss of the affected resource to the aquatic preserve.

Dredging within the aquatic preserve shall be held to a minimum. Dredging proposals shall be reviewed according to the procedures in Chapter V depending on the proposed activities location within the RPA. Proposals within Class 1 areas (Chapter V[B][6]) will be scrutinized to the maximum extent in order to find the best practicable method of development and location if that use is acceptable in that particular area of the preserve. The mitigation of lost or disturbed resources shall be required. There shall be no dredging allowed in Class 1 or 2 areas or in nearby areas if it will adversely impact these areas.

The location of proposed multiple docking facilities, such as for condominium developments, shall be based on the marina siting criteria described in Section 16Q-20.04(5) F.A.C. of the revised General Aquatic Preserve Rule.

Authorization of such facilities will be conditioned upon receipt of documentation evidencing the subordination of the riparian rights of ingress and egress for the remainder of the applicant's shoreline for the life of the proposed docking facility.

Non-residential docking facilities (commercial) are addressed in Chapter IX. The use of airboats within this preserve is seen as a non- traditional use and this activity is discouraged due to the background noise they create.

Applications for airboats use within the preserve will be reviewed on a case by case basis. Their use will only be recommended where the activity will not affect resource protection areas, or the other natural and aesthetic values of the preserve, or when required in law enforcement efforts

Chapter IX

COMMERCIAL USES

This section addresses the variety of traditional and non-traditional (i.e., new uses in this area) commercial uses which might occur within the aquatic preserve. Among the traditional uses in the Wekiva River area are utility crossings, marinas and commercial uses.

A. TRADITIONAL COMMERCIAL USES

1. Utility Crossings. There are at present time both aerial and underwater utility crossings in the aquatic preserve. Future proposals should be designed so the preserve is crossed by the least destructive method in the least vulnerable areas according to the RPA maps (Chapter V[C]). Increased or additional use of any existing utility crossings is preferable, if their condition at the time of the proposal is acceptable. The field personnel should eventually develop a utility crossing plan for all areas with anticipated utility crossing needs to allow for advance planning, for placement of these crossings in the best environmental location possible. The utility crossing plans, when completed, will become a part of this plan. Crossings should be limited to open water areas to minimize disturbance to grassbeds or other critical habitat areas and should not interfere with traditional public uses.

2. Marinas. The locating of marinas and their related uses will be a major concern of the Wekiva River Aquatic Preserve management. Marinas represent a

use with many potential impacts on the preserve's resources. The siting policy of Section 18-20.04(5) F.A.C. of the revised General Aquatic Preserve Rule shall be used for siting marinas in the aquatic preserves.

3. Other Docking. Any other type of commercial docking, not mentioned in the preceding sections, will follow the marina siting policy as stated in Section 18-20.04(5) F.A.C. of the revised General Aquatic Preserve Rule.

B. Non-traditional Commercial Uses

1. Deep Water Port Facilities. There are no facilities of this type within the Alligator Harbor Aquatic Preserve at the present time. New deep water port facilities within the preserve boundary shall be prohibited.

2. Power Plants. Power plants have the potential for causing major changes in the air quality, water quality, and plant and animal life of the aquatic preserve. For these reasons, they are incompatible with the purposes of this aquatic preserve. The location of proposed power plants upstream of a preserve should also be evaluated as to the effects on the downstream preserve.

3. Other Uses. Any other use that qualifies as a commercial use of state-owned submerged lands not mentioned above will require a review for its anticipated impact on the aquatic preserve and the best location for the activity compatible to the resource protection areas within each preserve.

Chapter X

SCIENTIFIC RESEARCH

The field personnel attached to the Wekiva River Aquatic Preserve should serve as the area coordinators of scientific research in the preserves. Scientific research, and any other type of research or testing within the aquatic preserve, should require the clearance of both the field personnel and the central office staff before these activities can proceed. Certain activities could be detrimental to the resources of the preserve and should be carefully reviewed before allowing them to occur. Factors including location, specific procedures, and time of year, should be carefully reviewed for the possible disturbance or effect of the research on the other resources of the aquatic preserve. The field personnel will be aware of the possibility of working with other government agencies, colleges, universities, research foundations and government programs to fill the data needs of the aquatic preserve (see Chapter V and XII). The field personnel will assist in the selection of possible test sites and other research needs within the preserve.

Chapter XI

ENVIRONMENTAL EDUCATION

The aquatic preserve should be used to enhance environmental educational programs at every opportunity. The goal of maintaining the aquatic preserve for the benefit of future generations can begin to be realized through the use of aquatic preserves for environmental education. Through education, the youth of Seminole, Lake and Volusia Counties can acquire a knowledge of the natural systems and an appreciation for the aquatic preserve program.

The field personnel will, through their normal activities in the aquatic preserve, select good examples of habitats and resources within these aquatic environments for use during educational group tours. This might include the development of environmental educational boat or canoe tours through the preserves. Other educational activities might also include prepared presentations for specific interest or user groups such as sport (boating, diving, fishing, etc.), civic and conservation groups and the development of a brochure outlining the major points of management within the preserve. These brochures could then be circulated to the various user groups. The field personnel will also prepare programs on the value of management activities of the aquatic preserve for presentation to interested groups of all ages. Educating the public about aquatic preserve management is the key to the success and future of the preserve.

The environmental education activities of the Wekiva River Aquatic Preserve may be coordinated with the public information and education program of the Rock Springs Run State Reserve. The educational goals of the preserve and reserve are similiar. A cooperative effort between both programs and a sharing of resources would strengthen the educational impact of each. Educating the public about estuarine and related resources is the key to the success and future of the preserve.

Chapter XII

IDENTIFIED PROGRAM NEEDS

This chapter of the management plan will address the various internal program needs that are expected to be identified during management activities. Meeting these needs will correct or generally relieve some stress on the preserve or the personnel involved in the management of the aquatic preserve. These needs may, in some cases, require legislative or administrative rule changes or acquisition of critical areas by the State. The need to identify problem areas and adjust the management plan in a manner that will positively address these problems and management needs is an essential element of any good management program. Both field personnel and central office staff will continually monitor the management plan implementation process and specifically identify observed program needs and problems. The areas to be considered include, but are not limited to:

A. acquisition of additional property,
B. boundary problems,
C. legislative needs,
D. administrative rule changes,
E. data needs,
F. resource protection capabilities, and
G. funding and staffing needs.

A. Acquisition of Additional Property

There are areas both within and upland of the aquatic preserve that are in public ownership under the jurisdiction of various local, state and federal agencies. Many of these lands contain important resources, such as bird rookeries, archaeological or historical sites, endangered species habitat, and freshwater source wetlands as well as other wetlands. The protection of these areas is necessary to the wilderness preserve designation areas. Formal management agreements, memoranda of understanding, etc. that will ensure the compatible management of these areas will be developed. Other areas within or adjacent to the preserve that are in private ownership should be closely examined to determine the advisability of bringing them into public ownership. The acquisition of these lands might act as a buffer to critical resources, prevent development of sensitive areas, allow the restoration of areas adversely affected by previous development or allow removal of disrupting uses within a preserve. The field personnel, during normal management activities, should be aware of significant upland areas and sovereign land conveyances which, if developed, would compromise the integrity of the aquatic preserve. The field personnel will keep a running record of these areas and will prioritize these areas for possible public acquisition.

B. Boundary Problems and Systems Insufficiencies

The boundaries of the aquatic preserve are often political lines or artificial delineations of the natural systems within and surrounding the preserves. The field personnel, in their normal management activities, will be sensitive to

the possible need for boundary modifications in areas where resources would be better protected. Potential boundary changes might include areas adjacent to the present boundary or previously conveyed sovereign lands. Any boundary change will require legislative approval.

C. Legislative Needs

Management needs could involve changes in the legislation pertaining to aquatic preserves or changes in the other statutes upon which aquatic preserve management is based. These changes may include boundary realignments or the strengthening of certain management authorities.

D. Administrative Rule Changes

Administrative rule statements addressing the organization, procedures and practices used in the implementation of aquatic preserve management plans and policies. This process includes identifying problems within the Department of Natural Resources, as well as other agencies, that affect the management of the preserve.

E. Data (Information) Needs

The field personnel and central office staff will note data needs and promote research or other means to fulfill them. Data needs in the near future could possibly be supplied by such ongoing projects as the U.S. Geological Survey's, and Northwest Florida Water Management District studies, Department of Environmental Regulation water quality monitoring or by the research of other

agencies. The field personnel will be aware of data needs as they interact with the various levels of government and with other entities. These data needs might include additional mapping, ownership information, water quality data or any other data. The major suppliers of data will probably be other public agencies that are conducting programs in and around the preserve. Other potential sources of data are the colleges and universities that have, in the past, conducted research projects in the area.

F. Resource Protection and Enforcement Capabilities

As the problems associated with increasing population create changes in the Wekiva Area, additional research will be necessary to determine the impact of those changes, and to aid in preparing planning and management strategies to limit detrimental effects on the river ecosystem.

An important factor in the evaluation process is the availability of data pertinent to the situation. Water quality and water quantity data have been collected at various stations in the Wekiva River system for many years by at least five agencies. This data is available through the EPA retrieval system "STORET." Additional information on the Wekiva River is available in the form of various water quality reports, agency files, and other environmental reports.

To date, no one agency has a complete file on the available information concerning the Wekiva River System. A comprehensive compilation of available information on the Wekiva River system and the accessibility of the body of information is fundamental to the adequate assessment of future developments

and trends. A complete inventory of the Wekiva River System would aid in determining the ecological tolerance of the ecosystem and also render a more accurate profile of the cumulative effects of various factors on the system. This type of research is particularly identified in the departments Agency Functional Plan as a priority, for without reliable data the concept of cumulative impact analysis is more a theoretical construct than a useful decision making tool.

Another area of importance that requires additional research is related to disturbances to eel grass communities. As boat traffic and canoe activities increase, disturbances to eel grass beds and erosion will also increase. Baseline data, including mapping of eel grass communities, and eroded and problem areas on USGS Quads, is essential for the development of management strategies to offset further damage.

Several interrelated issues concerning intensified land use within the Wekiva Basin require additional research: water supply, wastewater treatment, effluent disposal, and stormwater drainage. Major planning issues related to water resources and infrastructure support presently confront northwestern Seminole County. Without adequate research, planning, and management, the cumulative effects to the Wekiva Basin can be highly detrimental.

G. Funding and Staffing Needs

In the past, the aquatic preserve program has been largely dependent on federal coastal zone management grant funds for its operation, and as a result, the funding of both field positions and central office positions has

been limited. The 1986 Florida Legislature has changed this situation by authorizing 11 positions, most of which will be field positions. A field position for an aquatic biologist has been designated for the Wekiva River Aquatic Preserve, and should be active by December 1986.

A budget covering projected staff time, equipment, travel, and other expenses is shown below. The budget required is to fulfill the short range needs of the Wekiva River as described in this management plan, and also to insure the fulfillment of the midrange Department goal of on-site management for all aquatic preserves by 1991, as expressed in the Agency Functional Plan.

1986-87 Fiscal Year Budget
for the
Wekiva River Aquatic Preserve Management

Salary (Environmental Specialist II) and Overhead	$ 27,290
(OPS Employment)	8,320
Operating Capital Outlay	14,000
Expenses	1,500
TOTAL	$ 51,110

Staff will annually develop an implementation status report that will contain a summary of identified management needs and suggested measures to be taken in meeting these needs.

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CONTENTS OF APPENDICES

A. Florida Aquatic Preserve Act of 1975 (§ 258.35-258.46, F.S.)

B. Administrative Rules for Florida's Aquatic Preserve (§ 18-20, F.A.C.)

C. Administrative Rules for Florida Sovereignty Submerged Lands Management (§ 18-21. F.A.C.)

D. Legal Description of Wekina River Aquatic Preserve

use of such areas.
History.—s. 12, ch. 70-355; s. 1, ch. 70-439; s. 8, ch. 77-126; s. 1, ch. 82-46; s. 2, ch. 83-265.
[1]Note.—Repealed effective October 1, 1989, by s. 1, ch. 82-46, as amended by s. 2, ch. 83-265, and scheduled for review pursuant to s. 11.611 in advance of that date.

258.29 Atlas of areas.—The Department of Natural Resources shall maintain an atlas of wilderness areas, on maps of suitable scale.
History.—s. 13, ch. 70-355; s. 1, ch. 70-439; s. 9, ch. 77-126.

258.30 Rules and regulations.—The Department of Natural Resources shall adopt rules and regulations prescribing a uniform set of general management criteria covering all wilderness areas.
(1) No alteration of physical conditions within a wilderness area shall be permitted except to provide:
(a) Minimal use facilities, such as hiking trails, pit toilets, manually operated water pumps, and primitive camp sites; and
(b) Minimum management facilities, which may include boundary fences and unimproved vehicle trails for control purposes and emergency access.
(2) The following are specifically prohibited activities or uses:
(a) Dredging and dredge spoil dumping;
(b) Artificial drainage or impoundments;
(c) Farming;
(d) Clearing of land;
(e) Dumping of wastes;
(f) Mining;
(g) Pesticide spraying, except emergency measures required to protect public health and spraying for forestry disease control;
(h) The use of motorized vehicles on land or water, except for emergencies or valid management purposes; and
(i) Removal of timber, except to restore original plant communities.
(3) All human activity within each wilderness area shall be subject to special rules and regulations for implementing the intent and purpose of ss. 258.17-258.32 for the particular area involved.
(4) Other uses of a wilderness area, or human activity within the area, although not originally contemplated, may be permitted by the department, but only after a formal finding of compatibility made by the department, and subject to regulation.
History.—s. 14, ch. 70-355; s. 1, ch. 70-439; s. 10, ch. 77-126; s. 115, ch. 79-400.

258.31 Signs and markers.—Wilderness areas shall be identified by appropriate signs and boundary markers.
History.—s. 15, ch. 70-355.

258.32 Withdrawal of lands from system.—Except pursuant to s. 258.23(2)(b), no part of any wilderness area may be withdrawn from the state wilderness system except by resolution of the Department of Natural Resources and only after notice of such proposed withdrawal is published in each county in which the area affected is located, in the manner prescribed by law and after a public meeting is held, if requested.
History.—s. 16, ch. 70-355; s. 2, ch. 72-309; s. 11, ch. 77-126.

258.331 Penalty for violation of ss. 258.17-258.32.—Any violation by any person, natural or corporate, of the provisions of this act or any rule or regulation issued hereunder shall be punishable by a fine not to exceed $500 per violation.
History.—s. 12, ch. 77-126.

258.332 Construction of ch. 77-126, Laws of Florida.—Nothing in this act shall be construed so as to prevent the lawful management of water resources by any water management district created pursuant to chapter 373, or so as to divest any lawful rights acquired prior to the effective date of this act.
History.—s. 13, ch. 77-126.

PART III

AQUATIC PRESERVES

258.35 Short title; ss. 258.35-258.394 and 258.40-258.46.
258.36 Legislative intent.
258.37 Definitions.
258.38 Types of aquatic preserves.
258.39 Boundaries of preserves.
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258.45 Provisions not superseded.
258.46 Enforcement; violations; penalty.

258.35 Short title; ss. 258.35-258.394 and 258.40-258.46.—Sections 258.35-258.394 and 258.40-258.46 shall be known and may be cited as the "Florida Aquatic Preserve Act of 1975."
History.—s. 1, ch. 75-172.

258.36 Legislative intent.—It is the intent of the Legislature that the state-owned submerged lands in areas which have exceptional biological, aesthetic, and scientific value, as hereinafter described, be set aside forever as aquatic preserves or sanctuaries for the benefit of future generations.
History.—s. 1, ch. 75-172.

258.37 Definitions.—As used in ss. 258.35 through 258.46:
(1) "Aquatic preserve" means an exceptional area of submerged lands and its associated waters set aside for being maintained essentially in its natural or existing condition.
(2) "Biological type" means an area set aside to promote certain forms of animal or plant life or their supporting habitat.

(3) "Aesthetic type" means an area set aside to maintain certain scenic qualities or amenities.

(4) "Scientific type" means an area set aside to maintain certain qualities or features which have scientific value or significance.

(5) "Board" means the Board of Trustees of the Internal Improvement Trust Fund.

line of said creek to its intersection with the southerly right-of-way of Hall Road; thence proceed westerly along said right-of-way to the westerly ordinary high water line of Sykes Creek; thence southerly along said ordinary high water line to its intersection with the ordinary high water line of Newfound Harbor; thence proceed

an rights and is consistent with the preservation of the exceptional biological, aesthetic, or scientific values which the aquatic preserve was created to protect.

(8) Indian River-Vero Beach to Fort Pierce Aquatic Preserve, as described in the Official Records of Indian River County in Book 368, pages 9-12, and in the Official Records of St. Lucie County in Book 187, pages 1083-1086.

(9) Jensen Beach to Jupiter Inlet Aquatic Preserve, as described in the Official Records of St. Lucie County in Book 218, pages 2865-2869.

(10) Loxahatchee River-Lake Worth Creek Aquatic Preserve, as described in the Official Records of Martin County in Book 320, pages 193-196, and in the Official Records of Palm Beach County in Volume 1860, pages 806-809, and the sovereignty submerged lands lying within the following described boundaries: Begin at the intersection of the easterly mean high water line of the North Fork of the Loxahatchee River with the northerly mean high water line of the Loxahatchee River, being in Section 36, Township 40 South, Range 43 East, Palm Beach County: Thence proceed easterly along the northerly mean high water line of the Loxahatchee River to the westerly right-of-way of U.S. Highway 1; thence proceed southerly along said right-of-way to the southerly mean high water line of said river; thence proceed easterly along the southerly mean high water line of said river to its intersection with the easterly mean high water line of the Lake Worth Creek; thence proceed northwesterly crossing the Loxahatchee River to the point of beginning: And also: Commence at the southwest corner of Section 16, Township 40 South, Range 42 East Martin County; thence proceed north along the west line of Section 16 to the mean high water line of the Loxahatchee River being the point of beginning: Thence proceed southerly along the easterly mean high water line of said river and its tributaries to a point of nonnavigability; thence proceed westerly to the westerly mean high water line of said river; thence proceed northerly along the westerly mean high water line of said river and its tributaries to its intersection with the westerly line of Section 16, Township 40 South, Range 42 East; thence proceed southerly along the said westerly section line to the point of beginning: And also begin where the southerly mean high water line of the Southwest Fork of the Loxahatchee River intersects the westerly line of Section 35, Township 40 South, Range 42 East: Thence proceed southwesterly along the southerly mean high water line of the Southwest Fork to the northeasterly face of structure #46; thence proceed northwesterly along the face of said structure to the northerly mean high water line of the Southwest Fork; thence proceed northeasterly along said mean high water line to its intersection with the westerly line of Section 35, Township 40 South, Range 42 East; thence proceed southerly along westerly line of said section to the point of beginning.

(11) Biscayne Bay-Cape Florida to Monroe County Line Aquatic Preserve, as described in the Official Records of Dade County in Book 7055, pages 852-856, less, however, those lands and waters as described in s. 258.165.

(12) North Fork, St. Lucie Aquatic Preserve, as described in the Official Records of Martin County in Book 337, pages 2159-2162, and in the Official Records of St. Lucie County in Book 201, pages 1676-1679.

(13) Yellow River Marsh Aquatic Preserve, as described in the Official Records of Santa Rosa County in Book 206, pages 568-571.

(14) Fort Pickens State Park Aquatic Preserve, as described in the Official Records of Santa Rosa County in Book 220, pages 60-63, and in the Official Records of Escambia County in Book 518, pages 659-662.

(15) Rocky Bayou State Park Aquatic Preserve, as described in the Official Records of Okaloosa County in Book 593, pages 742-745.

(16) St. Andrews State Park Aquatic Preserve, as described in the Official Records of Bay County in Book 379, pages 547-550.

(17) St. Joseph Bay Aquatic Preserve, as described in the Official Records of Gulf County in Book 46, pages 73-76.

