

**IN THE CIRCUIT COURT FOR THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA**

FLORIDA WILDLIFE FEDERATION, INC.,
ST. JOHNS RIVERKEEPER, INC.,
ENVIRONMENTAL CONFEDERATION OF
SOUTHWEST FLORIDA, INC., SIERRA
CLUB, INC., AND MANLEY FULLER, SUI
JURIS,

Plaintiffs,

Case No.: 2015 CA 001423

v.

THE FLORIDA LEGISLATURE; ANDY
GARDINER, as President of the Florida Senate;
AND STEVE CRISAFULLI, as Speaker of
the Florida House,

Defendants.

**PLAINTIFFS' MOTION FOR
SUMMARY JUDGMENT AND MEMORANDUM OF LAW**

Plaintiffs Florida Wildlife Federation, Inc., Conservancy of Southwest Florida, Inc., St. Johns Riverkeeper, Inc., Environmental Confederation of Southwest Florida, Inc., Sierra Club, Inc., and Manley Fuller respectfully move this Court for summary judgment pursuant to Florida Rules of Civil Procedure 1.510 (a) against all defendants.

I. INTRODUCTION

Plaintiffs are entitled to summary judgment because Amendment One prohibits the Legislature from appropriating land acquisition and restoration funds for any other purpose, but the Legislature appropriated most Amendment One moneys to salaries and ordinary expenses of four state agencies. That the Legislature appropriated funds for those purposes is not in dispute, and as a matter of law those appropriations are unconstitutional. Indeed, the Legislature appropriated these funds as if no restrictions had been imposed by the Amendment. Floridians voted to dedicate tax revenues to land purchases and land restoration – not salaries of existing employees and ordinary expenses. There is no doubt about what Florida voters understood Amendment One to mean because they read the ballot title – “Dedicates Funds to Acquire and Restore Conservation and Recreation Lands.” Having read the ballot title and summary, Florida voters approved Amendment One by an extraordinary 75% margin. Nor is there any doubt about the circumstances surrounding that vote: the Amendment was proposed in the context of the Legislature's virtual abolition of land purchasing programs dating back five decades. Because the Legislature violated the letter of the Amendment this Court should issue a declaratory judgment finding unconstitutional the appropriations of land acquisition and restoration moneys

totaling \$300 million, which appropriations are set out in the undisputed facts set out herein and in Appendix A.

Over the past five decades, Florida has had extraordinarily successful land acquisition programs that have acquired and restored over 4 million acres of conservation and recreation lands. Those programs slowed to a trickle during the Great Recession. But when the Legislature did not bring them back to life after the economy recovered, the Florida electorate voted to amend the Florida Constitution to require one-third of the documentary stamp tax – about \$750 million during the first year – to be expended only for “acquisition and restoration of conservation and recreation lands.” Instead of spending those dedicated funds for those two specific purposes, the Legislature substituted Amendment One monies for salaries and operating expenses at four state agencies: the Department of Environmental Protection (“DEP”), the Fish and Wildlife Conservation Commission (“FWC”), the Department of State (“DOS”), and the Department of Agriculture and Consumer Services (“DACS”). Florida voters did not vote for salaries and operating expenses – they voted to restrict the power of the Legislature by requiring it to dedicate one third of documentary stamp tax revenues to acquisition and restoration of conservation and recreation lands. This summary judgment motion argues that Amendment One allows only capital outlay projects for acquisition and

restoration of conservation lands and that the appropriations for salaries and operating expenses for state agencies are therefore unconstitutional. Plaintiffs assert that they are entitled to summary judgment because the plain meaning of the Amendment and the voters' intent was to increase spending on acquisition and restoration, not on salaries and operating expenses.

II. UNDISPUTED FACTS

Long-Standing Land Purchasing Programs

1. Since January 1, 1963, Florida has acquired over 4 million acres of conservation lands. Affidavit A; Exhibit 1.
2. Since 1963, Florida has had a long history of land purchasing programs for recreation and conservation, mostly funded through revenue bonds that used a variety of tax revenue streams, including documentary stamp taxes paid on real estate transactions. Exhibit 2 at 4.
3. Land purchasing programs were developed for acquisition of environmentally endangered lands, of conservation and recreation lands, of coastal lands, and of water areas and rivers. Exhibit 2 at 7-8. In 1990 and 1999

respectively, the Preservation 2000 and Florida Forever programs were established for the purpose of land acquisition and restoration. Exhibit 2 at 9-13.

