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TURTLE COAST GROUP

November 5, 2007

Governor Charlie Crist
Office of Governor
The Capitol
Tallahassee, Florida 32399-0001

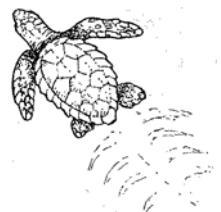
RE: Appeal of SJRWMD Berry Groves (Sand Lakes) Parcel Exchange

Dear Governor Crist:

Sierra Club Turtle Coast Group, a conservation organization with over 1,500 members in Brevard and Indian River Counties, requests that the Florida Land and Water Adjudicatory Commission review and overturn the September 11, 2007 decision by the St. Johns River Water Management District Governing Board to approve the exchange of the 1,265-acre Sand Lakes tract of the Berry Groves parcel for the 460-acre Corrigan parcel and a release and hold harmless agreement concerning possible flooding and sheet flow. Sierra Club is convinced that the Sand Lakes tract has intrinsic conservation value and regional conservation significance and is needed for conservation purposes. Furthermore, we feel that two major reasons SJRWMD staff is justifying the exchange – settlement of a legal dispute and net conservation benefit -- are inappropriate bases for a decision on the matter, and we explain our reasons in more detail below.

In addition, we believe that the Governing Board was unduly influenced by a letter dated July 10, 2007 from Fellsmere City Manager Jason Nunemaker to SJRWMD's Robert Christianson (spelled Christenson in the letter). The letter, which we do not consider legally binding, was produced at the Governing Board meeting by member Bill Kerr. It is attached, and it states that if the Corrigan property were annexed into the City of Fellsmere, it is the City's "official policy stance" that this would require setting aside the Sand Lakes tract for conservation purposes in perpetuity. Fellsmere's July 5, 2007 City Council meeting minutes, available on the City's website, indicate that this "stance" was prompted by a request from the District for a letter and that a "migratory corridor" was recommended. No mention of "in perpetuity" is in the minutes. The City's letter was not part of the Governing Board's agenda package, although it had been received by the District on July 16. We question the ability of the Governing Board members to make an on-the-spot decision about whether the letter was enforceable or legally binding. In contrast, the Adjudicatory Commission is able to put the letter in its proper legal context after review by legal staff and can make a rational decision about the Sand Lakes exchange without being influenced by documentation that should not be considered.

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Sand Lakes Tract Needed for Conservation Purposes

The Sand Lakes tract, acquired for conservation purposes in 1999, consists of a mosaic of various natural communities, split approximately equally between wetlands and uplands. It provides habitat for a variety of listed species including the sandhill crane, peregrine falcon, wood stork, and gopher tortoise. Although the property is not currently occupied by the Florida scrub-jay, it contains 50 acres of high quality scrub habitat. Approximately 430 of the 1265 acres were formerly agricultural fields and the remainder is undeveloped.

Since acquisition in 1999, the District has made efforts to improve the habitat. Staff has worked to re-hydrate historical wetlands, remove exotic plant species, and establish a controlled burn regime. Because of the District's restoration efforts, the intrinsic conservation value of the parcel has improved since acquisition.

As increased development occurs in Indian River County, it becomes more challenging to acquire a network of valuable conservation properties. The Sand Lakes tract still has the potential to serve as a regionally significant connector between District land to the south and west, the St. Sebastian River Preserve State Park to the north, and the Indian River Lagoon to the east. The Adjudicatory Commission, in its decision on the Sand Lakes exchange, has a critical role to play in helping ensure this habitat corridor is protected in perpetuity.

The 50 acres of scrub habitat on the Sand Lakes tract is part of a regionally significant habitat network stretching from South Brevard County through Indian River County to St. Lucie County. The Sand Lakes scrub habitat will be of greater benefit to the Florida scrub-jay if the entire tract is retained by the District than if a 50-acre conservation easement is granted because edge effects from adjacent development to the south and west will not occur.

Dispute Settlement an Inappropriate Consideration in the Decision

The SJRWMD staff report *Assessment of the Need to Retain The Sand Lakes Tract For Conservation Purposes* makes it clear that a primary purpose of the exchange is to settle a dispute with the Corrigan family. Sierra Club believes that it is inappropriate to surplus District lands with conservation value to head off a possible lawsuit. The dispute should be resolved without resorting to the drastic step of disposing of important District conservation land. A very unwise precedent would be set by linking a legal settlement to the surplus of District property not connected with the dispute.

Net Benefit not Legally Relevant

District staff justifies the Sand Lakes tract exchange by saying that the package of benefits from the swap (Corrigan parcel, 20-acre flowage easement, and legal dispute settlement) has more benefit than the Sand Lakes tract. Therefore staff claims a net benefit would result from the exchange, which gives the Sand Lakes tract to the Corrigan family.

Sierra Club believes that net benefit is not a relevant or even appropriate consideration in the application of section 373.089 (6), Florida Statutes. The law requires only that the Governing Board determine the lands are no longer needed for

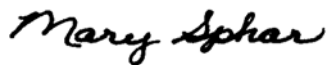
conservation purposes. Should the District justify the disposition of various conservation lands simply because they've been offered something of greater value? Net benefit might be a valid criterion for deciding on a purchase in the first place, but once a property has been acquired, the parcel should be judged on its own merits. A property should be surplus only if it no longer is needed for conservation purposes.

Conclusion

Sierra Club Turtle Coast Group urges the Florida Land and Water Adjudicatory Commission to overturn the decision of the SJRWMD Governing Board to approve the Sand Lakes tract exchange. We believe the Sand Lakes tract should not be disposed of because it is needed for conservation purposes. Please apply the "needed for conservation purposes" requirement of the Florida Statutes as expressly stated and intended, without complicating the issue with inappropriate considerations of legal dispute settlement and net benefit.

Thank you for considering the opinion of Sierra Club Turtle Coast Group.

Yours truly,

A handwritten signature in black ink that reads "Mary Sphar". The signature is written in a cursive, flowing style.

Mary Sphar
Wetlands Issue Chair

Attachment: Letter dated July 10, 2007 from Fellsmere City Manager Jason Nunemaker

cc: Diana Sawaya-Crane, via fax