(18) Apalachicola Bay Aquatic Preserve, as described in the Official Records of Gulf County in Book 46, pages 77-81, and in the Official Records of Franklin County in Volume 98, pages 102-106.

(19) Alligator Harbor Aquatic Preserve, as described in the Official Records of Franklin County in Volume 98, pages 82-85.

(20) St. Martins Marsh Aquatic Preserve, as described in the Official Records of Citrus County in Book 276, pages 238-241.

(21) Matlacha Pass Aquatic Preserve, as described in the Official Records of Lee County in Book 800, pages 725-728.

(22) Pine Island Sound Aquatic Preserve, as described in the Official Records of Lee County in Book 648, pages 732-736.

(23) Cape Romano-Ten Thousand Islands Aquatic Preserve, as described in the Official Records of Collier County in Book 381, pages 298-301.

(24) Lignumvitae Key Aquatic Preserve, as described in the Official Records of Monroe County in Book 502, pages 139-142.

(25) Coupon Bight Aquatic Preserve, as described in the Official Records of Monroe County in Book 502, pages 143-146.

(26) Lake Jackson Aquatic Preserve, as established by chapter 73-534, Laws of Florida, and defined as authorized by s. 253.151 or as otherwise authorized by law.

(27) Pinellas County Aquatic Preserve, as established by chapter 72-663, Laws of Florida; Boca Ciega Aquatic Preserve, as established by s. 258.16; and the Biscayne Bay Aquatic Preserve, as established by s. 258.165. If any provision of this act is in conflict with an aquatic preserve established by s. 258.396, chapter 72-663, Laws of Florida, or s. 258.397, the stronger provision for the maintenance of the aquatic preserve shall prevail.

(28) Estero Bay Aquatic Preserve, the boundaries of which are generally: All of those sovereignty submerged lands located bayward of the mean high-water line being in Sections 13, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 26, 27, 35, and 36, Township 46 South, Range 24 East; and in Sections 19, 20, 28, 29, and 34, Township 46 South, Range 24 East, lying north and east of Matanzas Pass

Channel; and in Sections 19, 30, and 31, Township 46 South, Range 25 East; and in Sections 6, 7, 17, 18, 19, 20, 29, 30, 31, and 32, Township 47 South, Range 25 East; and in Sections 1, 2, 3, 11, 12, 13, 14, 24, and 25, Township 47 South, Range 24 East, in Lee County, Florida. Any and all submerged lands conveyed by the Trustees of the Internal Improvement Trust Fund prior to October 12, 1966, and any and all uplands now in private ownership are specifically exempted from this preserve.

(29) Cape Haze Aquatic Preserve, the boundaries of which are generally: That part of Gasparilla Sound, Catfish Creek, Whiddon Creek, "The Cutoff," Turtle Bay, and Charlotte Harbor lying within the following described limits: Northerly limits: Commence at the northwest corner of Section 18, Township 42 South, Range 21 East, thence south along the west line of said Section 18 to its intersection with the Government Meander Line of 1843-1844, and the point of beginning, thence southeasterly along said meander line to the northwesterly shoreline of Catfish Creek, thence northeasterly along said shoreline to the north line of said Section 18, thence east along said north line to the easterly shoreline of Catfish Creek, thence southeasterly along said shoreline to the east line of said Section 18, thence south along said east line, crossing an arm of said Catfish Creek to the southerly shoreline of said creek, thence westerly along said southerly shoreline and southerly along the easterly shoreline of Catfish Creek to said Government Meander Line, thence easterly and southeasterly along said meander line to the northerly shoreline of Gasparilla Sound in Section 21, Township 42 South, Range 21 East, thence easterly along said northerly shoreline and northeasterly along the westerly shoreline of Whiddon Creek to the east west quarter line in Section 16, Township 42 South, Range 21 East, thence east along said quarter line and the quarter Section line of Section 15, Township 42 South, Range 21 East to the easterly shoreline of Whiddon Creek, thence southerly along said shoreline to the northerly shoreline of "The Cutoff," thence easterly along said shoreline to the westerly shoreline of Turtle Bay, thence northeasterly along said shoreline to its intersection with said Government Meander Line in Section 23, Township 42 South, Range 21 East, thence northeasterly along said meander line to the east line of Section 12, Township 42 South, Range 21 East, thence north along the east line of said Section 12, and the east line of Section 1, Township 42 South, Range 21 East to the northwest corner of Section 6, Township 42 South, Range 22 East, thence east along the north line and extension thereof of said Section 6 to a point 2,640 feet east of the westerly shoreline of Charlotte Harbor and the end of the northerly limits. Easterly limits: Commence at the northwest corner of Section 6, Township 42 South, Range 22 East, thence east along the north line of said Section 6 and extension thereof to a point 2,640 feet east of the westerly shoreline of Charlotte Harbor and the point of beginning, thence southerly along a line 2,640 feet easterly of and parallel with the westerly shoreline of Charlotte Harbor and along a southerly extension of said line to the line dividing Charlotte and Lee Counties and the end of the easterly limits. Southerly limits: Begin at the point of ending of the easterly limits, above described, said point being in the line dividing Charlotte and Lee Counties, thence southwesterly along a straight line to the most southerly point of Devil Fish Key, thence continue along said line to the easterly right-of-way of the Intracoastal Waterway and the end of the southerly limits. Westerly limits: Begin at the point of ending of the southerly limits as described above, thence northerly along the easterly right-of-way line of the Intracoastal Waterway to its intersection with a southerly extension of the west line of Section 18, Township 42 South, Range 21 East, thence north along said line to point of beginning.

(30) Wekiva River Aquatic Preserve, the boundaries of which are generally: All the state-owned sovereignty lands lying waterward of the ordinary high-water mark of the Wekiva River and the Little Wekiva River and their tributaries lying and being in Lake, Seminole, and Orange counties and more particularly described as follows:

(a) In Sections 15, 16, 17, 20, 21, 22, 27, 28, 29, and 30, Township 20 South, Range 29 East. These sections are also depicted on the Forest City Quadrangle (U.S.G.S. 7.5 minute series-topographic) 1959 (70PR); and

(b) In Sections 3, 4, 8, 9, and 10, Township 20 South, Range 29 East and in Sections 21, 28, and 33, Township 19 South, Range 29 East lying north of the right-of-way for the Atlantic Coast Line Railroad and that part of Section 33, Township 19 South, Range 29 East lying between the Lake and Orange County lines and the right-of-way of the Atlantic Coast Line Railroad. These sections are also depicted on the Sanford SW Quadrangle (U.S.G.S. 7.5 minute series-topographic) 1965 (70-1); and

(c) All state-owned sovereignty lands, public lands, and lands whether public or private below the ordinary high-water mark of the Wekiva River and the Little Wekiva and their tributaries within the Peter Miranda Grant in Lake County lying below the 10 foot m.s.l. contour line nearest the meander line of the Wekiva River and all state-owned sovereignty lands, public lands, and lands whether public or private below the ordinary high-water mark of the Wekiva River and the Little Wekiva and their tributaries within the Moses E. Levy Grant in Lake County below the 10 foot m.s.l. contour line nearest the meander lines of the Wekiva River and Black Water Creek as depicted on the PINE LAKES 1962 (70-1), ORANGE CITY 1964 (70PR), SANFORD 1965 (70-1), and SANFORD S.W. 1965 (70-1) QUADRANGLES (U.S.G.S. 7.5 minute topographic); and

(d) All state-owned sovereignty lands, public lands, and lands whether public or private below the ordinary high-water mark of the Wekiva River and the Little Wekiva River and their tributaries lying below the 10 foot m.s.l. contour line nearest the meander line of the Wekiva and St. John's Rivers as shown on the ORANGE CITY 1964 (70PR), SANFORD 1965 (70-1), and SANFORD S.W. 1965 (70-1) QUADRANGLES (U.S.G.S. 7.5 minute topographic) within the following described property: Beginning at a point on the south boundary of the Moses E. Levy Grant, Township 19 South, Range 29 East, at its intersection with the meander line of the Wekiva River; thence south 60½ degrees east along said boundary line 4,915.68 feet; thence north 29½ de-

grees east 15,516.5 feet to the meander line of the St. John's River; thence northerly along the meander line of the St. John's River to the mouth of the Wekiva River; thence southerly along the meander line of the Wekiva River to the beginning; and

(e) All state-owned sovereignty lands, public lands, and lands whether public or private below the ordinary high-water mark of the Wekiva River and the Little Wekiva River and their tributaries within the Peter Miranda Grant lying east of the Wekiva River, less the following:

1. State Road 46 and all land lying south of said State Road No. 46.

2. Beginning 15.56 chains West of the Southeast corner of the SW 1/4 of the NE 1/4 of Section 21, Township 19 South, Range 29 East, run east 600 feet; thence north 960 feet; thence west 340 feet to the Wekiva River; thence southwesterly along said Wekiva River to point of beginning.

3. That part of the east 1/4 of the SW 1/4 of Section 22, Township 19 South, Range 29 East, lying within the Peter Miranda Grant east of the Wekiva River.

(f) All the sovereignty submerged lands lying within the following described boundaries: Begin at the intersection of State Road 44 and the westerly ordinary high water line of the St. Johns River, Section 22, Township 17 South, Range 29 East, Lake County: Thence proceed southerly along the westerly ordinary high water line of said river and its tributaries to the intersection of the northerly right-of-way of State Road 400; thence proceed northeasterly along said right-of-way to the easterly ordinary high water line of the St. Johns River; thence proceed northerly along said ordinary high water line of the St. Johns River and its tributaries to its intersection with the easterly ordinary high water line of Lake Beresford; thence proceed northerly along the ordinary high water line of said lake to its intersection with the westerly line of Section 24, Township 17 South, Range 29 East; thence proceed northerly to the southerly right-of-way of West New York Avenue; thence proceed westerly along the southerly right-of-way of said avenue to its intersection with the southerly right-of-way line of State Road 44; thence proceed southwesterly along said right-of-way to the point of beginning.

(31) Rookery Bay Aquatic Preserve, the boundaries of which are generally: All of the state-owned sovereignty lands lying waterward of the mean high-water line in Rookery Bay and in Henderson Creek and the tributaries thereto in Collier County, Florida. Said lands are more particularly described as lying and being in Sections 27, 34, 35, and 36, Township 50 South, Range 25 East; in Section 31, Township 50 South, Range 26 East; in Sections 1, 2, 3, 10, 11, 12, 13, 14, 23, 24, and 25, Township 51 South, Range 25 East; and in Sections 5, 6, 7, 8, 9, 10, 15, 16, 17, 18, 19, 20, 30, and 31, Township 51 South, Range 26 East, Collier County, Florida, and all the sovereignty submerged lands lying within the following described boundaries: Begin at the southwest corner of Section 30, Township 52 South, Range 27 East, Collier County: Thence proceed easterly along the southerly line of said Section 30 to the southwest corner of Section 29, Township 52 South, Range 27 East; proceed thence northerly along the westerly lines of Sections 29, 20 and 17 to the northwest corner of said Section 17; thence proceed westerly along the northerly line of Section 18 to the southeast corner of Section 12, Township 52 South, Range 26 East; thence proceed northerly along the easterly lines of Sections 12, 1, 36 and 25 to the northeast corner of said Section 25, Township 51 South, Range 26 East; thence proceed westerly along the northerly lines of Sections 25 and 26 to the northwest corner of said Section 26; thence proceed northerly to northeast corner of said Section 22; thence proceed westerly along the northerly lines of Sections 22 and 21 to the northwest corner of said Section 21; thence proceed southerly to the southwest corner of said Section 21; thence proceed westerly along the northerly line of Section 29 to the northwest corner thereof; thence proceed southerly along the westerly lines of Sections 29 and 32 to the southwest corner of said Section 32; thence proceed westerly to the northwest corner of Section 6, Township 52 South, Range 26 East; thence proceed southerly along a projection of Range line 25 East to its intersection with a line which runs westerly from the southwest corner of Cape Romano - Ten Thousand Islands Aquatic Preserve; thence proceed easterly to the southwest corner of Cape Romano - Ten Thousand Islands Aquatic Preserve; thence proceed northerly to the point of beginning. Less and except: Begin at the southeast corner of Section 21, Township 52 South, Range 25 East; thence proceed northerly along the easterly lines of Sections 21 and 16 to the northeast corner of said Section 16, thence proceed northerly to the thread of John Stevens Creek; thence proceed northwesterly along the thread of said creek to its intersection with the thread of Marco River; thence proceed northwesterly and westerly along the thread of said river to its intersection with the thread of Big Marco Pass; thence proceed southwesterly along the thread of Big Marco Pass to its intersection with Range line 25 East; thence proceed southerly along Range line 25 East to a point which is west from the point of beginning: Thence proceed easterly to the point of beginning.

Any and all submerged lands theretofore conveyed by the Trustees of the Internal Improvement Trust Fund and any and all uplands now in private ownership are specifically exempted from this dedication.

History.—s. 1, ch. 75-172; s. 1, ch. 76-109; s. 1, ch. 76-211; s. 84, ch. 77-104; s. 1, ch. 83-62; s. 2, ch. 84-312; s. 1, ch. 85-345.

[1]Note.—See former s. 253.151, F.S. '81.

258.391 Cockroach Bay Aquatic Preserve.—The designation by the Board of Trustees of the Internal Improvement Trust Fund on May 18, 1976, of the following described area in Hillsborough County for inclusion in the aquatic preserve system under the Florida Aquatic Preserve Act of 1975 is hereby confirmed. Such area, to be known as the Cockroach Bay Aquatic Preserve, shall be included in the aquatic preserve system for the period of a 40-year lease of such area by the board from the Tampa Port Authority and shall include the following described real property: Begin at the northeast corner of Section 1, Township 33 South, Range 17 East, Manatee County, thence west along the north line of said Section 1 to its intersection with the mean high-water line of Tampa Bay, said point being the point of beginning;

from said point of beginning continue west 500 feet into the waters of Tampa Bay, thence northeasterly along a line 500 feet westerly of the mean high-water line of Tampa Bay, said line also being 500 feet westerly of the mean high-water line on Beacon Key, Snake Key, Camp Key, Big Pass Key, Little Cockroach Island, and Sand Key, to a point due west from Bird Key, thence east to the most southwesterly point of Bird Key, thence easterly along a channel along the northerly side of Tropical Island and of Goat Island to the most easterly point of said Goat Island, thence south to the intersection of the mean high-water line of the southerly shore of the Little Manatee River, thence in a northwesterly, westerly, and southwesterly direction along the mean high-water line of Tampa Bay and Cockroach Bay to the point of beginning. Less any islands, submerged lands, or uplands not owned by the Tampa Port Authority.

History.—s. 1, ch. 76-197.

258.392 Gasparilla Sound-Charlotte Harbor Aquatic Preserve.—The following described area in Lee and Charlotte Counties is designated by the Legislature for inclusion in the aquatic preserve system under the Florida Aquatic Preserve Act of 1975. Such area, to be known as the Gasparilla Sound-Charlotte Harbor Aquatic Preserve, shall be included in the aquatic preserve system and shall include the following described real property: Commence at the northwest corner of Section 18, Township 42 South, Range 21 East; thence northerly along the line of mean high water to the intersection of State Road 776 with said mean high-water line; thence south-southwesterly along said road to the intersection of said road with the mean high-water line of Gasparilla Island; thence southerly along said mean high-water line to the most southerly point of Gasparilla Island; thence southeasterly to the northernmost point at the mean high-water line on Lacosta Island; thence southeasterly along said mean high-water line to the northwest corner of Section 6, Township 44 South, Range 21 East; thence east to a northerly extension of the east line of Section 25, Township 44 South, Range 21 East; thence southshoreline of Charlotte Harbor and along a southerly extension of said line to the line dividing Charlotte and Lee Counties; thence southwesterly along a straight line to the most southerly point of Devil Fish Key; thence along said line to the easterly right-of-way of the Intracoastal Waterway; thence northerly along the easterly right-of-way of the Intracoastal Waterway to its intersection with a southerly extension of the west line of Section 18, Township 42 South, Range 21 East; thence north along said line to the point of beginning. Said boundary extends across the mouths of all artificial waterways, but includes all tidally connected natural waterways.

History.—s. 1, ch. 79-115.

258.393 Terra Ceia Aquatic Preserve wastewater or effluent discharge activities.—

(1) The following described area in Manatee County is hereby designated by the Legislature for inclusion in the aquatic preserve system under the Florida Aquatic Preserve Act of 1975. Such area, to be known as the Terra Ceia Aquatic Preserve, shall be included in the aquatic preserve system and shall include the following described real property: Begin at a point 165 feet north of the southwest corner of the northwest quarter of Section 12, Township 33 South, Range 17 East, Manatee County, thence run west to the mean high-water line of Tampa Bay, said point being the point of beginning. From said point of beginning, run northwesterly into the waters of Tampa Bay and parallel to the Port Manatee ship channel to the Manatee-Hillsborough county line; thence run southwest along the Manatee-Hillsborough county line to its intersection with the Intracoastal Waterway; thence run south-southwesterly along the Intracoastal Waterway to a point on a line connecting the westernmost tip of Snead Island (Manatee County) to the southernmost tip of Mullet Key (Pinellas County); thence run southeasterly along said line to the westernmost tip of Snead Island (also known as Emerson Point); thence run in a northeasterly direction along the mean high-water line of Tampa Bay, Terra Ceia Bay, where the mean high water line intersects the north line of U.S. Government

serve Act of 1975. Such area, to be known as the Guana River Marsh Aquatic Preserve, shall be included in the aquatic preserve system and shall include all the sovereignty submerged lands and other state-owned lands lying within the following described boundaries: Begin at the intersection of the westerly projection of the south line of Section 18, Township 6 South, Range 30 East, with the westerly mean high water line of Tolomato River: Thence proceed easterly along the south line of Section 18 to the mean high water line of the Atlantic Ocean; thence proceed east three geographic miles into said ocean; thence proceed northerly running parallel with said mean high water line to a point east of the intersection of the southerly right-of-way of Micklers Road and the westerly right-of-way of U.S. A1A; thence proceed west to said intersection; thence proceed southwesterly along the southerly right-of-way of Micklers Road to its intersection with the westerly mean high water line of the Tolomato River; thence proceed southerly along the westerly mean high water line of said river and its tributaries to the point of beginning.

History.—s. 2, ch. 85-345.

258.395 Big Bend Seagrasses Aquatic Preserve.— The following described area in Wakulla, Jefferson, Taylor, Dixie, and Levy Counties is hereby designated by the Legislature for inclusion in the aquatic preserve system under the Florida Aquatic Preserve Act of 1975. Such area, to be known as the Big Bend Seagrasses Aquatic Preserve, shall be included in the aquatic preserve system and shall include all the sovereignty submerged lands lying within the following described boundaries: Begin where the northerly mean high water line of Withlacoochee River meets the mean high water line of the Gulf of Mexico, Township 17 South, Range 15 East, Levy County: Thence from the said point of beginning proceed northwesterly along the mean high water line of the coast and its navigable tributaries to the intersection of the westerly mean high water line of St. Marks River with the mean high water line of the Gulf of Mexico, in Township 4 South, Range 1 East, Wakulla County; thence proceed south three marine leagues into the Gulf of Mexico; thence proceed southeasterly along a line three marine leagues from and parallel to the line of mean high water previously described to an intersection with a line projected west from the point of beginning; thence proceed east to the point of beginning. Less and except all those sovereignty submerged lands within 500 feet of any incorporated or unincorporated municipality within the above described lands. Less and except: Begin at the intersection of the southerly projection of the east line of Range line 4 East with the mean high water line of the Gulf of Mexico; thence proceed southwest to a point on the three marine league line; thence proceed southeasterly three marine leagues from and parallel to the mean high water line to a point which is southwest of the intersection of the southerly line of Section 22, Township 6 South, Range 6 East, Taylor County, with the mean high water line of the Gulf of Mexico; thence proceed Northeast to the foresaid point of intersection; thence proceed northwesterly along the mean high water line of the Gulf of Mexico and its tributaries to the point of beginning. Less and except all those local access channels adjacent to Keaton Beach and a proposed navigational channel more particularly described as follows: Begin at State Plane Coordinate: X=2,288,032; Y=298,365: Thence proceed West 11,608 feet; thence proceed south 1,440 feet; thence proceed east 11,608 feet; thence proceed north 1,440 feet to the point of beginning; less and except all those sovereign submerged lands lying northerly and easterly of U.S. Highway 19.

