

ITEM 23:

Consider whether an approximately 3.019-acre private access easement within Fisheating Creek Wildlife Management Area is consistent with the Board of Trustees' Linear Facilities Policy.

LOCATION:

Glades County, Section – 2, Township – 41S, Range – 30E

Applicant's Parcel ID Number: A02-41-30-A01-0070-0000

APPLICANT:

Thomas Gaskins, Jr. (Applicant)

DSL STAFF REMARKS:

The Applicant has requested a 25-foot-wide ingress/egress easement off of Main Avenue in Palmdale, Florida to access his land locked parcel for as long as it is used solely for the benefit of the Applicant, his successors and assigns for recreational use, a single family residence or agricultural purposes. The proposed easement is located within conservation land currently managed by the Florida Fish and Wildlife Conservation Commission (FWC) as Fisheating Creek Wildlife Management Area (FCWMA) under Uplands Lease No. 4257. Title was acquired by the BOT in 1999 using CARL Funds. The u-turn placement of the access area facilitates access to narrower banked area of the flood prone ditch where a bridge will be built and maintained by the applicant, FWC will be allowed to use the bridge. The banks to the north are farther apart which would result in additional construction costs making it impractical to build a bridge at that location.

FWC consented to the easement in a letter dated July 23, 2019, and, in a letter, dated February 24, 2020, the Division of Historical Resources stated that the proposed undertaking is unlikely to affect historic properties.

Avoidance:

There are no other practical alternatives to access the Applicants landlocked parcel.

Minimizing Impacts:

The proposed easement area follows an existing dirt road and is not anticipated to have any additional impacts to the FCWMA. At his sole expense the Applicant shall be responsible for repairing any damages caused by use of the easement area by him or his invitees'. The applicant will make contingency plans, per DHR requirements, in the case of fortuitous finds or unexpected discoveries during ground disturbing activities within the easement area. There are no known imperiled or other wildlife species that occupy the requested area.

Compensation:

The easement fee will be based on market value and per the BOT's linear facilities policy, additional compensation, in the form of replacement land or goods and services, will be provided to FWC at 1.5 times the appraised value of the easement.

DSL STAFF RECOMMENDATION:

Approve

ARC RECOMMENDATION:

- APPROVE**
- APPROVE WITH MODIFICATIONS:** _____
- DEFER**
- WITHDRAW**
- NOT APPROVE**
- OTHER:** _____

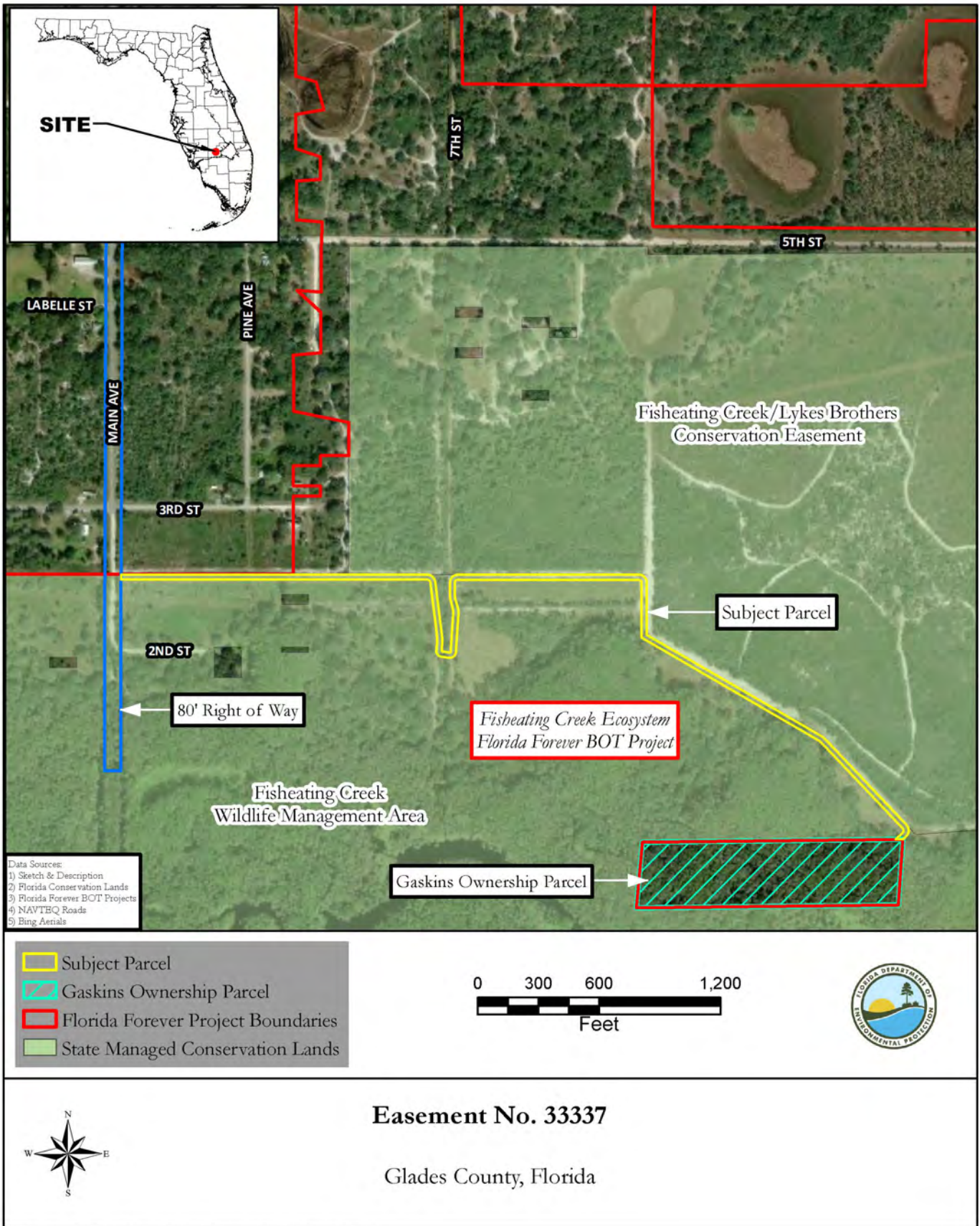


Exhibit "A"

INGRESS / EGRESS EASEMENT OVER A PORTION OF SECTIONS 2 AND 3, TOWNSHIP 41 SOUTH, RANGE 30 EAST, GLADES COUNTY, FLORIDA, BEING DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHERE THE EAST RIGHT OF WAY LINE OF MAIN STREET AND THE CENTERLINE OF PENSACOLA STREET INTERSECT; THENCE S 89°57'01" E ALONG THE CENTERLINE OF PENSACOLA STREET, 1514.37 FEET TO A POINT OF CURVATURE OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 37.50 FEET, BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF S 48°33'34" E, 49.59 FEET; THENCE ALONG AND AROUND THE ARC OF SAID CURVE 54.18 FEET TO A POINT OF TANGENCY; THENCE S 07°10'08" E 241.60 FEET; THENCE S 05°13'24" E 51.28 FEET; THENCE S 04°09'27" W 52.99 FEET TO A POINT OF CURVATURE OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 2.50 FEET, BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF S 38°31'03" E, 3.39 FEET; THENCE ALONG AND AROUND THE ARC OF SAID CURVE 3.72 FEET TO A POINT OF TANGENCY; THENCE S 81°11'32" E 40.71 FEET TO A POINT OF CURVATURE OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 2.50 FEET, BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF N 51°21'39" E, 3.68 FEET; THENCE ALONG AND AROUND THE ARC OF SAID CURVE 4.14 FEET TO A POINT OF TANGENCY; THENCE N 03°54'49" E 202.44 FEET; THENCE N 14°48'26" W 74.94 FEET; THENCE N 02°09'40" E 72.45 FEET TO A POINT OF CURVATURE OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 37.50 FEET, BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF N 46°06'20" E, 52.05 FEET; THENCE ALONG AND AROUND THE ARC OF SAID CURVE 57.52 FEET TO A POINT OF TANGENCY, AND THE INTERSECTION WITH THE EXTENDED CENTERLINE OF SAID PENSACOLA STREET; THENCE S 89°57'01" E ALONG SAID EXTENDED CENTERLINE, 896.99 FEET TO A POINT OF CURVATURE OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 37.50 FEET, BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF S 44°52'35" E, 53.10 FEET; THENCE ALONG AND AROUND THE ARC OF SAID CURVE 59.00 FEET TO A POINT OF TANGENCY, AND THE INTERSECTION OF THE EAST LINE OF SECTION 3; THENCE S 00°11'50" W 257.85 FEET; THENCE S 59°51'51" E 1009.17 FEET; THENCE S 43°32'26" E 598.77 FEET TO A POINT OF CURVATURE OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 37.50 FEET, BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF S 01°27'34" W, 53.03 FEET; THENCE ALONG AND AROUND THE ARC OF SAID CURVE 58.90 FEET TO A POINT OF TANGENCY; THENCE S 46°27'34" W 23.95 FEET TO THE INTERSECTION WITH THE NORTH LINE OF TRACT 37, IN SECTION 2, TOWNSHIP 41 SOUTH, RANGE 30 EAST, PALMDALE LAND COMPANY SUBDIVISION, PER GLADES COUNTY PLAT BOOK 3, PAGE 42; THENCE S 89°24'00" W ALONG SAID NORTH LINE OF TRACT 37, 36.70 FEET; THENCE N 46°27'34" E 50.82 FEET TO A POINT OF CURVATURE OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 12.50 FEET, BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF N 01°27'34" E, 17.68 FEET; THENCE ALONG AND AROUND THE ARC OF SAID CURVE 19.63 FEET TO A POINT OF TANGENCY; THENCE N 43°32'26" W 595.19 FEET; THENCE N 59°51'51" W 1020.04 FEET; THENCE N 00°11'50" E 272.30 FEET TO A POINT OF CURVATURE OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 12.50 FEET, BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF N 44°52'35" W, 17.70 FEET; THENCE ALONG AND AROUND THE ARC OF SAID CURVE 19.67 FEET TO A POINT OF TANGENCY; THENCE N 89°57'01" W 896.99 FEET TO A POINT OF CURVATURE OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 12.50 FEET, BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF S 46°06'20" W, 17.35 FEET; THENCE ALONG AND AROUND THE ARC OF SAID CURVE 19.17 FEET TO A POINT OF TANGENCY; THENCE S 02°09'40" W 68.72 FEET; THENCE S 14°48'26" E 75.34 FEET; THENCE S 03°54'49" W 206.56 FEET TO A POINT OF CURVATURE OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 27.50 FEET, BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF S 51°21'39" W, 40.52 FEET; THENCE ALONG AND AROUND THE ARC OF SAID CURVE 45.55 FEET TO A POINT OF TANGENCY; THENCE N 81°11'32" W 40.71 FEET TO A POINT OF CURVATURE OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 27.50 FEET, BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF N 38°31'03" W, 37.28 FEET; THENCE ALONG AND AROUND THE ARC OF SAID CURVE 40.96 FEET TO A POINT OF TANGENCY; THENCE N 04°09'27" E 50.94 FEET; THENCE N 05°13'24" W 48.80 FEET; THENCE N 07°10'08" W 241.17 FEET TO A POINT OF CURVATURE OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 12.50 FEET, BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF N 48°33'34" W, 16.53 FEET; THENCE ALONG AND AROUND THE ARC OF SAID CURVE 18.06 FEET TO A POINT OF TANGENCY; THENCE N 89°57'01" W 1514.45 FEET TO THE INTERSECTION WITH THE EAST RIGHT OF WAY LINE OF SAID MAIN STREET; THENCE N 00°13'24" E ALONG SAID EAST RIGHT OF WAY LINE 25.00 FEET TO THE POINT OF BEGINNING.