Amendment One

4. Almost 75% of the electorate voted for Amendment One, which was codified in the Florida Constitution as Article X, section 28 of the Florida Constitution. *See* Exhibit 3 (Department of State Website listing vote results for Amendment 1, *available at* <http://dos.elections.myflorida.com/initiatives/initdetail.asp?account=59894&seqnum=1>).

5. The ballot for Amendment One included only the title and summary of the proposed amendment. The text of the amendment was not on the ballot.

§ 101.161(1), Fla. Stat.

6. The title of the amendment reads:

Land and Water Conservation – Dedicates funds to acquire and restore conservation and recreation lands.

See Exhibit 3.

7. The summary of the amendment reads:

Funds the Land Acquisition Trust Fund to acquire, restore, improve, and manage conservation lands including wetlands and forests; fish and wildlife habitat; lands protecting water resources and drinking water sources, including the Everglades, and the water quality of

rivers, lakes, and streams; beaches and shores; outdoor recreational lands; working farms and ranches; and historic or geologic sites, by dedicating 33 percent of net revenues from the existing excise tax on documents for 20 years.

See Exhibit 3.

8. The Florida Supreme Court reviewed the text of the amendment and held that the ballot title and summary “fairly inform the voters of the chief purpose of the proposed amendment” and that “[t]he title and summary are straightforward and accurate.” *Advisory Op. to the Attorney Gen. Re Water and Land Conservation*, 123 So.3d 47, 52 (Fla. 2013).

9. The only explanation of the amendment that all voters saw before they voted for Amendment One was the title and summary.

The Legislature's Appropriations Of Amendment One Moneys

10. For Fiscal Year 2015-2016, the Legislature made a series of appropriations from the Land Acquisition Trust Fund. Exhibit 7; Ch. 2015-232, §§5-6, at 209-394, Laws of Fla.

11. After vetoes by the Governor, the total amount of Amendment One appropriations were \$713 million, including \$191 million for debt service. *See* Affidavit B; Exhibit 4 (listing every appropriation for Fiscal Year 2015-2016

which appropriated money from the Land Acquisition Trust Fund, along with the amount appropriated from the Land Acquisition Trust Fund and type of expenditure); Ch. 2015-232, §§5-6, at 209-394, Laws of Fla.

12. In response to the adoption of Amendment One, the Legislature actually reduced the amount of moneys appropriated for land acquisition of unique/irreplaceable lands¹ by more than 50%, from \$57.5 million in the 2014-2015 fiscal year to less than \$20 million during the 2015-2016 fiscal year.

Compare Ch. 2014-51, § 5, at 224, Laws of Fla., *with* Ch. 2015-232, §5, at 231, Laws of Fla.

13. For Fiscal Year 2015-2016, the Legislature used only a small portion of the available money from the Land Acquisition Trust Fund for restoration.

Exhibit 4; Ch. 2015-232, §5, at 237, 239, Laws of Fla.

14. Almost all of the Amendment One appropriations were simply accounting changes that substituted Amendment One moneys for other moneys that had been the funding source for salaries and operating expenses of existing

¹ “Unique/irreplaceable lands” is the term used in the appropriations bill for general conservation land acquisition for conservation purposes. *See, e.g.*, Appropriation No. 1570, Ch. 2015-232, § 5, at 231, Laws of Fla.

environmental programs. Affidavit C; Exhibit 5 (chart showing changes in funding sources for appropriations in FY 2014-2015 and FY 2015-2016).

15. Even with these accounting substitutions, the post-Amendment One appropriations for both the Department of Environmental Protection and the Fish and Wildlife Conservation Commission were actually reduced by \$60.3 million and \$6.3 million respectively as compared to the year predating the passage of Amendment One. Exhibit 6 (highlighting total appropriation funding for FY 2014-2015 and FY 2015-2016 for DEP and FWC, which decreased from \$1,562,274,994 to \$1,502,010,518 and from \$364,315,100 to \$358,007,953, respectively); Ch. 2014-51, § 5, at 247, 260, Laws of Fla.; Ch. 2015-232, §5, at 253, 265, Laws of Fla.