History.—s. 3, ch. 85-345.

258.396 Boca Ciega Bay Aquatic Preserve.—

(1) Boca Ciega Bay, in Pinellas County, as hereinafter described, is designated and established as an aquatic preserve under the provisions of this section. It is the intent of the Legislature that Boca Ciega Bay be preserved, insofar as possible, in an essentially natural condition so that its biological and aesthetic values may endure for the enjoyment of future generations.

(2)(a) For the purposes of this section, Boca Ciega Bay, sometimes referred to in this section as "the preserve," shall be comprised of that body of water in Pinellas County which lies south of the State Road 688 bridge at, or near, Indian Rocks Beach and within the area enclosed by a line as follows: Beginning at a point where the east end of said bridge crosses the western shoreline of mainland Pinellas County and extending in a generally southerly direction along the western shoreline of mainland Pinellas County to the west end of the Seminole Bridge following the bridge easterly to exclude Long Bayou and Cross Bayou, thence in a southerly direction including the western shoreline of the Sunshine Skyway Causeway and extending to the southern boundary of Pinellas County, thence westerly along the Pinellas County line and around Mullet Key along a line 100 yards seaward of the shoreline of Mullet Key and northerly along a line passing 100 yards to the west of the shorelines of Summer Resort Key, Cabbage Key and Shell Key to the southernmost point of Long Key, thence in a generally northerly direction along the inner shoreline of Long Key, Treasure Island and Sand Key to a point where the west end of the State Road 688 bridge crosses the inner shoreline of Sand Key, thence easterly along the south side of said bridge to the point of beginning. The boundary of the preserve designated as the shoreline shall mean the line of mean high water along such shoreline.

(b) The preserve established by this section shall include the submerged bottom lands, the water column upon such lands, and the islands owned by the state within the boundaries of the preserve. Any privately held land or submerged land within the established bulkhead lines or privately held islands within the preserve shall be deemed to be excluded therefrom. The Board of Trustees of the Internal Improvement Trust Fund may negotiate an arrangement with any such private owner whereby such lands or water bottoms may be included within the preserve.

(3) The Board of Trustees of the Internal Improvement Trust Fund are hereby directed to maintain Boca Ciega Bay as an aquatic preserve subject to the following provisions:

(a) No further sale, transfer, or lease of sovereignty submerged lands within the preserve shall be approved or consummated by the board of trustees except upon a showing of extreme hardship on the part of the applicant or when the overwhelming public interest so demands.

(b) No further dredging or filling of submerged lands within the preserve shall be approved or tolerated by the board of trustees except:

1. Such minimum dredging and spoiling as may be authorized for public navigation projects;

2. Such other alteration of physical conditions as may be necessary to enhance the quality or utility of the preserve as determined by the Pinellas County Water and Navigation Control Authority in a public hearing; and

3. Such dredging as is necessary for the purpose of eliminating conditions hazardous to the public health or for the purpose of eliminating stagnant waters, unsightly mud flats, islands, and spoil banks the dredging of which would enhance the aesthetic quality and utility of the preserve and is clearly in the public interest as determined by the Pinellas County Water and Navigation Control Authority in a public hearing.

There shall be no dredging beyond the bulkhead line for the sole purpose of providing fill for upland or submerged land within the bulkhead line. In addition there shall be no drilling of wells, excavation for shell or minerals, and no erection of structures (other than docks) within the preserve, unless such activity is associated with activity authorized by this section.

[1](c) The board of trustees shall not approve any seaward relocation of bulkhead lines or further establishment of bulkhead lines except when a proposed bulkhead line is located at the line of mean high water along the shoreline.

(4)(a) The board of trustees shall adopt and enforce reasonable rules and regulations to carry out the provisions of this section and specifically to provide:

1. Additional preserve management criteria as may be necessary to accommodate special circumstances; and

2. Regulation of human activity within the preserve in such a manner as not to interfere unreasonably with such lawful and traditional public uses of the preserve as fishing (both sport and commercial), boating, and swimming.

(b) Other uses of the preserve, or human activity within the preserve, although not originally contemplated, may be permitted by the board of trustees, but only subsequent to a formal finding of compatibility with the purposes of this section.

(5) Neither the establishment nor the management of the Boca Ciega Bay Aquatic Preserve shall operate to infringe upon the riparian rights of upland property owners adjacent to or within the preserve. Reasonable improvement for ingress and egress, mosquito control, shore protection, bridges, causeways, and similar purposes may be permitted by the board of trustees, subject to the provisions of any other applicable laws under the jurisdiction of other agencies.

(6) Nothing herein shall be construed to deprive the Pinellas County Water and Navigation Control Authority of its jurisdiction, powers, and duties.

History.—ss. 1, 2, 3, 4, 5, 6, ch. 69-342; ss. 27, 35, ch. 69-106.

[1]**Note.**—See s. 26, ch. 75-22, which repealed s. 253.122, relating to the power to fix bulkhead lines, and s. 7(3), ch. 75-22 (s. 253.1221), which reestablished all previously established bulkhead lines at the line of mean high water or ordinary high water.

Note.—Former s. 258.16.

258.397 Biscayne Bay Aquatic Preserve.—

(1) DESIGNATION.—Biscayne Bay in Dade and Monroe Counties, as hereinafter described to include Card Sound, is designated and established as an aquatic preserve under the provisions of this section. It is the intent of the Legislature that Biscayne Bay be preserved in an essentially natural condition so that its biological and aesthetic values may endure for the enjoyment of future generations.

(2) BOUNDARIES.—

(a) For the purposes of this section, Biscayne Bay, sometimes referred to in this section as "the preserve," shall be comprised of the body of water in Dade and Monroe Counties known as Biscayne Bay whose boundaries are generally defined as follows:

Begin at the southwest intersection of the right-of-way of State Road 826 and the mean high-water line of Biscayne Bay (Township 52 South, Range 42 East, Dade County); thence southerly along the westerly mean high-water line of Biscayne Bay to its intersection with the right-of-way of State Road 905A (Township 59 South, Range 40 East, Monroe County); thence easterly along such right-of-way to the easterly mean high-water line of Biscayne Bay; thence northerly along the easterly mean high-water line of Biscayne Bay following the westerly shores of the most easterly islands and Keys with connecting lines drawn between the closest points of adjacent islands to the southeasterly intersection of the right-of-way of State Road 826 and the mean high-water line of Biscayne Bay; thence westerly to the point of beginning. Said boundary extends across the mouths of all artificial waterways, but includes all natural waterways tidally connected to Biscayne Bay. Excluded from the preserve are those submerged lands conveyed to the United States for the establishment of the Biscayne National Monument as defined by Pub. L. No. 90-606 of the United States.

(b) The preserve established by this section shall include the submerged bottom lands and the water column upon such lands, as well as all publicly owned islands, within the boundaries of the preserve. Any privately held upland within the boundaries of the preserve shall be deemed to be excluded therefrom. However, the Board of Trustees of the Internal Improvement Trust Fund may negotiate an arrangement with any such private upland owner by which such land may be included in the preserve.

(c) The board of trustees may transfer to the United States any interest in lands, title to which is vested in the board of trustees, which are presently within the boundaries of the preserve for inclusion in the Biscayne National Monument or its successor should the area be designated a national park. Transfers of interest under this paragraph shall be subject to the following conditions:

1. All interests in oil, gas, or other mineral rights held by the board of trustees shall be retained and not transferred to the United States.

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2. All rights to fish on the waters shall be retained and not transferred to the United States.

3. All rights to impose and collect state excise taxes on the sales of alcohol or tobacco shall be retained and not transferred to the United States.

4. Transfers of interest shall be subject to outstanding easements, reservations, or other interests appearing of record.

(3) AUTHORITY OF TRUSTEES.—The Board of Trustees of the Internal Improvement Trust Fund is authorized and directed to maintain the aquatic preserve hereby created pursuant and subject to the following provisions:

(a) No further sale, transfer, or lease of sovereignty submerged lands in the preserve shall be approved or consummated by the board of trustees, except upon a showing of extreme hardship on the part of the applicant and a determination by the board of trustees that such sale, transfer, or lease is in the public interest.

(b) No further dredging or filling of submerged lands of the preserve shall be approved or tolerated by the board of trustees except:

1. Such minimum dredging and spoiling as may be authorized for public navigation projects or for such minimum dredging and spoiling as may be constituted as a public necessity or for preservation of the bay according to the expressed intent of this section.

2. Such other alteration of physical conditions as may be necessary to enhance the quality or utility of the preserve.

3. Such minimum dredging and filling as may be authorized for the creation and maintenance of marinas, piers, and docks and their attendant navigation channels and access roads. Such projects may only be authorized upon a specific finding by the board of trustees that there is assurance that the project will be constructed and operated in a manner that will not adversely affect the water quality of the preserve. This subparagraph shall not approve the connection of upland canals to the waters of the preserve.

4. Such dredging as is necessary for the purpose of eliminating conditions hazardous to the public health or for the purpose of eliminating stagnant waters, unsightly mud flats, islands, and spoil banks, the dredging of which would enhance the aesthetic quality and utility of the preserve and be clearly in the public interest as determined by the board of trustees.

Any dredging or filling under this subsection or improvements under subsection (5) shall be approved only after public notice and hearings in the area affected, pursuant to chapter 120.

(c) There shall be no drilling of wells, excavation for shell or minerals, or erection of structures other than docks within the preserve unless such activity is associated with activity authorized by this section.

[1](d) The board of trustees shall not approve any seaward relocation of bulkhead lines or further establishment of bulkhead lines except when a proposed bulkhead line is located at the line of mean high water along the shoreline. Construction, replacement, or relocation of seawalls shall be prohibited without the approval of the board of trustees, which approval may be granted only if riprap construction is used in the seawall.

(e) Notwithstanding other provisions of this section, the board of trustees may, respecting lands lying within Biscayne Bay:

1. Enter into agreements for and establish lines delineating sovereignty and privately owned lands.

2. Enter into agreements for the exchange of, and exchange, sovereignty lands for privately owned lands.

3. Accept gifts of land within or contiguous to the preserve.

4. Negotiate for, and enter into agreements with owners of lands contiguous to sovereignty lands for, any public and private use of any of such lands.

5. Take any and all actions convenient for, or necessary to, the accomplishment of any and all of the acts and matters authorized by this paragraph.

(4) RULES.—

(a) The board of trustees shall adopt and enforce reasonable rules and regulations to carry out the provisions of this section and specifically to provide:

1. Additional preserve management criteria as may be necessary to accommodate special circumstances.

2. Regulation of human activity within the preserve in such a manner as not to interfere unreasonably with lawful and traditional public uses of the preserve, such as fishing (both sport and commercial), boating, and swimming.

(b) Other uses of the preserve, or human activity within the preserve, although not originally contemplated, may be permitted by the board of trustees, but only subsequent to a formal finding of compatibility with the purposes of this section.

(c) Fishing involving the use of seines or nets is prohibited in the preserve, except when the fishing is for shrimp or mullet and such fishing is otherwise permitted by state law or rules promulgated by the Department of Natural Resources.

(5) RIPARIAN RIGHTS.—Neither the establishment nor the management of the Biscayne Bay Aquatic Preserve shall operate to infringe upon the riparian rights of upland property owners adjacent to or within the preserve. Reasonable improvement for ingress and egress, mosquito control, shore protection, public utility expansion, and similar purposes may be permitted by the board of trustees or Department of Environmental Regulation, subject to the provisions of any other applicable laws under the jurisdiction of other agencies.

(6) DISCHARGE OF WASTES PROHIBITED.—No wastes or effluents which substantially inhibit the accomplishment of the purposes of this section shall be discharged into the preserve.

(7) ENFORCEMENT.—The provisions of this section may be enforced in accordance with the provisions of s. 403.412. In addition, the Department of Legal Affairs is authorized to bring an action for civil penalties of $5,000 per day against any person, natural or corporate, who violates the provisions of this section or any rule or regulation issued hereunder.

(8) SECTIONS 403.501-403.515 APPLICABLE.—The provisions of this section shall be subject to the provisions of ss. 403.501-403.515.

History.—ss. 1, 2, 3, 4, 5, 6, 7, 8, ch. 74-171; s. 2, ch. 76-109; s. 1, ch. 77-174; s.

1, ch. 78-628, s. 12, ch. 79-65, s. 1, ch. 80-204.

[1]Note.—Section 26, ch. 75-22, repealed s. 253.122, relating to the power to fix bulkhead lines.

Note.—Former s. 258.165.

258.40 Scope of preserves.—

(1) The aquatic preserves established under this act shall include only lands or water bottoms owned by the state as set forth in s. 253.03 and such lands or water bottoms owned by other governmental agencies as may be specifically authorized for inclusion by appropriate instrument in writing from such agency. Any privately owned lands or water bottoms shall be deemed to be excluded therefrom; however, the board may negotiate an arrangement with any such private owner by which such land may be included in the preserves.

(2) Any publicly owned and maintained navigation channel or other public works project authorized by the United States Congress designed to improve or maintain commerce and navigation shall be deemed excluded from the aquatic preserves established under this act.

(3) All lands lost by avulsion or by artificially induced erosion shall be deemed excluded from the provisions of this act.

History.—s. 1, ch. 75-172.

258.41 Establishment of aquatic preserves.—

(1) The board may establish additional areas to be included in the aquatic preserve system, subject to confirmation by the Legislature.

(2) The board may, after public notice and public hearing in the county or counties in which the proposed preserve is to be located, adopt a resolution formally setting aside such areas to be included in the aquatic preserve system.

(3) The resolution setting aside an aquatic preserve area shall include:

(a) A legal description of the area to be included.

(b) The designation of the type of aquatic preserve being set aside.

(c) A general statement of what is sought to be preserved.

(d) A clear statement of the management responsibilities for the area.

(4) Lands and water bottoms owned by other governmental agencies may be included in an aquatic preserve upon specific authorization for inclusion by an appropriate instrument in writing from the governmental agency.

(5) Lands and water bottoms in private ownership may be included in an aquatic preserve upon specific authorization for inclusion by an appropriate instrument in writing from the owner. The appropriate instrument shall be either a dedication in perpetuity or a lease. Such lease shall contain the following conditions:

(c) The board shall pay no more than $1 per year for any such lease.

(6) Except as provided in subsection (5) no aquatic preserve or any part thereof shall be withdrawn from the state aquatic preserve system except by an act of the Legislature. Notice of such proposed legislation shall be published in each county in which the affected area is located, in the manner prescribed by law relating to local legislation.

(7) Within 30 days of the designation and establishment of an aquatic preserve, the Board of Trustees of the Internal Improvement Trust Fund shall record in the public records of the county or counties in which the aquatic preserve is located a legal description of the aquatic preserve.

History.—s. 1, ch. 75-172.

258.42 Maintenance of preserves.—The Board of Trustees of the Internal Improvement Trust Fund shall maintain such aquatic preserves subject to the following provisions:

(1) No further sale, lease, or transfer of sovereignty submerged lands shall be approved or consummated by the trustees except when such sale, lease, or transfer is in the public interest.

[1](2) The trustees shall not approve the waterward relocation or setting of bulkhead lines waterward of the line of mean high water within the preserve except when public road and bridge construction projects have no reasonable alternative and it is shown to be not contrary to the public interest.

(3)(a) No further dredging or filling of submerged lands shall be approved by the trustees except the following activities may be authorized pursuant to a permit:

1. Such minimum dredging and spoiling as may be authorized for public navigation projects.

2. Such minimum dredging and spoiling as may be authorized for the creation and maintenance of marinas, piers, and docks and their attendant navigation channels.

3. Such other alteration of physical conditions as may, in the opinion of the trustees, be necessary to enhance the quality or utility of the preserve or the public health generally.

4. Such other maintenance dredging as may be required for existing navigation channels.

5. Such restoration of land as authorized by s. 253.124(8).

6. Such reasonable improvements as may be necessary for public utility installation or expansion.

7. Installation and maintenance of oil and gas transportation facilities, provided such facilities are properly marked with marine aids to navigation as prescribed by federal law.

(b) There shall, in no case, be any dredging seaward

(d) There shall be no excavation of minerals, except the dredging of dead oyster shells as approved by the Department of Natural Resources.

(e) There shall be no erection of structures within the preserve, except:

1. Private docks for reasonable ingress or egress of riparian owners;

2. Commercial docking facilities shown to be consistent with the use or management criteria of the preserve; and

3. Structures for shore protection, approved navigational aids, or public utility crossings authorized under subsection (3)(a).

(f) No wastes or effluents shall be discharged into the preserve which substantially inhibit the accomplishment of the purposes of this act.

(g) No nonpermitted wastes or effluents shall be directly discharged into the preserve which substantially inhibit the accomplishment of the purposes of this act.

History.—ss. 1, 2, 4, ch. 75-172; s. 1, ch. 77-174.

[1]Note.—See s. 26, ch. 75-22, which repealed s. 253.122, relating to the power to fix bulkhead lines, and s. 7(3), ch. 75-22 (s. 253.1221), which reestablished all previously established bulkhead lines at the line of mean high water or ordinary high water.

258.43 Rules and regulations.—

(1) The Board of Trustees of the Internal Improvement Trust Fund shall adopt and enforce reasonable rules and regulations to carry out the provisions of this act and specifically to provide regulation of human activity within the preserve in such a manner as not to unreasonably interfere with lawful and traditional public uses of the preserve, such as sport and commercial fishing, boating, and swimming.

(2) Other uses of the preserve, or human activity within the preserve, although not originally contemplated, may be permitted by the trustees, but only subsequent to a formal finding of compatibility with the purposes of this act.

History.—s. 1, ch. 75-172.

258.44 Effect of preserves.—Neither the establishment nor the management of the aquatic preserves under the provisions of this act shall operate to infringe upon the traditional riparian rights of upland property owners adjacent to or within the preserves. Reasonable improvement for ingress and egress, mosquito control, shore protection, public utility expansion, surface water drainage, installation and maintenance of oil and gas transportation facilities, and similar purposes may be permitted by the trustees subject to the provisions of any other applicable laws under the jurisdiction of other agencies.

History.—s. 1, ch. 75-172.

258.45 Provisions not superseded.—The provisions of this act shall not supersede, but shall be subject to, the provisions of ss. 403.501 through 403.515.

History.—ss. 3, 6, ch. 75-172.

258.46 Enforcement; violations; penalty.—The provisions of this act may be enforced by the Board of Trustees of the Internal Improvement Trust Fund or in accordance with the provisions of s. 403.412. However, any violation by any person, natural or corporate, of the provisions of this act or any rule or regulation issued hereunder shall be further punishable by a civil penalty of not less than $500 per day or more than $5,000 per day of such violation.

History.—s. 5, ch. 75-172.

PART IV

WILD AND SCENIC RIVERS

258.501 Myakka River; wild and scenic segment.

[1]258.501 Myakka River; wild and scenic segment.—

(1) SHORT TITLE.—This act may be cited as the "Myakka River Wild and Scenic Designation and Preservation Act."

(2) LEGISLATIVE DECLARATION.—The Legislature finds and declares that a certain segment of the Myakka River in Manatee, Sarasota, and Charlotte Counties possesses outstandingly remarkable ecological, fish and wildlife, and recreational values which are unique in the State of Florida. These values give significance to the river as one which should be permanently preserved and enhanced for the citizens of the State of Florida, both present and future. The permanent management and administration of the river involves a complex interaction of state, regional, and local interests which require balancing and coordination of purpose. It is the intention of the Legislature to provide for the permanent preservation of the designated segment of the Myakka River by way of development of a plan for permanent administration by agencies of state and local government which will ensure the protection necessary but retain that degree of flexibility, responsiveness, and expertise which will accommodate all of the diverse interests involved in a manner best calculated to be in the public interest.