HAVING AN AREA OF 3.019 ACRES.

BSM
By: SK
Date 1.22.2020



July 23, 2019

Florida Fish and Wildlife Conservation Commission

Ms. Cheryl C. McCall
Department of Environmental Protection
Division of State Lands
Bureau of Public Land Administration
3900 Commonwealth Boulevard
Tallahassee, FL 32399-3000

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Tallahassee, Florida
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800-955-8771 (T)
800-955-8770 (V)

Mr. FWC.com

Re: Mr. Thomas Gaskins, Jr. Access Easement Request from Main Street, Palmdale, FL to Mr. Gaskins' Parcel (Glades County Parcel ID #A02-41-30-A01-0070-0000), Section 2, Township 41 South, Range 30 East, Glades County, Florida

Dear Ms. McCall:

Mr. Thomas Gaskins, Jr. (Gaskins) has requested a 30 ft. wide x approximately 5,280 ft. long [totaling ~105,600 sq. ft. (~2.424 acres)] upland easement to access Gaskins' referenced parcel from Main Street, Palmdale, Florida. Gaskins' parcel lies within the Fisheating Creek Wildlife Management Area, leased by the Florida Fish and Wildlife Conservation Commission (FWC) from the Board of Trustees of the Internal Improvement Trust Fund (Trustees) under Lease #4257.