16. After payment of debt service, the substantial majority of Land Acquisition Trust Fund appropriations were for salaries and operating expenses of DEP, DOS, FWC, and DACS. *See* Exhibit 4 (\$287,734,576 million appropriated for salaries and operating expenses versus \$234 million appropriated for fixed capital outlays); Ch. 2015-232, § 5, at 208-394, Laws of Fla.

17. As shown by undisputed facts 18-146, attached as Appendix A, \$300 million² of available funds were appropriated to salaries and operating expenses, agricultural pollution control projects on private lands, and general water condition programs. Most of the available Amendment One moneys were misappropriated by the Legislature.

III. MEMORANDUM OF LAW

Beginning in 1963, a long succession of both Democratic and Republican governors and Democratic and Republican legislatures adopted and implemented programs that purchased lands for public recreation and lands for environmental preservation. Undisputed Fact #2. The extraordinary political support for land acquisition programs has been driven by Florida's high rate of population growth and by public recognition of the widespread loss of natural areas to development. Since 1963, land acquisitions have been funded almost entirely with moneys raised through revenue bonds that used a variety of tax revenue streams ranging from a tax on sports equipment to documentary stamp taxes – an excise tax paid on all real

² The exact amount was \$299,460,887.

estate transactions. Undisputed Fact #2. By funding land acquisition through the tax on real estate transactions, the revenue stream for acquisitions increases proportionate to development and the loss of open space. Subsequent land purchasing programs were developed for acquisition of environmentally endangered lands, of conservation and recreation lands, of coastal lands, and of water areas. Undisputed Fact #3. In 1990 and 1999 respectively, the Preservation 2000 and Florida Forever programs were established for the purpose of land acquisition and restoration. Undisputed Fact #3. Both of those two programs had \$300 million per year appropriated for land acquisition.³

³ Most years had \$300 million appropriated, although as much as \$540 million and as little as \$203 million was appropriated. 1991 - \$540,000,000, Ch. 91-193, §2B, at 1883, 1892, §2G, at 1929, Laws of Fla.; 1992 - \$210,000,000, Ch. 92-293, §2B, at 2656-57, 2661-62, Laws of Fla.; 1993 - \$201,300,000, Ch. 93-184, §2B, at 1533-34, 1539-40, Laws of Fla.; 1994 - \$300,000,000, Ch. 94-357, §2B, at 3218, 3221, 3223, §2G, at 3257, Laws of Fla.; 1995 - \$300,000,000, Ch. 95-429, §5, at 3897, 3900, 3917, 3919-20, 3934, 3940, Laws of Fla.; 1996 - \$291,300,000, Ch. 96-424, § 5, at 3559, 3563, 3577, 3580, 3595, Laws of Fla.; 1997 - \$300,000,000, Ch. 97-152, § 5 at 222, 227, 243, 247, 248, 264, 272, Laws of Fla.; 1998 - \$300,000,000, Ch. 98-422, §5, at 273, 277, 297-98, 316-17, 327, Laws of Fla.; 1999 - \$300,000,000, Ch. 99-226, § 5, at 264, 279, 301, 303, 324, 338, Laws of Fla.; 2000 - \$275,000,000, Ch. 2000-166, § 5, at 204, 216, 233, 253, 258, 267, Laws of Fla.; 2001 - \$275,000,000, Ch. 2001-253, § 5, at 198, 210, 227, 245-46, 248, 257, Laws of Fla.; 2002 - \$300,000,000, Ch. 2002-394, § 5, at 197, 209, 229, 248-49, 251, 259, Laws of Fla.; 2003 - \$300,000,000, Ch. 2003-397, § 5, at 178, 189, 205, 220-22, 230, Laws of Fla.; 2004 - \$306,900,000, Ch. 2004-268, §5, at 183, 206, 210, 226-28, 241, Laws of Fla.; 2005 - \$300,000,000, Ch. 2005-70, §5,

During the Great Recession beginning in 2008, funding for land acquisition and restoration projects virtually halted. *See* Ch. 2009-81, § 5, at 224, Laws of Fla. (total amount appropriated for land acquisition was \$18.3 million). However, when the economy and state revenues recovered, funding for those acquisition and restoration projects was left by the Legislature at a small fraction of the levels prior to the recession. *See* Ch. 2013-40, § 5, at 220, Laws of Fla. (appropriation number 1544 appropriating only \$10 million from General Revenue and \$10 million from Florida Forever for land acquisition.)⁴ In that context, Amendment One was proposed.