(3) DEFINITIONS.—As used in this act:

(a) "Activity" means the doing of any act or the failing to do any act, whether by a natural person or a corporation.

(b) "Coordinating council" means the council created by subsection (6).

(c) "Department" means the Department of Natural Resources.

(d) "Division" means the Division of Recreation and Parks of the Department of Natural Resources.

(e) "Executive board" means the Governor and Cabinet sitting as the head of the Department of Natural Resources.

(f) "Resource value" means any one or more of the specific economic, scenic, recreational, geologic, fish and wildlife, historic, cultural, or ecological features associated with the river area as determined by the coordinating council.

(g) "River area" means that corridor of land beneath and surrounding the Myakka River from river mile 7.5 to river mile 41.5, together with a corridor extending from the center of the river to the maximum upland extent of wetlands vegetation.

(4) DESIGNATION OF WILD AND SCENIC RIVER.—The corridor of land surrounding and beneath the Myakka River between river mile 7.5 and river mile 41.5 is hereby designated as a Florida wild and scenic river for the purposes of this act and is subject to all of the provi-

RULES
OF THE
DEPARTMENT OF NATURAL
RESOURCES

DIVISION OF STATE LANDS

18-20
CHAPTER ~~16Q-20~~
FLORIDA AQUATIC PRESERVES

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18-20.017 LAKE JACKSON AQUATIC PRESERVE

18-20.001 ~~16Q-20.01~~ Intent.

(1) All sovereignty lands within a preserve shall be managed primarily for the maintenance of essentially natural conditions, the propagation of fish and wildlife, and public recreation, including hunting and fishing where deemed appropriate by the board, and the managing agency.

(2) The aquatic preserves which are described in 73-534, Laws of Florida, Sections 258.39, 258.391, 258.392 and 258.395, Florida Statutes, future aquatic preserves established pursuant to general or special acts of the legislature, and in Rule 18-20.002 Florida Administrative Code, were established for the purpose of being preserved in an essentially natural or existing condition so that their aesthetic, biological and scientific values may endure for the enjoyment of future generations.

...

Specific Authority 120.53, 258.43(1) FS. Law Implemented 258.35, 258.36, 258.37, 258.39, 258.395 FS. Chapter 80-280 Laws of Florida. History—New 7-21-81. Amended 6-7-83.

(3) The preserves shall be administered and managed in accordance with the following goals:

(a) To preserve, protect, and enhance these exceptional areas of sovereignty submerged lands by reasonable regulation of human activity within the preserves through the development and implementation of a comprehensive management program;

(b) To protect and enhance the waters of the preserves so that the public may continue to enjoy the traditional recreational uses of those waters such as swimming, boating, and fishing;

(c) To coordinate with federal, state, and local agencies to aid in carrying out the intent of the Legislature in creating the preserves;

(d) To use applicable federal, state, and local management programs, which are compatible with the intent and provisions of the act and these rules, and to assist in managing the preserves;

(e) To encourage the protection, enhancement or restoration of the biological, aesthetic, or scientific values of the preserves, including but not limited to the modification of existing manmade conditions toward their natural condition, and discourage activities which would degrade the aesthetic, biological, or scientific values, or the quality, or utility of a preserve, when reviewing applications, or when developing and implementing management plans for the preserves;

(f) To preserve, promote, and utilize indigenous life forms and habitats, including but not limited to: sponges, soft coral, hard corals, submerged grasses, mangroves, salt water marshes, fresh water marshes, mud flats, estuarine, aquatic, and marine reptiles, game and non-game fish species, estuarine, aquatic and marine invertebrates, estuarine, aquatic and marine mammals, birds, shellfish and molluscs;

(g) To acquire additional title interests in lands wherever such acquisitions would serve to protect or enhance the biological, aesthetic, or scientific values of the preserves;

(h) To maintain those beneficial hydrologic and biologic functions, the benefits of which accrue to the public at large.

(4) Nothing in these rules shall serve to eliminate or alter the requirements or authority of other governmental agencies, including counties and municipalities, to protect or enhance the preserves provided that such requirements or authority are not inconsistent with the act and this chapter.

Specific Authority 120.53, 258.43(1) Law Implemented 258.35, 258.36, 258.37, 258.38. Ch. 80-280, Laws of Florida. History—New 2-23-81.

18-20.09 Boundaries and Scope of the Preserves.

(1) These rules shall only apply to those sovereignty lands within a preserve, title to which is vested in the board, and those other lands for which the board has an appropriate instrument in writing, executed by the owner, authorizing the inclusion of specific lands in an aquatic preserve pursuant to Section 2(2) of Chapter 73-534, Laws of Florida, Sections 258.40(1) and 258.41(5), Florida Statutes, future aquatic preserves established through general or special acts of the legislature, and pursuant to Rule 18-20.08(9), Florida Administrative Code. Any publicly owned and maintained navigation channel authorized by the United States Congress, or other public works project authorized by the United States Congress, designed to improve or maintain commerce and navigation shall be deemed to be excluded from the provisions of this chapter, pursuant to Subsection 258.40(2), Florida Statutes. Furthermore, all lands lost by avulsion or by artificially induced erosion shall be deemed excluded from the provisions of this chapter pursuant to Subsection 258.40(3), Florida Statutes.

(2) These rules do not apply to Boca Ciega Bay, Pinellas County or Biscayne Bay Aquatic Preserves.

(3) These rules are promulgated to clarify the responsibilities of the board in carrying out its land management functions as those functions apply within the preserves. Implementation and responsibility for environmental permitting of activities and water quality protection within the preserves are vested in the Department of Environmental Regulation. Since these rules are considered cumulative with other rules, a person planning an activity within the preserves should also consult the other applicable department rules (Chapter 16-21, Florida Administrative Code, for example) as well as the rules of the Department of Environmental Regulation.

(4) These rules shall not affect previous actions of the board concerning the issuance of any easement or lease; or any disclaimer concerning sovereignty lands.

(5) The intent and specific provisions expressed in 18-20.08(e) and (f) apply generally to all existing or future aquatic preserves within the scope of this chapter. Upon completion of a resource inventory and approval of a management plan for a preserve, pursuant to 18-20.004(3), the type designation and the resource sought to be preserved may be readdressed by the Board.

(6) For the purpose of clarification and interpretation, the legal description set forth as follows do not include any land which is expressly recognized as privately owned upland in a pre-existing recorded mean high water line settlement agreement between the board and a private owner or owners. Provided, however, in those instances wherein a settlement agreement was executed subsequent to the passage of the Florida Coastal Mapping Act, the determination of the mean high water line shall be in accordance with the provisions of such act.

(7) Persons interested in obtaining details of particular preserves should contact the Bureau of State Lands Management, Department of Natural Resources, 3900 Commonwealth Blvd., Tallahassee, FL 32303 (telephone 904-488-2297).

(a) The preserves are described as follows:

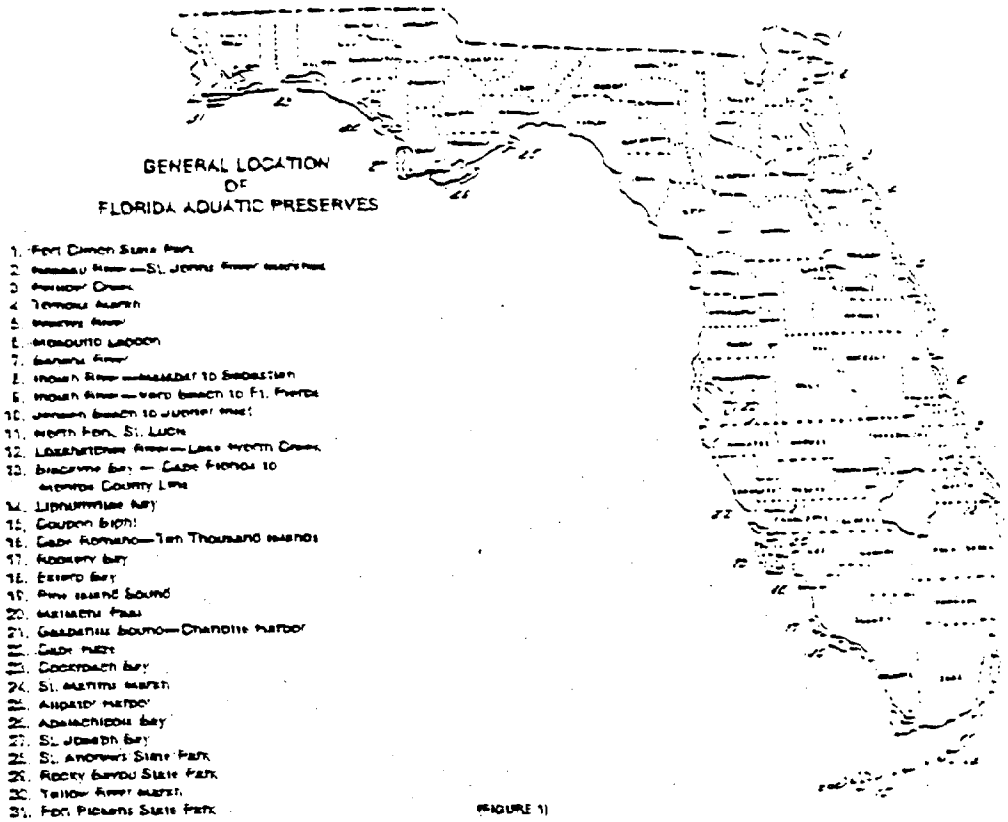
1. Fort Clinch State Park Aquatic Preserve, as described in the Official Records of Nassau County in Book 108, pages 345-346, and in Book 111, page 409.

2. Nassau River — St. Johns River Marshes Aquatic Preserve, as described in the Official Records of Duval County in Volume 3183, pages 547-552, and in the Official Records of Nassau County in Book 108, pages 232-237.

3. Pellicer Creek Aquatic Preserve, as described in the Official Records of St. Johns County in Book 181, pages 365-366, and in the Official Records of Flagler County in Book 33, pages 131-134.

4. Tomoka Marsh Aquatic Preserve, as described in the Official Records of Flagler County in Book 33, pages 135-138, and in the Official Records of Volusia County in Book 1244, pages 615-618.

FLORIDA AQUATIC PRESERVES



(FIGURE 1)

5. Wekiva River Aquatic Preserve, as described in Section 258.39(30), F.S.

6. Mosquito Lagoon Aquatic Preserve, as described in the Official Records of Volusia County in Book 1244, pages 619-623, and in the Official Records of Brevard County in Book 1143, pages 190-194.

7. Banana River Aquatic Preserve, as described in the Official Records of Brevard County in Book 1143, pages 195-198, less those lands dedicated to the U. S. A. prior to the enactment of the act, until such time as the U. S. A. no longer wishes to maintain such lands for the purpose for which they were dedicated, at which time such lands would revert to the board, and be managed as part of the preserve.

8. Indian River — Malabar to Sebastain Aquatic Preserve, as described in the Official Records of Brevard County in Book 1143, pages 199-202, and in the Official Records of Indian River County in Book 368, pages 5-8.

9. Indian River — Vero Beach to Fort Pierce Aquatic Preserve, as described in the Official Records of Indian River County in Book 368, pages 9-12, and in the Official Records of St. Lucie County in Book 187, pages 1085-1086.

10. Jensen Beach to Jupiter Inlet Aquatic Preserve, as described in the Official Records of St. Lucie County in Book 218, pages 2865-2869.

11. North Fork, St. Lucie Aquatic

Preserve, as described in the Official Records of Martin County in Book 337, pages 2159-2162, and in the Official Records of St. Lucie County in Book 201, pages 1676-1679.

12. Loxahatchee River — Lake Worth Creek Aquatic Preserve, as described in the Official Records of Martin County in Book 320, pages 193-196, and in the Official Records of Palm Beach County in Volume 1860, pages 806-809.

13. Biscayne Bay — Cape Florida to Monroe County Line Aquatic Preserve, as described in the Official Records of Dade County in Book 7055, pages 852-856, less, however, those lands and waters as described in Section 258.165, F. S., (Biscayne Bay Aquatic Preserve Act of 1974), and those lands and waters within the Biscayne National Park.

14. Lignumvitae Key Aquatic Preserve, as described in the Official Records of Monroe County in Book 502, pages 139-142.

15. Coupon Bight Aquatic Preserve, as described in the Official Records of Monroe County in Book 502, pages 143-146.

16. Cape Romano — Ten Thousand Islands Aquatic Preserve, as described in the Official Records of Collier County in Book 381, pages 298-301.

17. Rookery Bay Aquatic Preserve, as described in Section 258.39(31), FS.

18. Estero Bay Aquatic Preserve as described in Section 258.39(28), Florida Statutes.

19. Pine Island Sound Aquatic Preserve, as described in the Official Records of Lee County in Book 648, pages 732-736.

20. Matlacha Pass Aquatic Preserve, as described in the Official Records of Lee County in Book 800, pages 725-728.

21. Gasparilla Sound — Charlotte Harbor Aquatic Preserve, as described in Section 258.392, F.S.

22. Cape Haze Aquatic Preserve, as described in Section 258.39(29), F.S.

23. Cockroach Bay Aquatic Preserve, as described in Section 258.391, F.S.

24. St. Martins Marsh Aquatic Preserve, as described in the Official Records of Citrus County in Book 276, pages 238-241.

25. Alligator Harbor Aquatic Preserve, as described in the Official Records of Franklin County in Volume 98, pages 82-85.

26. Apalachicola Bay Aquatic Preserve, as described in the Official Records of Gulf County in Book 46, pages 77-81, and in the Official Records of Franklin County in Volume 98, pages 102-106.

27. St. Joseph Bay Aquatic Preserve, as described in the Official Records of Gulf County in Book 46, pages 75-76.

28. St. Andrews State Park Aquatic Preserve, as described in the Official Records of Bay County in Book 379, pages 547-550.

29. Rocky Bayou State Park Aquatic Preserve, as described in the Official Records of Okaloosa County in Book 593, pages 742-745.

30. Yellow River Marsh Aquatic Preserve, as described in the Official Records of Santa Rosa County in Book 206, pages 568-571.

31. Fort Pickens State Park Aquatic Preserve, as described in the Official Records of Santa Rosa County in Book 220, pages 60-63, in the Official Records of Escambia County in Book 518, pages 659-662, less the lands dedicated to the U. S. A. for the establishment of the Gulf Islands National Seashore prior to the enactment of the act, until such time as the U. S. A. no longer wishes to maintain such lands for the purpose for which they were dedicated, at which time such lands would revert to the board and be managed as part of the preserve.

Specific Authority 120.53, 258.43(1) FS. Law Implemented 258.39, 258.40, 258.41, 258.42, 258.43, 258.44, 258.45 FS. History—New 2-25-81.

32. For the purpose of this section the boundaries of the Lake Jackson Aquatic Preserve, shall be the body of water in Leon County known as Lake Jackson in Sections 1, 2, 3, 5, 10, 11 and 14, Township 1 North, Range 1 West and Sections 11, 12, 13, 14, 15, 21, 22, 25, 26, 27, 28, 29, 32, 33, 34, and 35, Township 2 North, Range 1 West lying below the ordinary high water line. Such lands shall include the submerged bottom lands and the water column upon such lands, as well as all publicly owned islands, within the boundaries of the preserve. Any privately held upland within the boundaries of the preserve shall be deemed to be excluded therefrom; provided that the Board may negotiate an arrangement with any such private upland owner by which such land may be included in the preserve.

33. Terra Ceia Aquatic Preserve, as described in Section 258.393, Florida Statutes.

34. Future aquatic preserves established pursuant to general or special acts of the legislature.

Specific Authority 120.53, 258.43(1) FS. Law Implemented 258.39, 258.391, 258.392, 258.393, 258.40, 258.41, 258.42, 258.43, 258.44, 258.45 FS. History—New 2-25-81, Amended 6-7-85.

~~160-20.05~~ Definitions. When used in these rules, the following words shall have the indicated meaning unless the context clearly indicates otherwise:

(1) "Act" means the provisions of Section 258.35 through 258.46, F.S., the Florida Aquatic Preserve Act.

(2) "Activity" means any project and such other human action within the preserve requiring board approval for the use, sale, lease or transfer of interest in sovereignty lands or materials, or which may require a license from the Department of Environmental Regulation.

(3) "Aesthetic values" means scenic characteristics or amenities of the preserve in its essentially natural state or condition, and the maintenance thereof.

(4) "Applicant" means any person making application for a permit, license, conveyance of an interest in state owned lands or any other necessary form of governmental approval in order to perform an activity within the preserve.

(5) "Beneficial biological functions" means interactions between flora, fauna and physical or chemical attributes of the environment, which provide benefits that accrue to the public at large, including, but not limited to: nutrient, pesticide and heavy metal uptake; sediment retention; nutrient conversion to biomass; nutrient recycling and oxygenation.

(6) "Beneficial hydrological functions" means interactions between flora, fauna and physical geological or geographical attributes of the environment, which provide benefits that accrue to the public at large, including, but not limited to: retardation of storm water flow; storm water retention; and water storage, and periodical release;

(7) "Biological values" means the preservation and promotion of indigenous life forms and habitats including, but not limited to: sponges, soft corals, hard corals, submerged grasses, mangroves, saltwater marshes, fresh water marshes, mud flats, marine, estuarine, and aquatic reptiles, games and non-games fish species, marine, estuarine, and aquatic mammals, marine, estuarine, and aquatic invertebrates, birds and shellfish.

(8) "Board" means the Governor and Cabinet sitting as the Board of Trustees of the Internal Improvement Trust Fund.

(9) "Channel" means a trench, the bottom of which is normally covered entirely by water, with the upper edges of its sides normally below water.

(10) "Commercial, industrial and other revenue generating/income related docks" means docking facilities for an activity which produces income, through rental or any other means, or which serves as an accessory facility to other rental, commercial or industrial operations. It shall include, but not be limited to docking for: marinas, restaurants, hotels, motels, commercial fishing, shipping, boat or ship construction, repair, and sales.

(11) "Department" means the State of Florida Department of Natural Resources, as administrator for the board.

(12) "Division" means the Division of State Lands, which performs all staff duties and functions related to the administration of lands title to which is, or will be, vested in the board, pursuant to section 253.002, F.S.

(13) "Dock" means a fixed or floating structure, including moorings, used for the purpose of berthing buoyant vessels either temporarily or indefinitely.

(14) "Essentially natural condition" means those functions which support the continued existence or encourage the restoration of the diverse population of indigenous life forms and habitats to the extent they existed prior to the significant development adjacent to and within the preserve.

(15) "Extreme hardship" means a significant burden, unique to the applicant and not shared by property owners in the area. Self-imposed circumstances caused to any degree by actions of any person subsequent to the enactment of the Act shall not be construed as an extreme hardship. Extreme hardship under this act shall not be construed to include any hardship which arises in whole or in part from the effect of other federal, state or local laws, ordinances, rules or regulations. The term may be inherent in public projects which are shown to be a public necessity.

(16) "Fill" means materials from any source, deposited by any means onto sovereignty lands, either for the purpose of creating new uplands or for any other purpose, including spoiling of dredged materials. For the purpose of this rule, the placement of pilings or riprap shall not be considered to be filling.

(17)~~(16)~~ "Lease" means a conveyance of interest in lands, title to which is vested in the board, granted in accordance with specific terms set forth in writing.

(18)~~(17)~~ "Marina" means a small craft harbor complex used primarily for recreation.

(19)~~(18)~~ "Oil and gas transportation facilities" means those structures necessary for the movement of oil and gas from the production site to the consumer.

(20)~~(19)~~ "Person" means individuals, minors, partnerships, corporations, joint ventures, estates, trusts, syndicates, fiduciaries, firms, and all other associations and combinations, whether public or private, including governmental entities.

(21)~~(20)~~ "Pier" means a structure in, on, or over sovereignty lands, which is used by the public primarily for fishing, swimming, or viewing the preserve. A pier shall not include a dock.