FWC has reviewed the access easement request and supports it under the following conditions, subject to Florida Department of Environmental Protection, Division of State Lands (DSL), Acquisition and Restoration Council (ARC) and Trustees review and approval pursuant to the State of Florida's Incompatible Use Policy (IUP):

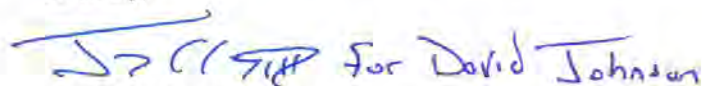
- 1. The access easement is no wider than 25 ft. x 5,280 ft. [totaling ~132,000 sq. ft. (~3.03 Ac.)]
2. Gaskins' parcel is used solely for recreational, residential and/or agricultural purposes.
3. The access easement shall only be for the benefit of Gaskins, his successors, and assigns.
4. Gaskins shall be responsible for repairing the access easement of any damage caused by Gaskins and his invitees' use of the access easement at his sole cost and expense using materials and techniques acceptable to FWC so as to maintain the easement area at its current level of condition. Under no circumstances shall the access easement area be paved with any impervious material. FWC will not be responsible for improving and/or maintaining the access easement area other than required for FWC access for the general public and management purposes.
5. Gaskins desires to construct a bridge over a drainage ditch. FWC agrees the bridge crossing is acceptable, subject to the City of Palmdale's easement, if located approximately ~400 ft. south of the north fence that runs alongside the north edge of the access easement, as marked on the attached map. Gaskins shall be solely responsible for designing, permitting, constructing, and maintaining the bridge. If FWC's permission or consent is required for Gaskins to obtain a permit for the bridge, then FWC shall not withhold its permission or consent unless required by law. Use of the bridge shall be limited to Gaskins and his invitees, with each side of the bridge being signed by Gaskins to prohibit any unauthorized use. FWC shall be allowed to access the bridge at any time with its vehicles and equipment that weighs no more than a typical FWC pick-up truck and its normal provisions and passengers.

Ms. Cheryl C. McCall
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6. Gaskins shall obtain any and all permits, including any hydrological maintenance or improvement that requires a permit.
7. Clearing and/or removal of native vegetation within or along the access easement area shall only include removal of vegetation that is necessary to allow unimpeded travel along the access easement area. Gaskins shall not use any chemicals to remove vegetation.
8. Gaskins shall not plant any vegetation along or within the access easement area. If revegetation becomes necessary within the access easement area, plant species shall be approved in advance by the FWC and shall not include any plants considered invasive by the State of Florida.
9. The state conservation lands occurring within and alongside the access easement are subject to prescribed burning and other management treatments by FWC. This will periodically require access, except over the aforesaid bridge, by vehicles and heavy equipment (e.g., bulldozer and transport, 4x4 trucks, etc.).
10. Gaskins shall be solely liable for his and his invitees' use of the access easement and shall indemnify the State of Florida and FWC of any liability that may arise from Gaskins' use of the access easement.
11. Gaskins shall have his own lock at the Main Street gate access point and provide FWC with a key/combination number to the lock.
12. FWC receives net positive benefit acceptable to FWC pursuant to the IUP.

Please contact Rich Mospens at (850) 617-9533 or richard.mospens@MyFWC.com should there be any questions regarding this matter.

Sincerely,

A handwritten signature in blue ink that reads "DBJ for David Johnson". The signature is stylized and written in a cursive-like font.

David B. Johnson, Leader
Wildlife and Habitat Management Section

DBJ/rm



FLORIDA DEPARTMENT of STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

Mr. Jay Sircy
Bureau of Public Land Administration, MS 130
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

February 24, 2020

RE: DHR Project File No.: 2020-0288 / Applicant: Thomas Gaskins, Jr.
Project: Lease of Easement No. 33337 for Ingress and Egress to Property, from Main Street Palmdale to Gaskins Parcel within Fisheating Creek Wildlife Management Area, Glades County

Dear Mr. Sircy:

In accordance with this agency's responsibilities under Section 267.061, *Florida Statutes*, we reviewed the referenced easement request for possible effects on historic properties listed, or eligible for listing, in the *National Register of Historic Places* (NRHP), or otherwise of historical, architectural or archaeological value.

We note that the easement will follow an existing dirt pathway/road. It is the opinion of this office that the proposed project is unlikely to affect historic properties. However, because unexpected finds may occur, we request that the lease, if issued, should include the following special condition regarding inadvertent discoveries:

- If prehistoric or historic artifacts, such as pottery or ceramics, projectile points, dugout canoes, metal implements, historic building materials, or any other physical remains that could be associated with Native American, early European, or American settlement are encountered at any time within the project site area, the permitted project shall cease all activities involving subsurface disturbance in the vicinity of the discovery. The applicant shall contact the Florida Department of State, Division of Historical Resources, Compliance Review Section at (850)-245-6333. Project activities shall not resume without verbal and/or written authorization. In the event that unmarked human remains are encountered during permitted activities, all work shall stop immediately and the proper authorities notified in accordance with Section 872.05, *Florida Statutes*.