THE PLAIN MEANING OF AMENDMENT ONE

Text, Ballot Title, and Ballot Summary

In its entirety, the text of Amendment One reads:

at 185, 208, 211-12, 230-31, 233, 246, Laws of Fla.; 2006 - \$300,000,000, Ch. 2006-25, § 5, at 205, 230, 235, 256-57, 260, 275, Laws of Fla.; 2007 - \$300,000,000, Ch. 2007-72, § 5, at 212, 237, 241-42, 261-62, 265, 279, Laws of Fla.; 2008 - \$318,000,000, Ch. 2008-152, §5, at 192, 217, 222-23, 243-45, 259, Laws of Fla.

⁴ The Legislature also sought to substitute lands by selling some conservation and recreation lands and then using the proceeds of land sales to purchase other lands. Ch. 2013-40, §5, at 220, Laws of Fla.

SECTION 28. Land Acquisition Trust Fund. —

(a) Effective on July 1 of the year following passage of this amendment by the voters, and for a period of 20 years after that effective date, the Land Acquisition Trust Fund shall receive no less than 33 percent of net revenues derived from the existing excise tax on documents, as defined in the statutes in effect on January 1, 2012, as amended from time to time, or any successor or replacement tax, after the Department of Revenue first deducts a service charge to pay the costs of the collection and enforcement of the excise tax on documents.

(b) Funds in the Land Acquisition Trust Fund shall be expended only for the following purposes:

(1) As provided by law, to finance or refinance: the acquisition and improvement of land, water areas, and related property interests, including conservation easements, and resources for conservation lands including wetlands, forests, and fish and wildlife habitat; wildlife management areas; lands that protect water resources and drinking water sources, including lands protecting the water quality and quantity of rivers, lakes, streams, springsheds, and lands providing recharge for groundwater and aquifer systems; lands in the Everglades Agricultural Area and the Everglades Protection Area, as defined in Article II, Section 7(b); beaches and shores; outdoor recreation lands, including recreational trails, parks, and urban open space; rural landscapes; working farms and ranches; historic or geologic sites; together with management, restoration of natural systems, and the enhancement of public access or recreational enjoyment of conservation lands.

(2) To pay the debt service on bonds issued pursuant to Article VII, Section 11(e).

(c) The moneys deposited into the Land Acquisition Trust Fund, as defined by the statutes in effect on January 1, 2012, shall not be or become commingled with the general revenue fund of the state.

Three elements comprise the Amendment. First, at least 33% of the revenues from the documentary stamp tax as it existed on January 1, 2012 must go

to the Land Acquisition Trust Fund. The Legislature may send more than that to the Land Acquisition Trust Fund, but not less. Second, these funds need not be spent. Only the Legislature can appropriate them, and if it chooses not to do so, they accumulate in the Land Acquisition Trust Fund. Third, if the Legislature chooses to appropriate monies from that trust fund, it may do so but the appropriations are limited.⁵ That is the correct construction of Amendment One because the Florida Supreme Court gave it that construction in ruling that Amendment One fully complies with the accurate summary requirement. *Advisory Op. to The Attorney Gen. Re Water and Land Conservation*, 123 So.3d 47, 52 (Fla. 2013).

Ballots for constitutional amendments do not set out the text of the amendment and set out only a ballot title and a summary. § 101.161(1), Fla. Stat. Because the title and summary are the only explanation that voters read, they must be judicially reviewed to ensure that they are accurate. Art. IV, §10, Fla. Const.; §101.161, Fla. Stat. The Florida Supreme Court reviewed the title and summary of Amendment One and held that “[t]he title and summary of Amendment 1 are straightforward and accurate.” *Advisory Op., supra*, 123 So.3d at 52.

⁵ Section (c) prohibits commingling of LATF funds with General Revenue. That provision is not at issue in this case.