(22)(21) "Preserve" means any and all of those areas which are exceptional areas of sovereignty lands and the associated water body so designated in Section 258.39, 258.391, and 258.392, F.S., including all sovereignty lands, title to which is vested in the board, and such other lands as the board may acquire or approve for inclusion, and the water column over such lands, which have been set aside to be maintained in an essentially natural or existing condition of indigenous flora and fauna and their supporting habitat and the natural scenic qualities and amenities thereof.

(23) "Private residential single dock" means a dock which is used for private, recreational or leisure purposes for a single family residence, cottage or other such single dwelling unit and which is designed to moor no more than two boats.

(24) "Private residential multi-slip dock" means a docking facility which is used for private recreational or leisure purposes for multi-unit residential dwellings which shall include but is not limited to condominiums, townhouses, subdivisions and other such dwellings or residential areas and which is designed to moor three or more boats. Yacht clubs associated with residential developments, whose memberships or utilization of the docking facility requires some real property interest in the residential area, shall also be included.

(25)(25) "Public interest" means demonstrable environmental, social, and economic benefits which would accrue to the public at large as a result of a proposed action, and which would clearly exceed all demonstrable environmental, social, and economic costs of the proposed action. In determining the public interest in a request for use, sale, lease, or transfer of interest in sovereignty lands or severance of materials from sovereignty lands, the board shall consider the ultimate project and purpose to be served by said use, sale, lease, or transfer of lands or materials.

(26)(24) "Public navigation project" means a project primarily for the purpose of navigation which is authorized and funded by the United States Congress or by port authorities as defined by Section 315.02(2), F.S.

(27)(25) "Public necessity" means the works or improvements required for the protection of the health and safety of the public, consistent with the Act and these rules, for which no other reasonable alternative exists.

(28)(26) "Public utilities" means those services, provided by persons regulated by the Public Service Commission, or which are provided by rural cooperatives, municipalities, or other governmental agencies, including electricity, telephone, public water and wastewater services, and structures necessary for the provision of these services.

(29)(27) "Quality of the preserve" means the degree of the biological, aesthetic and scientific values of the preserve necessary for present and future enjoyment of it in an essentially natural condition.

(30)(28) "Resource management agreement" means a contractual agreement between the board and one or more parties which does not create an interest in real property but merely authorizes conduct of certain management activities on lands held by the board.

(31) "Resource Protection Area (RPA) 1" — Areas within the aquatic preserves which have resources of the highest quality and condition for that area. These resources may include, but are not limited to corals; marine grassbeds; mangrove swamps; salt-water marsh; oyster bars; archaeological and historical sites; endangered or threatened species habitat; and, colonial water bird nesting sites.

(32) "Resource Protection Area 2" — Areas within the aquatic preserves which are in transition with either declining resource protection area 1 resources or new pioneering resources within resource protection area 3.

(33) "Resource Protection Area 3" — Areas within the aquatic preserve that are characterized by the absence of any significant natural resource attributes.

(34)(29) "Riparian rights" means those rights incident to lands bordering upon navigable waters, as recognized by the courts of this state and common law.

(35)(30) "Sale" means a conveyance of interest in lands, by the board, for consideration.

(36)(31) "Scientific values" means the preservation and promotion of certain qualities or features which have scientific significance.

(37)(32) "Shore protection structure" means a type of coastal construction designed to minimize the rate of erosion. Coastal construction includes any work or activity which is likely to have a material physical effect on existing coastal conditions or natural shore processes.

(38)(33) "Sovereignty lands" means those lands including, but not limited to: tidal lands, islands, sandbars, shallow banks, and lands waterward of the ordinary or mean highwater line, to which the State of Florida acquired title on March 3, 1845, by virtue of statehood, and of which it has not since divested its title interest. For the purposes of this rule sovereignty lands shall include all submerged lands within the boundaries of the preserve, title to which is held by the board.

(39)(34) "Spoil" means materials dredged from sovereignty lands which are redeposited or discarded by any means, onto either sovereignty lands or uplands.

(40) ~~(25)~~ "Transfer" means the act of the board by which any interest in lands, including easements, other than sale or lease, is conveyed.

(41) ~~(36)~~ "Utility of the preserve" means fitness of the preserve for the present and future enjoyment of its biological, aesthetic and scientific values, in an essentially natural condition.

Specific Authority 258.43(1) FS. Law Implemented 258.37, 258.43(1) FS. History—New 2-25-81.

(42) "Water dependent activity" means an activity which can only be conducted on, in, over, or adjacent to, water areas because the activity requires direct access to the water body or sovereignty lands for transportation, recreation, energy production or transmission, or source of water and where the use of the water or sovereignty lands is an integral part of the activity.

Specific Authority 258.43(1) FS. Law Implemented 258.37, 258.43(1) FS. History—New 2-25-81, Amended 8-7-85. FORMERLY 16Q-20

~~18Q-20.04~~ 18-20.004 Management Policies, Standards And Criteria. The following management policies, standards and criteria are supplemental to Chapter 18-~~18Q~~-21, Florida Administrative Code (Sovereignty Submerged Lands Management) and shall be utilized in determining whether to approve, approve with conditions or modifications or deny all requests for activities on sovereignty lands in aquatic preserves.

(1) GENERAL PROPRIETARY

(a) In determining whether to approve or deny any request the Board will evaluate each on a case-by-case basis and weigh any factors relevant under Chapter 253 and/or 258, Florida Statutes. The Board, acting as Trustees for all state-owned lands, reserves the right to approve, modify or reject any proposal.

(b) There shall be no further sale, lease or transfer of sovereignty lands except when such sale, lease or transfer is in the public interest (see Section ~~[illegible]~~ 18-20.004(2) Public Interest Assessment Criteria).

(c) There shall be no construction of seawalls waterward of the mean or ordinary high water line, or filling waterward of the mean or ordinary high water line except in the case of public road and bridge projects where no reasonable alternative exists.

(d) There shall, in no case, be any dredging waterward of the mean or ordinary high water line for the sole or primary purpose of providing fill for any area landward of the mean or ordinary high water line.

(e) A lease, easement or consent of use may be authorized only for the following activities:

1. a public navigation project;

2. maintenance of an existing navigational channel;

3. installation or maintenance of approved navigational aids;

4. creation or maintenance of a commercial/industrial dock, pier or a marina;

5. creation or maintenance of private docks for reasonable ingress and egress of riparian owners;

6. minimum dredging for navigation channels attendant to docking facilities;

7. creation or maintenance of a shore protection structure;

8. installation or maintenance of oil and gas transportation facilities;

9. creation, maintenance, replacement or expansion of facilities required for the provision of public utilities; and,

10. other activities which are a public necessity or which are necessary to enhance the quality or utility of the preserve and which are consistent with the act and this chapter.

(f) For activities listed in paragraphs 18-~~18Q~~-20.~~04~~(1)(e)1—10, above, the activity shall be designed so that the structure or structures to be built in, on or over sovereignty lands are limited to structures necessary to conduct water dependent activities.

(g) For activities listed in paragraphs 18-~~18Q~~-20.~~04~~(1)(e) 7., 8., 9. and 10. above, it must be demonstrated that no other reasonable alternative exists which would allow the proposed activity to be constructed or undertaken outside the preserve.

(h) The use of state-owned lands for the purpose of providing private or public road access to islands where such access did not previously exist shall be prohibited. The use of state-owned lands for the purpose of providing private or public water supply to islands where such water supply did not previously exist shall be prohibited.

(i) Except for public navigation projects and maintenance dredging for existing channels and basins, any areas dredged to improve or create navigational access shall be incorporated into the preempted area of any required lease or be subject to the payment of a negotiated private easement fee.

(j) Private Residential multi-slip docking facilities shall require a lease.

(k) Aquaculture and beach renourishment activities which comply with the standards of this rule chapter and Chapter 18-~~18Q~~-21, Florida Administrative Code, may be approved by the board, but only subsequent to a formal finding of compatibility with the purposes of Chapter 258, Florida Statutes, and this rule chapter.

(l) Other uses of the preserve, or human activity within the preserve, although not originally contemplated, may be approved by the board, but only subsequent to a formal finding of compatibility with the purposes of Chapter 258, Florida Statutes, and this rule chapter.

(2) PUBLIC INTEREST ASSESSMENT CRITERIA

In evaluating requests for the sale, lease or transfer of interest, a balancing test will be utilized to determine whether the social, economic and/or environmental benefits clearly exceed the costs.

(a) GENERAL BENEFIT/COST CRITERIA:

1. Any benefits that are balanced against the costs of a particular project shall be related to the affected aquatic preserve;

2. in evaluating the benefits and costs of each request, specific consideration and weight shall be given to the quality and nature of the specific aquatic preserve. Projects in the less developed, more pristine aquatic preserves such as Apalachicola Bay shall be subject to a higher standard than the more developed urban aquatic preserves such as Boca Ciega Bay; and,

3. for projects in aquatic preserves with adopted management plans, consistency with the management plan will be weighed heavily when determining whether the project is in the public interest.

(b) BENEFIT CATEGORIES:

1. Public access (public boat ramps, boatslips, etc.);

2. providing boating and marina services (repair, pumpout, etc.);

3. improve and enhance public health, safety, welfare, and law enforcement;

4. improved public land management;

5. improve and enhance public navigation;

6. improve and enhance water quality;

7. enhancement/restoration of natural habitat and functions; and,

8. improve/protect endangered/threatened/unique species.

(c) COSTS:

1. Reduced/degraded water quality;

2. reduced/degraded natural habitat and function;

3. destruction, harm or harassment of endangered or threatened species and habitat;

4. preemption of public use;

5. increasing navigational hazards and congestion;

6. reduced/degraded aesthetics; and,

7. adverse cumulative impacts.

(d) EXAMPLES OF SPECIFIC BENEFITS:

1. Donation of land, conservation easements, restrictive covenants or other title interests in or contiguous to the aquatic preserve which will protect or enhance the aquatic preserve;

2. providing access or facilities for public land management activities;

3. providing public access easements and/or facilities, such as beach access, boat ramps, etc.;

4. restoration/enhancement of altered habitat or natural functions, such as conversion of vertical bulkheads to riprap and/or vegetation for shoreline stabilization or re-establishment of shoreline or submerged vegetation;

5. improve fishery habitat through the establishment of artificial reefs or other such projects, where appropriate;

6. providing sewage pumpout facilities where normally not required, in particular, facilities open to the general public;

7. improvements in water quality such as removal of toxic sediments, increased flushing and circulation, etc.;

8. providing upland dry storage as an alternative to wetslip; and,

9. marking navigation channels to avoid disruption of shallow water habitats.

(3) RESOURCE MANAGEMENT

(a) All proposed activities in aquatic preserves having management plans adopted by the board must demonstrate that such activities are consistent with the management plan.

(b) No drilling of oil, gas or other such wells shall be allowed.

(c) Utility cables, pipes and other such structures shall be constructed and located in a manner that will cause minimal disturbance to submerged land resources such as oyster bars and submerged grass beds and do not interfere with traditional public uses.

(d) Spoil disposal within the preserves shall be strongly discouraged and may be approved only where the applicant has demonstrated that there is no other reasonable alternative and that activity may be beneficial to, or at a minimum, not harmful to the quality and utility of the preserve.

(4) RIPARIAN RIGHTS

(a) None of the provisions of this rule shall be implemented in a manner that would unreasonably infringe upon the traditional, common law and statutory riparian rights of upland riparian property owners adjacent to sovereignty lands.

(b) The evaluation and determination of the reasonable riparian rights of ingress and egress for private, residential multi-slip docks shall be based upon the number of linear feet of riparian shoreline.

(c) For the purposes of this rule, a private, residential, single docking facility which meets all the requirements of Rule [illegible]-20.[illegible](5) shall be deemed to meet the public interest requirements of Rule [illegible]-20.[illegible](1)(b), Florida Administrative Code. However, the applicants for such docking facilities must apply for such consent and must meet all of the requirements and standards of this rule chapter.

(5) STANDARDS AND CRITERIA FOR DOCKING FACILITIES

(a) All docking facilities, whether for a single or multi-slip residential or commercial, shall be subject to the following standards and criteria:

1. No dock shall extend waterward of the mean or ordinary high water line more than 300 feet or 20 percent of the width of the waterbody at that particular location whichever is less;

2. certain docks may fall within areas of special or unique importance. These areas may be of significant biological, scientific, historic and/or aesthetic value and require special management considerations. Modifications may be more restrictive than the normally accepted criteria. Such modifications shall be determined on a case-by-case analysis, and may include, but shall not be limited to changes in location, configuration, length, width and height;

3. the number, lengths, drafts and types of vessels allowed to utilize the proposed facility may also be supulated; and,

4. where local governments have more stringent standards and criteria for docking facilities, the more stringent standards for the protection and enhancement of the aquatic preserve shall prevail.

(b) Private residential single docks shall conform to the following specific design standards and criteria:

1. Any main access dock shall be limited to a maximum width of four (4) feet;

2. the dock decking design and construction will insure maximum light penetration, with full consideration of safety and practicality;

3. the dock will extend out from the shoreline no further than to a maximum depth of minus four (−4) feet (mean low water);

4. when the water depth is minus four (−4) feet (mean low water) at an existing bulkhead the maximum dock length from the bulkhead shall be 25 feet, subject to modifications accommodating shoreline vegetation overhang;

5. wave break devices, when necessary, shall be designed to allow for maximum water circulation and shall be built in such a manner as to be part of the dock structure;

6. terminal platform size shall be no more than 160 square feet; and,

7. dredging to obtain navigable water depths in conjunction with private residential, single dock applications is strongly discouraged.

(c) Private residential multi-slip docks shall conform to the following specific design standards and criteria:

1. The area of sovereignty, submerged land preempted by the docking facility shall not exceed the square footage amounting to ten times the riparian waterfront footage of the affected waterbody of the applicant, or the square footage attendant to providing a single dock in accordance with the criteria for private residential single docks, whichever is greater. A conservation easement or other such use restriction acceptable to the Board must be placed on the riparian shoreline, used for the calculation of the 10:1 threshold, to conserve and protect shoreline resources and subordinate/waive any further riparian rights of ingress and egress for additional docking facilities;

2. docking facilities and access channels shall be prohibited in Resource Protection Area 1 or 2, except as allowed pursuant to Section 258.42(3)(c)1., Florida Statutes, while dredging in Resource Protection Area 3 shall be strongly discouraged;

3. docking facilities shall only be approved in locations having adequate existing water depths in the boat mooring, turning basin, access channels, and other such areas which will accommodate the proposed boat use in order to insure that a minimum of one foot clearance is provided between the deepest draft of a vessel and the bottom at mean low water;

4. main access docks and connecting or cross walks shall not exceed six (6) feet in width;

5. terminal platforms shall not exceed eight (8) feet in width;

6. finger piers shall not exceed three (3) feet in width, and 25 feet in length;

7. pilings may be utilized as required to provide adequate mooring capabilities; and,

8. the following provisions of Rule 18-20.004(5)(d) shall also apply to private residential multi-slip docks.

(d) Commercial, industrial and other revenue generating/income related docking facilities shall conform to the following specific design standards and criteria:

1. Docking facilities shall only be located in or near areas with good circulation, flushing and adequate water depths;

2. docking facilities and access channels shall be prohibited in Resource Protection Area 1 or 2, except as allowed pursuant to Sections 258.42(3)(c)1., Florida Statutes; while dredging in Resource Protection Area 3 shall be strongly discouraged;

3. the docking facilities shall not be located in Resource Protection Area 1 or 2; however, main access docks may be allowed to pass through Resource Protection Area 1 or 2, that are located along the shoreline, to reach an acceptable Resource Protection Area 3, provided that such crossing will generate minimal environmental impact;

4. beginning July 1, 1986 new docking facilities may obtain a lease only where the local governments have an adopted marina plan and/or policies dealing with the siting of commercial/industrial and private, residential, multi-slip docking facilities in their local government comprehensive plan;

5. the siting of the docking facilities shall also take into account the access of the boat traffic to avoid marine grassbeds or other aquatic resources in the surrounding areas;

6. the siting of new facilities within the preserve shall be secondary to the expansions of existing facilities within the preserve when such expansion is consistent with the other standards;

7. the location of new facilities and expansion of existing facilities shall consider the use of upland dry storage as an alternative to multiple wet-slip docking;

8. marina siting will be coordinated with local governments to insure consistency with all local plans and ordinances;

9. marinas shall not be sited within state designated manatee sanctuaries; and,

10. in any areas with known manatee concentrations, manatee warning/notice and/or speed limit signs shall be erected at the marina and/or ingress and egress channels, according to Florida Marine Patrol specifications.

(c) Exceptions to the standards and criteria listed in Rule 18-20.004(5), Florida Administrative Code, may be considered, but only upon demonstration by the applicant that such exceptions are necessary to insure reasonable riparian ingress and egress.

(6) MANAGEMENT AGREEMENTS

The board may enter into management agreements with local agencies for the administration and enforcement of standards and criteria for private residential single docks.

Specific Authority 253.03, 256.43(1) FS. Law Implemented 253.03, 258.43, 258.42, 258.43(1), 258.44 FS. History—New 2-25-81, Amended 6-7-85.

Editorial Note: The 6-7-85 amendment entirely superseded the former rule.

18-20.005 Uses, Sales, Leases, or Transfer of Interests in Lands, or Materials, Held by the Board.

Specific Authority 258.43(1) FS. Law Implemented 253.02, 253.12, 258.42 FS. History—New 2-25-81, Repealed 6-7-85.

18-20.006 Cumulative Impacts. In evaluating applications for activities within the preserves or which may impact the preserves, the department recognizes that, while a particular alteration of the preserve may constitute a minor change, the cumulative effect of numerous such changes often results in major impairments to the resources of the preserve. Therefore, the department shall evaluate a particular site for which the activity is proposed with the recognition that the activity may, in conjunction with other activities adversely affect the preserve which is part of a complete and interrelated system. The impact of a proposed activity shall be considered in light of its cumulative impact on the preserve's natural system. The department shall include as a part of its evaluation of an activity:

(1) The number and extent of similar human actions within the preserve which have previously affected or are likely to affect the preserve, whether considered by the department under its current authority or which existed prior to or since the enactment of the Act; and

(2) The similar activities within the preserve which are currently under consideration by the department; and

(3) Direct and indirect effects upon the preserve and adjacent preserves, if applicable, which may reasonably be expected to result from the activity; and

(4) The extent to which the activity is consistent with management plans for the preserve, when developed; and

(5) The extent to which the activity is permissible within the preserve in accordance with comprehensive plans adopted by affected local governments, pursuant to section 163.3161, F.S., and other applicable plans adopted by local, state, and federal governmental agencies;

(6) The extent to which the loss of beneficial hydrologic and biologic functions would adversely impact the quality or utility of the preserve; and

(7) The extent to which mitigation measures may compensate for adverse impacts.

Specific Authority 258.43(1) FS. Law Implemented 258.36, 258.43, 258.44 FS. History—New 2-25-81.

~~16Q-20.07~~ Protection of Riparian Rights.

Specific Authority 258.43(1) FS. Law Implemented 258.123, 258.124(8), 258.44 FS. History—New 2-25-81, Repealed 6-7-85.

~~16Q-20.08~~ Inclusion of Lands, Title to Which Is Not Vested in the Board, in a Preserve.

(1) Lands and water bottoms which are within designated aquatic preserve boundaries, or adjacent thereto and which are owned by other governmental agencies, may be included in an aquatic preserve upon specific authorization for inclusion by an appropriate instrument in writing executed by the agency.

(2) Lands and water bottoms which are within designated aquatic preserve boundaries or adjacent thereto, and which are in private ownership, may be included in an aquatic preserve upon specific authorization for inclusion by an appropriate instrument in writing executed by the owner.

(3) The appropriate instrument shall be either a dedication in perpetuity, or a lease. Such lease shall contain the following conditions:

(a) The term of the lease shall be for a minimum period of ten years.