In addition, should plans change and involve ground disturbing activities such as widening, grading, or altering the route, we request that plans are forwarded to this office for review and comment. For any questions concerning our comments, please contact Robin Jackson, Historic Preservationist, by electronic mail at robin.jackson@doh.myflorida.com, or at 850.245.6496, or 800.847.7278.

Sincerely,

Timothy A. Parsons, Ph.D.
Director, Division of Historical Resources & State Historic Preservation Officer

Division of Historical Resources
R.A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399
850.245.6300 • 850.245.6436 (Fax) • FLHeritage.com



ARC Questionnaire

1. Description of when and under what program or fund the parcel under consideration was acquired (EEL, LATF, CARL, P-2000, Florida Forever, etc) or donated.

On May 25, 1999, the TIITF and Lykes Brothers entered into a Settlement Agreement, ending longstanding litigation over the ownership of Fisheating Creek. This agreement followed a judge's ruling that the creek was sovereign water. The Settlement Agreement also allowed TIITF the right to acquire the land between the creek and the "25% exceedance line" which was acquired with CARL funds. It is within this portion that the proposed Gaskins access easement lies. TIITF also acquired a conservation easement over other portions of the Lykes land.

2. Description of the purpose for the parcel's acquisition (P-2000 or Florida Forever goals and criteria or similar purpose descriptions) or donation and any restrictions or conditions of use that apply to the parcel, if any.

The approved Fisheating Creek WMA management plan states, "...the primary objectives for purchase of the Fisheating Creek Project are "to conserve and protect natural communities along the shores of the Fisheating Creek, and thereby assist in maintaining and possibly improving the status of several rare plant and animal communities," and to "provide for traditional public uses and recreational activities within the fee lands as specified in the Settlement Agreement." It was recognized that conserving the lands surrounding Fisheating Creek would "help to secure the survival of the Florida panther in this state, as well as protect many other rare and endangered animals and a number of migratory birds."

3. Description of the current level of public recreational use or public access of the parcel. The proposed easement is used internally by FWC for management purposes.

4. Description of the natural resources, land cover, vegetation, habitat or natural community, if any, that are currently present on the parcel. The easement is adjacent to scrub, floodplain swamp, mesic hammock, and xeric hammock habitats.

5. Description and list of the imperiled and other wildlife species, if any, that occur on or use the parcel. There are no known wildlife species living exclusively on the proposed easement, though various wildlife species may cross the proposed easement.

6) Description and list of historical or archaeological resources, if any, that occur or have the potential of occurring on the site. There are no known historical or archeological resources on the proposed easement.

- 7) Formal alternative siting analysis that includes a description and assessment of other potential alternative sites and why they are not feasible or practicable alternatives.

There is no alternative route for the applicant to take.

8) Assessment of the impacts the proposed alternative use will have on the natural/historical/archaeological/recreational resources, if any, as well as on the current public use and purpose for the site or parcel.

The available route for the applicant to traverse from the end of Main Street, Palmdale, FL to its property is a firebreak trail following the property boundary with the exception of a deviation along a Palmdale drainage ditch to which the applicant intends to construct a

vehicle bridge and at the very end where the applicant will have to traverse over mesic hammock.

9) Assessment of the potential impacts on the larger area of conservation lands the parcel is located within (park, wildlife management area, forest trail, etc.) and on any surrounding conservation lands, if any. **None known.**

10) Assessment of how the proposed package of consideration and net positive benefit for the requested alternative use of the parcel, such as the generally standard requirement for replacement land (depending on the parcel's size), will offset the impacts and benefit the larger area of conservation lands (park, forest, wildlife management area, trail system, etc.) the parcel is within and particularly how it will offset the impacts or benefit the natural/historical/archaeological resources, habitat and public recreational uses of the public conservation area the parcel is located within. **FWC receives net positive benefit (NPB) acceptable to FWC pursuant to the IUP. As acceptable to FWC, presented, the easement area would be approximately 132,000 sq. ft. (5,280' x 25' wide) (3.03 Ac). Due to the small size, replacement land is not possible. FWC's first choice is for the NPB to be replacement land. The second choice would be goods or services that benefit the Fisheating Creek WMA.**

It will be the responsibility of the managing agency on whose property a non-conservation or non-public recreation use is proposed to have staff at ARC meetings who will be able to answer questions about the effect of that proposed use on the lands that they manage and about their justification for agreeing to allow it. BPLA staff will continue to present the items, but managing agency staff should be ready to answer any questions related to the resources and recreation on the site and the effects of proposed uses.