(b) The board shall have the power and duty to enforce the provisions of each lease agreement, and shall additionally have the power to terminate any lease if the termination is in the best interest of the aquatic preserve system, and shall have the power to include such lands in any agreement for management of such lands.

(c) The board shall pay no more than $1 per year for any such lease.

Specific Authority 258.43(1) FS. Law Implemented 258.40, 258.41 FS. History—New 2-25-81.

~~16Q-20.09~~ Establishment or Expansion of Aquatic Preserves.

(1) The board may expand existing preserves or establish additional areas to be included in the aquatic preserve system, subject to confirmation by the legislature.

(2) The board may, after public notice and public hearing in the county or counties in which the proposed expanded or new preserve is to be located, adopt a resolution formally setting aside such areas to be included in the system.

(3) The resolution setting aside an aquatic preserve area shall include:

(a) A legal description of the area to be included. A map depicting the legal description shall also be attached.

(b) The designation of the type of aquatic preserve.

(c) A general statement of what is sought to be preserved.

(d) A statement that the area established as a preserve shall be subject to the management criteria and directives of this chapter.

(e) A directive to develop a natural resource inventory and a management plan for the area being established as an aquatic preserve.

(4) Within 30 days of the designation and establishment of an aquatic preserve, the board shall record in the public records of the county or counties in which the preserve is located a legal description of the preserve.

Specific Authority 258.43(1) FS. Law Implemented 258.41 FS. History—New 2-25-81.

~~16Q-20.10~~ Exchange of Lands. The board in its discretion may exchange lands for the benefit of the preserve, provided that:

(1) In no case shall an exchange result in any land or water area being withdrawn from the preserve; and

(2) Exchanges shall be in the public interest and shall maintain or enhance the quality or utility of the preserve.

Specific Authority 258.43(1) FS. Law Implemented 258.41(5), 258.42(1) FS. History—New 2-25-81.

~~16Q-20.11~~ Gifts of Lands. The board in its discretion may accept any gifts of lands or interests in lands within or contiguous to the preserve to maintain or enhance the quality and utility of the preserve.

Specific Authority 258.43(1) FS. Law Implemented 258.42(5) FS. History—New 2-25-81.

18-20.012

~~16Q-20.12~~ Protection of Indigenous Life Forms. The taking of indigenous life forms for sale or commercial use is prohibited, except that this prohibition shall not extend to the commercial taking of fin fish, crustacea or molluscs, except as prohibited under applicable laws, rules or regulations. Members of the public may exercise their rights to fish, so long as not contrary to other statutory and regulatory provisions controlling such activities.

Specific Authority 258.43(1) FS. Law Implemented 258.43(1) FS. History—New 2-25-81.

18-20.013

~~16Q-20.13~~ Development of Resource Inventories and Management Plans for Preserves.

(1) The board authorizes and directs the division to develop a resource inventory and management plan for each preserve.

(2) The division may perform the work to develop the inventories and plans, or may enter into agreements with other persons to perform the work. In either case, all work performed shall be subject to board approval.

Specific Authority 258.43(1) FS. Law Implemented 253.03(7), 253.03(8) FS. History—New 2-25-81, Amended 6-7-85.

Editorial Note: The 6-7-85 amendment entirely superseded the former rule.

18-20.014

~~16Q-20.14~~ Enforcement. The rules shall be enforced as provided in Section 258.46.

Specific Authority 258.43(1) FS. Law Implemented 258.46 FS. History—New 2-25-81.

18-20.015

~~16Q-20.15~~ Application Form.

Specific Authority (253.43(1) FS. Law Implemented 258.43 FS. History—New 2-25-81, Repealed 6-7-85.

18-20.016

~~16Q-20.16~~ Coordination with Other Governmental Agencies. Where a Department of Environmental Regulation permit is required for activities on sovereignty lands the department will coordinate with the Department of Environmental Regulation to obtain a copy of the joint Department of Army/Florida Department of Environmental Regulation permit application and the biological survey. The information contained in the joint permit application and biological assessment shall be considered by the department in preparing its staff recommendations to the board. The board may also consider the reports of other governmental agencies that have related management or permitting responsibilities regarding the proposed activity.

Specific Authority 253.43(1) FS. Law Implemented 258.43 FS. History—New 2-25-81.

18-20.017

~~16Q-20.17~~ Lake Jackson Aquatic Preserve. In addition to the provisions of Rules ~~16Q-~~20.001 through ~~16Q-~~20.~~15~~, the following requirements shall also apply to all proposed activities within the Lake Jackson Aquatic Preserve. If any provisions of this Rule are in conflict with any provisions of Rules ~~16Q-~~20.~~15~~ through ~~16Q-~~20.~~16~~ or Chapter 73-534, Laws of Florida, the stronger provision for the protection or enhancement of the aquatic preserve shall prevail. 18

(1) No further sale, transfer or lease of sovereignty lands in the preserve shall be approved or consummated by the board, except upon a showing of extreme hardship on the part of the applicant or when the board shall determine such sale, transfer or lease to be in the public interest.

(2) No further dredging or filling of sovereignty lands of the preserve shall be approved or tolerated by the board of Trustees except:

(a) Such minimum dredging and spoiling as may be authorized for public navigation projects or for preservation of the lake according to the expressed intent of Chapter 73-534, Laws of Florida; and,

(b) Such other alteration of physical conditions as may be necessary to enhance the quality or utility of the preserve.

(3) There shall be no drilling of wells, excavation for shell or minerals, and no erection of structures (other than docks), within the preserve, unless such activity is associated with activity authorized by Chapter 73-534, Laws of Florida.

(4) The Board shall not approve the relocations of bulkhead lines within the preserve.

(5) Notwithstanding other provisions of this act, the board may, respecting lands lying within the Lake Jackson basin:

(a) Enter into agreements for and establish lines delineating sovereignty and privately owned lands;

(b) Enter into agreements for the exchange and exchange sovereignty lands for privately owned lands;

(c) Accept gifts of land within or contiguous to the preserve.

Specific Authority 258.39(26) FS. Law Implemented 258.39(26), 258.43 FS. History—New 6-7-85.

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Appendix C.

CHAPTER 16Q-21
SOVEREIGNTY SUBMERGED LANDS MANAGEMENT

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Library References: Lakes: Distinguishing Them from Wet Prairies, James R. Brindell, 57 Fla. Bar J. 724 (December, 1983).

16Q-21.01 Intent. The intent and purpose of this rule is:

(1) To aid in fulfilling the trust and fiduciary responsibilities of the Board of Trustees of the Internal Improvement Trust Fund for the administration, management and disposition of sovereignty lands;

(2) To insure maximum benefit and use of sovereignty lands for all the citizens of Florida;

(3) To manage, protect, and enhance sovereignty lands so that the public may continue to enjoy traditional uses including, but not limited to, navigation, fishing and swimming;

(4) To manage and provide maximum protection for all sovereignty lands, especially those harvesting, public recreation, and fish and wildlife propagation and management;

(5) To insure that all public and private activities on sovereignty lands which generate revenues or exclude traditional public uses provide just compensation for such privileges; and,

(6) To aid in the implementation of the State Lands Management Plan.

Specific Authority 253.03(7) FS, Art. X, Sec. 11, Fla. Const. Law Implemented 253.03, 253.12 FS. History—New 3-27-82.

16Q-21.02 Scope and Effective Date.

(1) These rules are to implement the administrative and management responsibilities of the board and department regarding sovereignty lands. Responsibility for environmental permitting of activities and water quality protection on sovereignty and other lands is vested with the Department of Environmental Regulation. These rules are considered cumulative; therefore, a person planning an activity should consult other applicable department rules (Chapter 16Q-20, Florida Administrative Code and others) as well as the rules of the Department of Environmental Regulation.

(2) These rules are prospective in their application and shall not apply to activities for which applications have been submitted to the department or the Department of Environmental Regulation prior to the adoption date of these rules and shall not affect previous actions of the board concerning private docks or the issuance of any easement, lease, or any disclaimer concerning sovereignty lands. Fee arrangements in existing leases are not subject to the fees of this rule until expiration of said leases unless otherwise specified in the lease instrument.

(3) Docks, piers, and other such structures on sovereignty lands in existence prior to March 10, 1970 shall be subject to the provisions of this rule commencing on January 1, 1998. Any expansions to such structures shall be subject to the provisions of this rule, if any expansion thereto requires the use of any Additional sovereignty lands.

(4) Docks, piers, and other such structures on sovereignty lands in existence prior to March 10, 1970 and which would require a lease pursuant to Section 16Q-21.05(1)(b), Florida Administrative Code, shall be required to register the structures with the department before June 30, 1984.

(5) Any expansion of an existing activity shall be subject to the provisions of this rule.

Specific Authority 253.03(7) FS. Law Implemented 253.03, 253.12, 253.77 FS. History—New 3-27-82, Amended 8-1-83.

16Q-21.03 Definitions. When used in these rules, the following shall have the indicated meaning unless the context clearly indicates otherwise:

(1) "Accretion" means the process of gradual and imperceptible additions of sand, sediment, or other material to riparian lands made by the natural action of water which results in dry lands formerly covered by water.

(2) "Activity" means any use of sovereignty lands which requires board approval for consent of use, lease, easement, sale, or transfer of interest in such sovereignty lands or materials. Activity includes, but is not limited to, the construction of docks, piers, boat ramps, board walks, mooring

pilings, dredging of channels, filling, removal of logs, sand, silt, clay, gravel or shell, and the removal or planting of vegetation on sovereignty lands.

(3) "Applicant" means any person making application for a lease, sale, or other form of conveyance of an interest in sovereignty lands or any other necessary form of governmental approval for an activity on sovereignty lands.

(4) "Artificial accretion" means the addition of sand, sediment, or other material to riparian lands caused by man-made projects and operations which results in dry lands formerly covered by water.

(5) "Artificial erosion" means the loss or washing away of sand, sediment, or other material from riparian property caused by man-made projects and operations which result in submerged lands formerly not covered by water.

(6) "Avulsion" means the addition to or loss of riparian property caused by the sudden and perceptible natural action of water.

(7) "Aquaculture" means the cultivation of animal or plant life in an aquatic environment.

(8) "Board" means the Governor and Cabinet sitting as the Board of Trustees of the Internal Improvement Trust Fund.

(9) "Channel" means a trench, the bottom of which is normally covered entirely by water, with the upper edges of its sides normally below water.

(10) "Coastal barrier islands" means a depositional geologic feature consisting of unconsolidated sedimentary materials in an island configuration which is subject to direct attack by wave, tidal, and wind energies originating from the Atlantic Ocean or Gulf of Mexico, and which serves to protect landward aquatic habitats, such as bays and estuaries, and the interior uplands of the mainland from oceanic wave, tidal, and wind forces.

(11) "Consent of use" means a nonpossessory interest in sovereignty lands created by an approval which allows the applicant the right to erect specific structures or conduct specific activities on said lands.

(12) "Department" means the State of Florida Department of Natural Resources, as administrator for the board.

(13) "Division" means the Division of State Lands which performs all staff duties and functions related to the administration of lands, title to which is or will be vested in the board pursuant to Section 253.002, Florida Statutes.

(14) "Dock" means a fixed or floating structure, including moorings, used for the purpose of berthing buoyant vessels.

(15) "Easement" means a non-possessory interest in sovereignty lands created by a grant or agreement which confers upon the applicant the limited right, liberty, and privilege to use said lands for a specific purpose and for a specific time.

(16) "Energy production" means the exploration for, and extraction of, hydrocarbons, including necessary transmission through pipelines, or the water-oriented activities related to the generation of electricity.

(17) "Fill" means materials from any source, deposited by any means onto sovereignty lands, either for the purpose of creating new uplands or for any other purpose, including spoiling of dredged materials.

(18) "First come, first served" means any water dependent facility operated on the sovereign lands of the state the services of which are open to the general public on a first come, first served basis. This is intended to cover services offered to various types, classes or groups of public users and such services need not be comprehensive. The service offered may be a specialty service such as boat repair, seafood purchasing, marine slip rentals or shipping terminals as long as all services offered are open to the general class of users without any qualifying requirements such as club membership or stock ownership.

(19) "Lease" means an interest in sovereignty lands designated by a contract creating a landlord-tenant relationship between the board as landlord and the applicant as tenant whereby the board grants and transfers to the applicant the exclusive use, possession, and control of certain specified sovereignty lands for a determinate number of years, with conditions attached, at a definite fixed rental.

(20) "Management agreement" means a contractual agreement between the board and one or more parties which does not create an interest in real property but merely authorizes conduct of certain management activities on lands held by the board.

(21) "Marginal dock" means a fixed or floating structure placed immediately contiguous and parallel to an established seawall, bulkhead or revetment.

(22) "Mean high water" means the average height of the high tides over a 19-year period. For shorter periods of observation, "mean high water" means the average height of the high waters after corrections are applied to eliminate known variations and to reduce the result to the equivalent of a mean 19-year value.

(23) "Mean high water line" means the intersection of the local elevation of mean high water with the shore. Mean high water line along the shore of land immediately bordering on navigable waters is recognized and declared to be the boundary between the foreshore owned by the State of Florida in its sovereign capacity and the uplands subject to private ownership. However, no provision of this rule shall be deemed to impair the title to privately owned submerged lands validly alienated by the State of Florida or its legal predecessors.

(24) "Nomination" means a proposal for an oil and gas lease.

(25) "Person" means individuals, minors, partnerships, corporations, joint ventures, estates, trusts, syndicates, fiduciaries, firms, and all other associations and combinations, whether public or private, including governmental entities.

(26) "Preempted area" means the area of sovereignty lands from which the traditional public uses have been or would be excluded to any extent by an activity. The area may include, but is not limited to, the sovereignty lands occupied by the docks and other structures, the area between the docks and out to any mooring pilings, and the area between the docks and the shoreline. If the activity is required to be moved waterward to avoid dredging or disturbance of nearshore habitat, a reasonable portion of the nearshore area that is not impacted by dredging or structures shall not be included in the preempted area.

(27) "Public interest" means demonstrable environmental, social, and economic benefits which would accrue to the public at large as a result of a proposed action, and which would clearly exceed all

costs of the proposed action. In determining the public interest in a request for use, sale, lease, or transfer of interest in sovereignty lands or severance of materials from sovereignty lands, the board shall consider the ultimate project and purpose to be served by said use, sale, lease, or transfer of lands or materials.

(28) "Public navigation project" means an activity primarily for the purpose of navigation which is authorized and funded by the United States Congress or by port authorities as defined by Section 315.02(2), Florida Statutes.

(29) "Public utilities" means those services, provided by persons regulated by the Public Service Commission, or which are provided by rural cooperatives, municipalities, or other governmental agencies, including electricity, public water and wastewater services, and structures necessary for the provision of these services and transmission lines for public communication systems such as telephone, radio and television.

(30) "Public water management project" means an activity primarily for the purpose of flood control, conservation, recreation, water storage and supply, and allied purposes, which is authorized and funded by the United States Congress, the State of Florida, or a water management district as defined by Section 373.069, Florida Statutes.

(31) "Revenue generating/income related activity" means an activity on sovereignty lands which produces income, through rental or any other means, or which serves as an accessory facility to other rental, commercial, or industrial operations. It shall include, but not be limited to, docking for marinas, restaurants, hotels, motels, commercial fishing, shipping, and boat or ship construction, repair and sales.

(32) "Reclamation of lands" means restoring the upland shoreline to a condition that existed prior to avulsion or artificial erosion.

(33) "Riparian rights" means those rights incident to lands bordering upon navigable waters, as recognized by the courts and common law.

(34) "Sale" means a conveyance or transfer of title of sovereignty lands in fee simple by the board, for consideration.

(35) "Satisfactory evidence of title" means a current title insurance policy issued by a title insurance company authorized to do business in the State of Florida, or an opinion of title prepared by a member of the Florida Bar, covering title to lands involved and indicating, at least, such minimum interest in the applicant which may entitle the applicant to the relief sought, or such affidavits as may be required by the department to establish the currency of title status of an applicant.

(36) "Sovereignty lands" means those lands including but not limited to, tidal lands, islands, sand bars, shallow banks, and lands waterward of the ordinary or mean high water line, under navigable fresh and salt waters, to which the State of Florida acquired title on March 3, 1845, by virtue of statehood, and which have not been heretofore conveyed or alienated.

(37) "Spoil island" means any artificially created island having an elevation above water upon formerly submerged sovereignty lands, title to which is vested in the board.

(38) "Water dependent activity" means an activity which can only be conducted on, in, over, or direct access to the water body or sovereignty lands for transportation, recreation, energy production or transmission, or source of water, and where the use of the water or sovereignty lands is an integral part of the activity.

Specific Authority 253.03(7) FS. Law Implemented 253.03 FS. History—New 9-26-77, Formerly 16C-12.01, 16Q-17.01, Amended 3-27-82, 8-1-83.

16Q-21.04 Management Policies, Standards, and Criteria. The following management policies, standards, and criteria shall be utilized in determining whether to approve, approve with conditions or modifications, or deny all requests for activities on sovereignty lands.

(1) General Proprietary

(a) For approval, all activities on sovereignty lands must be not contrary to the public interest, except for sales which must be in the public interest.

(b) All leases, easements, deeds or other forms of approval for sovereignty land activities shall contain such terms, conditions, or restrictions as deemed necessary to protect and manage sovereignty lands.

(c) Equitable compensation shall be required for leases and easements which generate revenues, monies or profits for the user or that limit or preempt general public use. Public utilities and state or other governmental agencies exempted by law shall be excepted from this requirement.

(d) Activities on sovereignty lands shall be limited to water dependent activities only unless the board determines that it is in the public interest to allow an exception as determined by a case by case evaluation. Public projects which are primarily intended to provide access to and use of the waterfront may be permitted to contain minor uses which are not water dependent if:

1. located in areas along seawalls or other nonnatural shorelines;

2. located outside of aquatic preserves or class II waters; and,

3. the nonwater dependent uses are incidental to the basic purpose of the project, and constitute only minor nearshore encroachments on sovereign lands.

(e) Stilt house, boathouses with living quarters, or other such residential structures shall be prohibited on sovereignty lands.

(f) The State Lands Management Plan shall be considered and utilized in developing recommendations for all activities on sovereignty lands.

(g) The use of sovereignty lands for the purpose of providing road access to islands, where such access did not previously exist, shall be prohibited. The board may grant an exception to this prohibition if the board makes a finding that:

1. Construction and use of road access is the least damaging alternative and more protective of natural resources and sovereignty lands than other access activities; and,

2. In the case of coastal barrier islands, such use of sovereignty lands and any upland development facilitated thereby is in the public interest, or in the case of other islands, not contrary to the public interest.

(h) When one or more expansions to existing grandfathered lease facilities equal 50 percent or more of the grandfathered facility then the grandfathered facility will be required to come under lease.

(i) All existing licenses shall be converted to

(2) Resource Management

(a) All sovereignty lands shall be considered single use lands and shall be managed primarily for the maintenance of essentially natural conditions, propagation of fish and wildlife, and traditional recreational uses such as fishing, boating, and swimming. Compatible secondary purposes and uses which will not detract from or interfere with the primary purpose may be allowed.

(b) Activities which would result in significant adverse impacts to sovereignty lands and associated resources shall not be approved unless there is no reasonable alternative and adequate mitigation is proposed.

(c) The Department of Environmental Regulation biological assessments and reports by other agencies with related statutory, management, or regulatory authority may be considered in evaluating specific requests to use sovereignty lands. Any such reports sent to the department in a timely manner shall be considered.

(d) Activities shall be designed to minimize or eliminate any cutting, removal, or destruction of wetland vegetation (as listed in Rule 17-4.02(17), Florida Administrative Code) on sovereignty lands.

(e) Reclamation activities on sovereignty lands shall be approved only if avulsion or artificial erosion is affirmatively demonstrated. Other activities involving the placement of fill material below the ordinary high water line or mean high water line shall not be approved unless it is necessary to provide shoreline stabilization, access to navigable water, or for public water management projects.

(f) To the maximum extent possible, shoreline stabilization should be accomplished by the establishment of appropriate native wetland vegetation. Rip-rap materials, pervious interlocking brick systems, filter mats, and other similar stabilization methods should be utilized in lieu of vertical seawalls wherever feasible.

(g) Severance of materials from sovereignty lands shall be approved only if the proposed dredging is the minimum amount necessary to accomplish the stated purpose and is designed to minimize the need for maintenance dredging.

(h) Severance of materials for the primary purpose of providing upland fill shall not be approved unless no other reasonable source of materials is available or the activity is determined to be in the public interest.

(i) Activities on sovereignty lands shall be designed to minimize or eliminate adverse impacts on fish and wildlife habitat. Special attention and consideration shall be given to endangered and threatened species habitat.

(j) To the maximum extent feasible, all beach compatible dredge materials shall be placed on beaches or within the nearshore sand system.

(k) Oil and gas drilling leases on state-owned submerged lands shall be approved only when the proposed lease area is at least one mile seaward of the outer coastline of Florida as defined in United States v. Florida, 425 U. S. 791, 48 L. Ed. 2d 388, 96 S. Ct. 1840, upon adequate demonstration that the proposed activity is in the public interest, that the impact upon aquatic resources has been thoroughly considered, and that every effort has been made to minimize potential adverse impacts [illegible] the prohibited area if said lease stipulates that any drilling shall be conducted from outside said area.

(3) Riparian Rights

(a) None of the provisions of this rule shall be implemented in a manner that would unreasonably infringe upon the traditional, common law riparian rights of upland property owners adjacent to sovereignty lands.

(b) Applications for activities on sovereignty lands riparian to uplands can only be made by and approved for the upland riparian owner, their legally authorized agent, or persons with sufficient title interest in uplands for the intended purpose.

(c) All structures and other activities must be within the riparian rights area of the applicant and must be designed in a manner that will not restrict or otherwise infringe upon the riparian rights of adjacent upland riparian owners.

(d) All structures and other activities must be set back a minimum of 25 feet from the applicant's riparian rights line. Marginal docks may be set back only 10 feet. There shall be no exceptions to the setbacks unless the applicant's shoreline frontage is less than 65 feet or a sworn affidavit of no objection is obtained from the affected adjacent upland riparian owner, or the proposed structure is a subaqueous utility line.

Specific Authority 253.03(7) FS. Law Implemented 253.03, 253.12, 253.14, 253.47, 253.67-.75 FS. History—New 3-27-82, Amended 8-1-83.

16Q-21.05 Procedures.

(1) All activities on sovereignty lands shall require a lease, easement, consent of use, or other form of approval. The following shall be used to determine the form of approval required:

(a) Consent of Use — is required for the following activities, provided that any such activity not located in an Aquatic Preserve or Manatee Sanctuary and which is exempt from Department of Environmental Regulation permitting requirements under Section 403.813(2)(a), (b), (c), (d), (e), (g), (h), (i), and (k), Florida Statutes, is hereby exempted from any requirement to make application for consent of use, and such consent is herein granted by the board:

1. A single dock or access channel which is no more than the minimum length and size necessary to provide reasonable access to navigable water;

2. Docks, access channels, boat ramps, or other activities which preempt no more than 1,000 square feet of sovereignty land area for each 100 linear feet of shoreline in the applicant's ownership (see "preempted area" definition Rule 16Q-21.03(25), Florida Administrative Code). Proportional increases in the 1,000 square foot threshold can be added for fractional shoreline increments over 100 linear feet;

3. Marginal docks and mooring pilings along an existing seawall, bulkhead or revetment;

4. Replacement or construction of bulkheads or seawalls at or within three feet waterward of the line of mean high water;

5. Placement of riprap at or within ten feet waterward of the line of mean high water;

6. Dredging or other removal of sovereignty materials;

7. Renourishment of publicly owned beaches; and

8. Artificial reefs for public use.

1. Docks, boat ramps, or other such activities which are larger than those which can be approved under consent of use (Section 16Q-21.05(1)(a), Florida Administrative Code);

2. All revenue generating/income related activities;

3. Grandfather structures upon sale, reassignment or other form of conveyance or transfer;

4. Existing licenses upon the date of expiration or renewal.

5. Aquaculture;

6. Oil and gas exploration and development; and

7. Dead shell and other mining.

(c) Easement — is required for:

1. Utility crossings and rights of way;

2. Road and bridge crossings and rights of way;

3. Groins, breakwaters, and other such shoreline protection structures;

4. Public navigation project channels;

[redacted]

6. Spoil disposal sites;

7. Borrow areas for beach renourishment; and

8. Canals, channels, and other public water management structures.

(d) Management Agreement — is required for:

1. Management and protection activities which do not require title interest in state lands. Such activities may include, but are not limited to, endangered species, rookery, preserve, or sanctuary protection, and management of educational, recreational, or scientific study areas.

(e) Grandfather structure registration — is required for:

1. Docks, piers and other such structures on sovereignty lands in existence prior to March 10, 1970 which do not now have a lease but would require a lease pursuant to Section 16Q-21.05(1)(b), Florida Administrative Code.

2. Docks, piers and other such structures which were approved by the Board or department between March 10, 1970 and March 27, 1982 which would now require a lease pursuant to Section 16Q-21.05(1)(b), Florida Administrative Code.

(2) All requests for purchases, disclaimers, and quitclaims of sovereignty lands shall be processed in accordance with Rules 16Q-21.13, 16Q-21.14, and 16Q-21.15, Florida Administrative Code, respectively.

(3) All requests for sales, exchanges, leases, and private bridge or road easements on sovereignty lands shall be processed in accordance with the notice and hearing requirements of Section 253.115, Florida Statutes.

Specific Authority 253.03(7) FS. Law Implemented 253.03, 177.27 FS. History—New 9-26-77, Formerly 16C-12.01, 16Q-17.01, Amended 3-27-82, 8-1-83.

16Q-21.06 Applications — General Information.

(1) Most activities on sovereignty lands will also require a permit from the Department of Environmental Regulation. Much of the information required for applications under this rule has been intentionally designed to be identical to information required for the Department of Environmental Regulation permit applications. Therefore, if a Department of Environmental Regulation permit is also required, a copy of the application on file with the Department of Environmental Regulation will satisfy many of the

Specific Authority 253.03(7) FS. Law Implemented 253.03 FS. History—New 3-27-82.

16Q-21.07 Applications for Consent of Use.

(1) Applications for consent of use shall include the following:

(a) Name, address and telephone number of applicant and applicant's authorized agent, if applicable;

(b) Location of the proposed activity including: county; section, township and range; affected waterbody; and a vicinity map, preferably a reproduction of the appropriate portion of United States Geological Survey quadrangle map;

(c) Satisfactory evidence of title in subject riparian upland property or demonstration of sufficient title interest in uplands for the intended purpose;

(d) A detailed statement of the proposed activity;

(e) Multiple boat slip facilities may require an affidavit certifying that the facility will not be a revenue generating/income producing facility;

(f) Two copies of a dimensioned site plan drawing(s) with the following requirements:

1. utilizing an appropriate scale on 8 1/2" × 11"size paper;

2. showing the approximate water's edge;

3. showing the location of the shoreline vegetation, if existing;

4. showing the location of the proposed structures and any existing structures;

5. showing the applicant's upland parcel property lines; and,

6. showing the primary navigation channels or direction to the center of the affected waterbody.

(g) If dredging is proposed, an estimate of the number of cubic yards of sovereignty materials to be removed showing how the amount was calculated.

Specific Authority 253.03(7) FS. Law Implemented 253.03, 253.12, 253.77 FS. History—New 3-27-82.

16Q-21.08 Applications for Lease.

Applications for leases are divided into four categories. All leases, except aquaculture, oil and gas, and dead shell mining, are handled under the standard lease provisions.

(1) Standard Lease

(a) Applications for standard leases shall include the following:

1. Name, address and telephone number of applicant and applicant's authorized agent, if applicable.

2. Location of the proposed activity including: county; section, township and range; affected waterbody; and a vicinity map, preferably a reproduction of the appropriate portion of United States Geological Survey quadrangle map.

3. Satisfactory evidence of title in applicant's riparian upland property.

4. Two prints of a survey prepared, signed, and sealed by a person properly licensed by the Florida State Board of Land Surveyors with the following requirements:

i. utilizing an appropriate scale on 8 1/2" × 11"size paper (unless a larger size is necessary to provide sufficient clarity and detail);

ii. showing the line of ordinary or mean high water;

iii. showing the location of the shoreline vegetation, if existing;

iv. showing the location of the proposed

structures and any existing structures,

v. showing the applicant's upland parcel property lines;

vi. showing the primary navigation channels or direction to the center of the affected waterbody; and,

vii. including a legal description of preempted area to be leased (see definition, Rule 16Q-21.03 (25), Florida Administrative Code).

5. A list of names and addresses of all property owners within a 1,000 foot radius of the proposed lease area, verified by the County Property Appraiser's Office, that these names came from the latest tax assessment rolls. The names and addresses shall be clearly typed and acceptable to the department, preferably on labels suitable for mailing.

6. Current local zoning and status of any local government approvals necessary for activities.

7. Florida Department of Revenue registration number. Leases without sales tax exemption certificate shall be subject to the Florida State sales tax.

8. A $200.00 non-refundable processing fee.

9. Computation of lease fee including the total square footage of preempted sovereignty land to be leased (see Rule 16Q-21.11(1) and definition, Rule 16Q-21.03(25), Florida Administrative Code).

10. If dredging is proposed, an estimate of the number of cubic yards of sovereignty materials to be removed showing how the amount was calculated.

(b) Terms and conditions shall include but not be limited to the following:

1. Initial payment of annual lease fee shall be made within 90 days of lease approval by the Board. A validated lease will be transmitted to the applicant upon receipt of initial payment and acknowledgment of issuance of the Department of Environmental Regulation permit, where applicable.

2. Leases shall be for a term of up to 25 years and renewable at the option of the board. Leases shall include provisions for lease fee adjustments and payments annually.

3. All leases shall be assignable, in whole or in part, upon the approval of the board. Non-compliance with any term of an executed lease may be grounds for cancellation of the lease.

4. Upon expiration or cancellation of a lease, the lessee shall remove all structures and equipment from the leased area within 180 days after such expiration or cancellation, at the option of the board. If the lessee fails to remove the structures and equipment thereon, the board shall at its option and after 10 days from receipt of written notice by certified mail to the lessee, have the structures and equipment removed at the expense of the lessee.

(2) Aquaculture Lease

(a) Applications for aquaculture leases shall include the following:

1. Name and address of the applicant;

2. Legal description and acreage of the parcel sought;

3. Two prints of a survey of the parcel sought prepared, signed, and sealed by a person properly licensed by the Florida State Board of Land Surveyors or an agent of the federal government acceptable to the department;

4. Description of the aquaculture activities to be conducted, including whether such activities are to be experimental or commercial, and an assessment of the current capability of the applicant to conduct such activities;

5. Statement evidencing that the lease is in the public interest;

6. Names and addresses, as shown on the latest county tax assessment roll, of each owner of property lying within 1,000 feet of the parcel sought, certified by the county property appraiser;

7. Statement of the impact of the proposed use of the parcel sought on the ecology of the area; and

8. A $200 non-refundable processing fee.

(b) If the board determines to lease the parcel sought, the lease shall be by competitive bid. The department shall cause notice of such lease to be published in a newspaper in the county in which the parcel is situated once a week for four consecutive weeks. A copy of the notice shall also be sent to the county commission. Such notice shall contain the following:

1. Legal description and acreage of parcel sought;

2. Terms of the lease acceptable to the board;

3. Deadline, time, and date, for the receipt of all bids;

4. Address to which all bids shall be sent; and

5. The date, time, and place of the opening of bids.

(c) Competitive bids for aquaculture leases shall be written offers of a cash consideration which shall include the advertised fee for the first lease year, the amount offered above such fee for said first year being a competitive bid. The cash consideration offered shall accompany the written offer and shall be returned to the unsuccessful bidders either upon award of the lease or upon rejection of all bids.

(d) A lease shall not be approved by the board when a resolution of objection, adopted by a majority of the county commissioners of the county in which the parcel sought is situated, has been filed with the department within 30 days of the date of first publication of the notice of lease.

(e) A lease shall not be approved for a parcel larger than the applicant can utilize efficiently; however, the board may reserve a reasonable amount of submerged land adjacent to a parcel under experimental lease for the lessee when beginning operation under a commercial lease.

(f) Each lease shall contain the following:

1. The term of the lease which shall not exceed 10 years;

2. The amount of fee per acre leased to be paid on or before January 1 each year which shall take the form of:

i. Fixed fee to be paid throughout the term of the lease; or

ii. Basic fee to be paid throughout the term of the lease plus royalties based upon the productivity of the aquaculture after the first year;

3. The disposition to be made of all improvements and animal and plant life upon the termination or cancellation of the lease.

4. The right to assignment, in whole or in part, upon the approval of the board.

(g) Failure to perform the aquaculture activities for which the lease was granted shall be grounds for cancellation of the lease and forfeiture to the State of Florida of all the work, improvements, animal and plant life in and upon the parcel leased. In addition, a surety bond is required.

(h) The parcel leased shall be identified, well marked, and shall have, except when it will

interfere with the development of the animal and plant life being cultivated by the lessee, reasonable public access for boating, swimming, and fishing. All limitations on the public use of the parcel leased as set forth in the lease shall be clearly posted in conspicuous places by the lessee. Each parcel leased shall be marked in compliance with the rules and regulations of the Department, U. S. Coast Guard, and U. S. Army Corps of Engineers.

(3) Oil and Gas Lease

(a) Applications for nominations for the lease of sovereignty lands in which the State of Florida holds an interest in the petroleum or petroleum products shall include the following:

1. Name and address of the applicant or nominee;

2. Legal description of the parcel sought including the surface acreage; this description may utilize the submerged land blocks approved by the board on March 17, 1981;

3. Identification of the state agency vested with the ownership of the petroleum products;

4. Percentage of the petroleum interests held by the State;

5. Identification of any municipal corporation in which all or part of the parcel sought is located or within 10 miles thereof;

6. Identification of any improved beach outside a municipal corporation or lands in the tidal waters of the State of Florida abutting on or immediately adjacent to any improved beach in which or part of the parcel sought is located or within 3 miles thereof; and

7. A $200 non-refundable processing fee.

(b) Competitive bids for oil and gas leases shall be written offers of a cash consideration including the advertised fee for the first lease year, the amount offered above said fee being the competitive bid. The cash consideration offered shall accompany the written offer by certified or cashier's check made payable to the department and shall be returned to the unsuccessful bidder upon award of the lease or upon rejection of any and all bids. All bids must contain a certified statement as to the bidder's state lease holdings pursuant to Section 253.512, Florida Statutes.

(4) Dead Shell Lease

Applications for leases to remove dead shells shall be submitted to and processed by the Division of Marine Resources of the Department. The issuance of all such leases is subject to approval by the board.

Specific Authority 253.03(7), 253.73 FS. Law Implemented 253.03, 253.12, 253.115, 253.47, 253.67—.75, 370.16 FS. History—New 12-20-78, Formerly 16C-12.14, 16Q-17.14, Amended 3-27-82, 8-1-83.

16Q-21.081 Applications for Grandfather Structure Registration.

(1) Applications for grandfather structure registration shall include the following:

(a) Name, address and telephone number of applicant and applicant's authorized agent, if applicable.

(b) Location of the proposed activity including: county; section, township and range; affected waterbody; and a vicinity map, preferably a reproduction of the appropriate portion of United States Geological Survey quadrangle map.

(c) Satisfactory evidence of [illegible] in applicant's riparian upland property.

(d) Two copies of a dimensioned site plan drawing(s) with the following requirements:

1. Utilizing an appropriate scale on 8 1/2" × 11" size paper;

2. Showing the approximate waters edge;

3. SHowing the location of the grandfathered structures;

4. Showing the applicant's upland parcel property lines;

(e) Dated aerial photography, previously issued permits or authorizations, or other satisfactory information which verifies that the structures qualify as grandfathered structures.

(f) A $200.00 non-refundable processing and registration fee.

Specific Authority 253.03(7) FS. Law Implemented 253.03, 253.71 FS. History—New 8-1-83.

16Q-21.09 Applications for Public Easement.

(1) Applications for easements across sovereignty land for public purposes such as utilities, bridges, and roads, shall include the following:

(a) Name, address, and telephone number of applicant and applicant's authorized agent;

(b) Location of the proposed activity including: county; section, township and range; affected waterbody; and a vicinity map, preferably a reproduction of the appropriate portion of a United States Geological Survey Quadrangle Map;

(c) Satisfactory evidence of title or extent of interest of the applicant to the riparian uplands or consent of upland owners for proposed use;

(d) A detailed statement of proposed use. If the applicant is a local governing body, the request shall be by official resolution;

(e) Two prints of a survey prepared, signed, and sealed by a person properly licensed by the Florida State Board of Land Surveyors meeting the following requirements:

1. utilizing an appropriate scale on 8 1/2" × 11" size paper;

2. showing boundaries of the parcel sought;

3. showing ownership lines of the riparian uplands;

4. showing the line of ordinary or mean high water;

5. showing the location of the shoreline vegetation, if existing;

6. showing the location of any proposed or existing structures; and,

7. including a legal description and acreage of the parcel sought;

(f) Written comments from the Department of Environmental Regulation, when applicable, in the form of:

1. permit appraisal or biological assessment; and,

2. letter of intent, if issued;

(g) A $200.00 non-refundable processing fee. The processing fee may be waived for state agencies established pursuant to Chapter 20, Florida Statutes, and local governments; and,

(h) If dredging is proposed, an estimate of the number of cubic yards of sovereignty material to be removed showing how the amount was calculated.

(2) All easements across sovereignty lands shall be subject to reverter upon failure of the applicants to use the parcels sought as proposed in the applications.

to the life of the proposed project or amortization of the improvements.

Specific Authority 253.03(7) FS. Law Implemented 253.03, 253.12 FS. History—New 9-26-77, Formerly 16C-12.09 and 16Q-17.09, Revised 3-27-82.

16Q-21.10 Applications for Private Easement.

(1) Applications for easements across sovereignty lands for private purposes shall include the following:

(a) Name, address and telephone number of applicant and applicant's authorized agent;

(b) Location of the proposed activity including: county; section, township and range; affected waterbody; and a vicinity map, preferably a reproduction of the appropriate portion of a United States Geological Survey Quadrangle map;

(c) Satisfactory evidence of title or extent of interest of the applicant to the riparian uplands or consent of upland owners for proposed use;

(d) A detailed statement of proposed use;

(e) A statement evidencing that the easement sought is in the public interest;

(f) Two prints of a survey prepared, signed, and sealed by a person properly licensed by the Florida State Board of Land Surveyors meeting the following requirements:

1. utilizing an appropriate scale on 8 1/2" × 11" size paper (unless a larger size is necessary to provide sufficient clarity and detail);

2. showing boundaries of the parcel sought;

3. showing ownership lines of the riparian uplands;

4. showing the line of ordinary or mean high water;

5. showing the location of the shoreline vegetation, if existing;

6. showing the location of any proposed or existing structures; and,

7. including a legal description and acreage of the parcel sought.

(g) Written comments from the Department of Environmental Regulation, when applicable, in the form of:

1. permit appraisal or biological assessment; and,

2. letter of intent, if issued;

(h) A list of names and addresses of all property owners within a 1,000 foot radius of the proposed easement area, verified by the County Property Appraiser's Office that these names came from the latest tax assessment rolls. The names and addresses shall be clearly typed and acceptable to the Department, preferably on labels suitable for mailing;

(i) A $200.00, non-refundable processing fee;

(j) If dredging is proposed, an estimate of the number of cubic yards of sovereignty material to be removed showing how the amount was calculated;

(k) If the application is for an easement of right-of-way for private access from a public road to lands of the applicant, proof of approval from the agency having jurisdiction over the public road; and,

(l) Payment for the value of the easement in the amount stated on an appraisal performed by an independent appraisal firm contracted by the applicant and approved by the department.

(2) Applications shall be granted upon such terms and conditions, including payment of the value of the easement, if any, that the board sees fit. within 90 days after receipt of notification that the easement has been granted by the board or the granting of the easement shall be invalid.

(3) All easements across sovereignty lands shall be subject to reverter upon failure of the applicant to use the parcels sought as proposed in the applications.

(4) The terms of all the easements shall be limited to a reasonable period of time related to the life of the proposed project or amortization of the improvements.

Specific Authority 253.03(7) FS. Law Implemented 253.03, 253.12 FS. History—New 12-20-78, Formerly 16C-12.10 and 16Q-17.10, Revised 3-27-82.

16Q-21.11 Payments and Fees for Standard Leases, Easements, and Severed Dredge Materials.

(1) Standard Leases

(a) The annual lease fee shall be computed at a base rate of $0.065 per square foot.

(b) There shall be a discount of 30 percent per square foot per year for all leases that are open to the public on a first come, first served basis. Marinas constructed in conjunction with owner occupied multi-family residential buildings, shall be considered open to the public on a first come, first serve basis if no less than 50 percent of its berths are made available to the general public on a rental basis.

(c) An additional 20% of the lease fee shall be charged for the first annual fee on all leases.

(d) The per square foot base rate shall be revised March 1 of each year and increased or decreased based on the Consumer Price Index-All Items pursuant to paragraph (f) below.

(e) The rate for all new leases shall be determined according to the appropriate base rate schedule for the year in which the lease is granted.

(f) The rate charged for individual leases shall be adjusted annually based upon the average increase in the Consumer Price Index-All Items for the previous five years with a 10% cap.

(g) A rate of two times the existing rate shall be applied to aquatic preserve leases where 75% or more of the subject lease shoreline and the adjacent 1,000 feet on both sides of the lease area is in a natural, unbulkheaded, nonseawalled or nonriprapped condition. A rate of up to three times the base rate may be used in Class I or 2 Resource Protection Areas as designated in an aquatic preserve management plan adopted by the board.

(h) Nonwater dependent uses shall be assessed a fee that is ten times the appropriate base rate or a fee calculated by multiplying the square footage of the preempted area times the appraised per square foot value of the unimproved adjacent upland property times ten per cent, whichever is greater. The fees shall be adjusted annually pursuant to either 16Q-21.11(1)(d) or the revised annual assessed value as appropriate. Grandfathered nonwater dependent uses shall be treated as water dependent uses when grandfather status is lost for any reason.

(i) There shall be a minimum annual fee of $225.00.

(j) Waivers, partial waivers, or exclusions from payment of the lease fees for government, research, educational or charitable organizations may be granted by the Board in the event that the proposed uses are in the public interest.

(k) If a facility occupies sovereign submerged

lands portions of which are exempted from payment by virtue of grandfathered status and portions of which are leased, and grandfathered status is lost, the lease fee and rate schedule for the entire property shall be the appropriate base rate at the time the renegotiated lease is executed.

(l) There shall be an assessment for prior unauthorized use of sovereignty land for after-the-fact lease applications. The minimum assessment for such applications shall include:

1. Payment of retroactive lease fees;

2. Payment of an assessment computed as the number of square feet in the lease area times the lease fee per square foot at the time construction was commenced times ten; and,

3. Payment of an additional annual percentage on retroactive lease fees and on the assessment calculated under 2., computed at a rate of 12%. Such rate shall be adjusted annually to a rate equal to the two percentage points above the Federal Reserve Bank discount rate to member banks.

(m) Any grandfather structures which are not registered according to this rule shall lose any grandfathered rights.

(n) Any grandfather structures which are not registered according to this rule shall be considered a prior unauthorized use as of June 30, 1984, and may be treated according to the provisions of this section.

(o) The board may, at its discretion, consider equities and particular circumstances on a case by case basis to determine whether an adjustment of the assessment provisions set forth in (l) above would be warranted and may increase or lower the assessment accordingly.

(2) Private Easements

(a) The fee for private easements shall be determined by an appraisal obtained by the applicant. The appraiser must be selected from the division's approved list of appraisers and the appraisal must be reviewed and approved by the division.

(b) In addition to standard appraisal requirements and procedures, the following factors shall be considered in determining the easement fee:

1. the extent to which the easement is exclusionary; i.e., the degree to which the proposed easement precludes, in whole or in part, traditional or future public uses of the easement area or other submerged land; and

2. the enhanced property value or profit gained by the applicant if the proposed easement is approved.

(3) Severed Dredge Materials

(a) When an activity involves the removal of sovereignty materials to upland property by dredging or any other means, payment per cubic yard of material shall be as follows:

1. Monroe County	$3.25
2. Bay, Brevard, Broward, Charlotte, Collier, Dade, Duval, Escambia, Lee, Manatee, Palm Beach, Pasco, Pinellas and Sarasota Counties	$2.25
3. All other counties	$1.25
4. Minimum payment	$50.00

(b) These payments shall not be used for dead shell and mining leases which will be subject to individual royalty or other compensation payments.

(c) A waiver of the severed dredge material payment may be requested and approved when:

1. the materials are being placed on public property and used for public purposes; or

2. it is affirmatively demonstrated that the severed dredge material has no economic value.

Specific Authority 253.03(7) FS. Law Implemented 253.03, 253.71 FS. History—New 3-27-82, Amended 5-18-82, 8-1-83.

16Q-21.12 Spoil Islands.

(1) No spoil islands shall be developed except upon a clear showing that the development is in the public interest and hardship would result if the development was not authorized.

(2) Proposals for public development of spoil islands may be authorized after comments have been solicited and received from the appropriate public agencies determining that the public interest would be served by the development.

(3) Unauthorized structures that have been constructed on spoil islands shall be removed. The procedure for removal shall be as follows:

(a) The individual claiming a possessory interest in any structure shall be served notice by certified mail that he is trespassing and that he must remove the structure within 120 days of receipt of the notice.

(b) If the individual fails or refuses to remove the structure within 120 days of receipt of the notice, the board shall have the structure removed at the individual's expense.

(c) If the individual cannot be located, notice of trespass and intent to remove the structure shall be posted on the structure for 120 days prior to removal.

(4) Continuing human habitation of any spoil islands is prohibited.

Specific Authority 253.03(7) FS. Law Implemented 253.03, 253.115 FS. History—New 9-20-77, Formerly 16C-12.05 and 16Q-17.05, Revised 3-27-82.

16Q-21.13 Applications to Purchase Lands Riparian to Uplands.

(1) Applications to purchase lands riparian to uplands may be made by the riparian owners only. The board reserves the right to reject any and all such applications. The following shall be included in each application:

(a) Name and address of the applicant;

(b) Two prints of a survey prepared, signed, and sealed by a person properly licensed by the State of Florida Board of Land Surveyors or an agent of the federal government approved by the department clearly showing:

1. the boundaries of the parcel sought;

2. land tie referenced, by ground survey, to an established accessible section corner, subsection corner, other U. S. Government Land Office survey corner, or other controlling corner(s);

3. boundary lines of the applicant's adjacent uplands;

4. existing mean high water line, surveyed and approved in accordance with Chapter 177, Part II, Florida Statutes, between the applicant's uplands and the parcel sought extending 1,000 feet from both sides of the parcel;

5. U. S. Government Land Office meander line.

(c) Five maps, no larger than 8 1/2" X 14" in size, showing the location of the parcel sought for purchase. These maps need not be certified;

(d) Legal description and acreage of the filled parcel.

(e) Aerial photograph showing the date of flight, if available, with the parcel sought identified thereon;

with any dedication data, if the applicant's uplands are part of the subdivision;

(g) Satisfactory evidence of title in the applicant to the riparian uplands;

(h) Statement of the applicant's proposed use of the parcel sought;

(i) Statement evidencing that the sale of the parcel is in the public interest;

(j) Names and addresses, as shown on the latest county tax assessment roll, of all owners of land lying within 1,000 feet of the parcel sought, certified by the county appraiser; and

(k) An appraisal of the current market value of the parcel sought made within 3 months after the date of application by an appraiser with designations acceptable to the department.

(l) A non-refundable processing fee of $200 shall accompany each application, except for applications from state agencies.

(2) If the parcel sought is located in Pinellas or Sarasota County, the applicant shall simultaneously file an application with the respective water and navigation control authority having jurisdiction over the parcel.

(3) When state-owned submerged lands have been filled without authority after June 11, 1957 (state-owned submerged lands filled before June 11, 1957 are addressed in Rules 16Q-21.14 and 16Q-21.15, Florida Administrative Code), the board, by law may:

(a) Direct the fill be removed by or at the expense of the applicant;

(b) Direct the fill remain as state-owned and have it surveyed at the expense of the applicant; or

(c) Sell the filled lands. The following sale prices shall be recommended by the department to the board:

1. One and one-half times the present appraised value of the lands excluding building improvements if the unauthorized filling was done by the applicant's predecessor in title between June 11, 1957 and July 14, 1967.

2. Two times the present appraised value of the lands excluding building improvements if the unauthorized filling was done by the applicant's predecessor in title after July 14, 1967.

3. Three times the present appraised value of the lands excluding building improvements if the unauthorized filling was done by the applicant after June 11, 1957.

(4) Full payment for the deed shall be made within 90 days after notification of confirmation of the sale by the board or the sale shall be invalid.

Specific Authority 253.03, 253.12, 370.021 FS. Law Implemented 253.115, 253.12 FS. History—New 9-26-77, Formerly 16C-12.04 and 16Q-17.04, Revised 3-27-82.

16Q-21.14 Disclaimers to Confirm Title to Filled Formerly Sovereignty Lands.

(1) Applications for disclaimers to confirm title of formerly sovereignty lands filled prior to May 29, 1951 (prior to June 11, 1957 in Dade and Palm Beach Counties), or subsequent to these dates under authority of a U. S. Army Corps of Engineers permit issued prior to these dates, must be supported by documentary evidence acceptable to the department including the following:

(a) Name and address of the applicant;

(b) Two prints of a survey prepared, signed, and sealed by a person properly licensed by the Florida federal government acceptable to department clearly showing:

1. present mean high waterline, surveyed and approved in accordance with Chapter 177, Part II, Florida Statutes;

2. applicant's ownership to the former mean high water line shown or indicated;

3. U. S. Government Land Office meander line; and

4. traverse of fill, showing the location of the former mean high water line, which is properly riparian to the applicant's uplands, with a land tie to an established accessible section corner, subsection corner, other U. S. Government Land Office Survey corner, or other controlling corner(s);

(c) Five maps, no larger than 8 1/2" × 14" in size, showing the location of the parcel sought. The maps need not be certified;

(d) Legal description and acreage of the filled parcel;

(e) Aerial photograph showing the date of flight, if available, evidencing the date of filling;

(f) Satisfactory evidence of title in the applicant to the riparian uplands to the mean high water line as it existed prior to filling;

(g) Two affidavits executed by disinterested parties evidencing the date, as accurately as possible from personal knowledge, when the filling of the parcel sought was completed;

(h) Copy of the U. S. Army Corps of Engineers permit issued prior to May 29, 1951 (June 11, 1957 in Dade and Palm Beach Counties) authorizing the fill, if applicable; and

(i) A non-refundable processing fee of $200 shall accompany each application, except for applications from state agencies.

Specific Authority 253.03(7) FS. Law Implemented 253.12, 253.129 FS. History—New 9-26-77, Formerly 16C-12.06 and 16Q-17.06, Revised 3-27-82.

16Q-21.15 Quitclaims to Clear Title to Filled Formerly Sovereignty Lands.

(1) Applications for quitclaim deeds to clear title to sovereignty lands filled after May 29, 1951, but prior to June 11, 1957 (except in Dade and Palm Beach Counties) or subsequent to these dates under authority of a U. S. Army Corps of Engineers permit issued prior to these dates, must be supported by documentary evidence acceptable to the department and including the following:

(a) Name and address of the applicant;

(b) Two prints of a survey prepared, signed, and sealed by a person properly licensed by the Florida State Board of Land Surveyors or an agent of the federal government acceptable to the department clearly showing:

1. present mean high water line surveyed and approved in accordance with Chapter 177, Part II, Florida Statutes;

2. applicant's ownership to the mean high water line prior to filling;

3. U. S. Government Land Office Meander line; and,

4. traverse of fill, showing the location of the former mean high water line, which is properly riparian to the applicant's upland ownership, with a tie to an established accessible section corner, subsection corner, other U. S. Government Land Office survey corner, or other controlling corner(s);

(c) Five maps, no larger than 8 1/2" × 14" in size, showing the location of the parcel sought. The

maps need not be certified;

(d) Legal description and acreage of the filled parcel;

(e) Aerial photograph showing the date of flight, if available, and showing the land as it existed prior to and after the filling;

(f) Satisfactory evidence of title in the applicant to the riparian uplands;

(g) Two affidavits executed by disinterested parties evidencing the date, as accurately as possible from personal knowledge, of commencement and completion of the fill;

(h) Copy of a U. S. Army Corps of Engineers permit issued after May 29, 1951, but prior to June 11, 1957, authorizing the fill, if applicable; and,

(i) A non-refundable processing fee of $200 shall accompany each application, except for applications from state agencies.

(2) The consideration for the parcel sought shall be the appraised value of the parcel in its unfilled state prior to June 11, 1957. The appraisal of the parcel shall be made within 3 months after the date of application by an appraiser with designations acceptable to the department.

(3) Full payment for the deed shall be made within 90 days after notification of confirmation of the conveyance by the board or the conveyance shall be invalid.

Specific Authority 253.03(7) FS. Law Implemented 253.12 FS. History—New 9-26-77, Formerly 16C-12.07 and 16Q-17.07, Revised 3-27-82.

16Q-21.16 Applications to Reclaim Lands Lost Due to Avulsion or Artificial Erosion.

(1) Applications to reclaim lost lands as defined in Section 253.124(8), Florida Statutes, may be submitted only by the riparian upland owner or the legally authorized agent thereof.

(2) Applications to reclaim lands lost due to avulsion or artificial erosion shall include the following:

(a) Name and address of applicant;

(b) Satisfactory evidence of title in the applicant to the existing upland, such as:

1. current title insurance policy issued by a title insurance company authorized to do business in Florida; or

2. opinion of title prepared by a member of the Florida Bar; or

3. affidavit of ownership;

(c) A survey prepared, signed, and sealed by a registered land surveyor showing the applicant's upland, U. S. Meander survey line, the approximate original mean high water line and the existing approximate mean high water line, and a traverse showing the location of the former mean high water line which is properly riparian to the applicant's uplands with a land tie to an established reference point;

(d) Legal description as shown by original survey which shall include the area to be reclaimed;

(e) Copy of a recorded subdivision plat showing the original recorded shoreline if the applicant's upland is part of a subdivision, or a copy of a map taken from an R. E. D. I. Real Estate Atlas map showing ownership lines and shorelines;

(f) Statement of proposed methods of reclaiming the subject lost lands, if not indicated in an attached Department of Environmental Regulation permit application;

(g) Two affidavits executed by disinterested parties evidencing the manner, as accurately as possible from personal knowledge, that the loss of land occurred by avulsion (storms, hurricanes), artificial erosion (caused by the emplacement of bulkheads, jetties and other structures), dredging, or artificial land cutting of uplands; and

(h) Accurate aerial photographs showing the date of flight evidencing the location and configuration of the original shoreline before and after avulsion or artificial erosion. Suggested sources: local tax assessor's office, local offices of the State Departments of Transportation and Agriculture and Consumer Services, and local offices of the U. S. Army Corps of Engineers.

Specific Authority 253.03(7) FS. Law Implemented 253.03, 253.12 FS. History—New 3-27-82.

Appendix D.

(30) Wekiva River Aquatic Preserve, the boundaries of which are generally: All the state-owned sovereignty lands lying waterward of the ordinary high water mark of the Wekiva River and the Little Wekiva River and their tributaries lying and being in Lake, Seminole, and Orange counties and more particularly described as follows:

(a) In Sections 15, 16, 17, 20, 21, 22, 27, 28, 29, and 30, Township 20 South, Range 29 East. These sections are also depicted on the Forest City Quadrangle (U.S.G.S. 7.5 minute series-topographic) 1959 (70PR); and

(b) In Sections 3, 4, 8, 9 and 10, Township 20 South, Range 29 East and in Sections 21, 28 and 33, Township 19 South, Range 29 East lying north of the right-of-way for the Atlantic Coast Line Railroad and that part of Section 33, Township 19 South, Range 29 East lying between the Lake and Orange County lines and the right-of-way of the Atlantic Coast Line Railroad. These sections are also depicted on the Sanford SW Quadrangle (U.S.G.S. 7.5 minute series-topographic) 1965 (70-1); and

(c) All state-owned sovereignty lands, public lands, and lands whether public or private below the ordinary high water mark of the Wekiva River and the Little Wekiva and their tributaries within the Peter Miranda Grant in Lake County lying below the 10 foot m.s.l. contour line nearest the meander line of the Wekiva River and all state-owned sovereignty lands, public lands, and lands whether public or private below the ordinary high water mark of the Wekiva River and the Little Wekiva and their tributaries within the Moses E. Levy Grant in Lake County below the 10 foot m.s.l. contour line nearest the meander lines of the Wekiva River and Black Water Creek as depicted on the PINE LAKES 1962 (70-1), ORANGE CITY 1964 (70PR), SANFORD 1965 (70-1), and SANFORD S.W. 1965 (70-1) QUADRANGLES (U.S.G.S. 7.5 minute topographic); and

(d) All state-owned sovereignty lands, public lands, and lands whether public or private below the ordinary high water mark of the Wekiva River and the Little Wekiva River and their tributaries lying below the 10 foot m.s.l. contour line nearest the meander line of the Wekiva and St. John's Rivers as shown on the ORANGE CITY 1964 (70PR), SANFORD 1965 (70-1), and SANFORD S.W. 1965 (70-1) QUADRANGLES (U.S.G.S. 7.5 minute topographic) within the following described property: Beginning at a point on the south boundary of the Moses E. Levy Grant, Township 19 South, Range 29 East, at its intersection with the meander line of the Wekiva River; thence south 60½ degrees east along said boundary line 4915.68 feet; thence north 29½ degrees east 15,516.5 feet to the meander line of the St. John's River; thence northerly along the meander line of the St. John's River to the mouth of the Wekiva River; thence southerly along the meander line of the Wekiva River to the beginning; and

(e) All state-owned sovereignty lands, public lands, and lands whether public or private below the ordinary high water mark of the Wekiva River and the Little Wekiva River and their tributaries within the Peter Miranda Grant lying east of the Wekiva River, less the following:

1. State Road 46 and all land lying south of said State Road No. 46 and all land lying south of said State Road No. 46.

2. Beginning 15.56 chains West of the Southeast corner of the SW ¼ of the NE ¼ of Section 21, Township 19 South, Range 29 East, run east 600 feet; thence north 960 feet; thence west 340 feet to the Wekiva River; thence southwesterly along said Wekiva River to point of beginning.

3. That part of the east ½ of the SW ¼ of Section 22, Township 19 South, Range 29 East, lying within the Peter Miranda Grant east of the Wekiva River.

(31) Rookery Bay Aquatic Preserve, the boundaries of which are generally: All of the state owned sovereignty lands lying waterward of the mean high water line in Rookery Bay and in Henderson Creek and the tributaries thereto in Collier County, Florida. Said lands being more particularly described as lying and being in Sections 1, 2, 11, 12 and 13, Township 51 South, Range 25 East and in Sections 7, 8, 9, 16, 17, 18, 19 and 20, Township 51 South, Range 26 East, Collier County, Florida.

Any and all submerged lands theretofore conveyed by the Trustees of the Internal Improvement Trust Fund and any and all uplands now in private ownership are specifically exempted from this dedication.

History.—s. 1, ch. 75-172; s. 1, ch. 76-109; s. 1, ch. 76-211.

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