That decision is controlling as to the plain meaning of the text because the ballot title and summary requirement is a “truth in packaging” obligation needed to assure that each voter will cast a ballot “based on the full truth.” *Fla. Educ. Ass’n, v. Fla. Dep’t of State*, 48 So.3d 694, 699-700 (Fla. 2010) (title and summary of legislatively proposed amendment to class size amendment disclosed full truth about the effect of amendment); *see also, Dep’t of Env’tl. Prot. v. Millender*, 666 So. 2d 882, 886 (Fla. 1996) (terms in inshore net fishing amendment must be interpreted in the context of the natural meaning voters would understand from reading the ballot summary⁶). This “truth in packaging” obligation is founded both in statute and in the state Constitution. *Fla. Dep’t of State v. Fla. State Conference of NAACP Branches*, 43 So. 3d 662, 667 (Fla. 2010) (quoting *Advisory Op. to Att’y Gen. re Referenda Required for Adoption & Amendment of Local Gov’t Comprehensive Land Use Plan*, 902 So. 2d 763, 770 (Fla. 2005)) (title and summary for proposed amendment by Legislature regarding redistricting cannot be

⁶ Sovereignty resides in the people and for that reason voter intent must control in interpreting citizen initiative constitutional amendments. *Plante v. Smathers*, 372 So.2d 933, 936 (Fla. 1979) (interpretation of citizens’ initiative amendment requiring conflict of interest disclosure by political candidates; voter intent paramount in interpretation of terms).

misleading as “[s]ection 101.161(1) is a codification of the accuracy requirement implicit in article XI, section 5 of the Florida Constitution”).

Appropriations Rendering The Title And Summary Inaccurate

The ballot title and the ballot summary must be read together, *Fla. Dep’t of State v. Slough*, 992 So.2d 142, 148 (Fla. 2008) (finding title and summary of tax reduction amendment were inaccurate because they did not disclose future financial impacts); *Fla. Educ. Ass’n, supra*, 48 So.3d at 702 (read together, ballot title and summary of amendment to class size amendment were accurate), and the title cannot be misleading. *Fla. Dep’t of State v. Fla. State Conference of NAACP Branches*, 43 So. 3d 662, 669 (Fla. 2010) (ballot title purporting to establish standards for redistricting misleading and precluded placement of proposed amendment on ballot where amendment would have actually eliminated standards). The Amendment One ballot title reads “*Land and Water Conservation – Dedicates funds to acquire and restore conservation and recreation lands,*” which allows but one meaning: that the funds dedicated by Amendment One must be for acquisition and for restoration of those two categories of land. The summary reads:

Funds the Land Acquisition Trust Fund to acquire, restore, improve, and manage conservation lands including wetlands and forests; fish and wildlife habitat; lands protecting water resources and drinking water sources, including the Everglades, and the water quality of rivers, lakes, and streams; beaches and shores; outdoor recreational lands; working farms and ranches; and historic or geologic sites, by dedicating 33 percent of net revenues from the existing excise tax on documents for 20 years.

Section (b)(1) of the Amendment text states that funds can be appropriated only for “acquisition and improvement” and then lists a variety of different classes of property interests, each separated by a semicolon. Included on the list are “land and water areas” of various types: “wildlife management areas;” and “lands that protect water resources... including lands protecting... water quality and quantity... of rivers, lakes, streams, [and aquifer recharge areas].” Fla. Const. Art. X, § 28(b)(1). Having listed the types of property that can be acquired and divided them by semicolons, the text then lists three categories of expenditures “together with management, restoration of natural systems, and the enhancement of public access or recreational enjoyment of conservation lands.” Fla. Const. Art. X, § 28(b)(1). All these provisions must be understood in the context of the ballot title and summary. The title states that the Amendment dedicates funds to “*acquire and restore* Florida conservation and recreation *lands*” (emphasis added).

Those words refer to land and capital projects rather than to the salaries and operating expenses of state agencies.

The word “manage” appears but once in the summary (“to acquire, restore [the two words of the title], improve [assumedly improvements that facilitate the purposes of the land acquisition or restoration project], and manage conservation lands...”). Manage must mean management incidental to capital outlays – directed to acquisition, to restoration, and to improvement. Nothing else.

The Legislature misappropriated Amendment One funds as if the Amendment imposed no meaningful restrictions on the use of Amendment One moneys. Appropriations for salaries and operating expenses of state agencies cannot be fairly characterized as “management.” However, the Legislature appropriated most of the available Amendment One moneys to salaries and operational expenses of DEP, FWC, DOS, and DACS that had some nexus to environmental conservation. After payment of debt service, the substantial majority of Land Acquisition Trust Fund appropriations were for the salaries and operating expenses of those agencies. Undisputed Fact #16. These operating expenses include, among other things, other personal services (which includes non-permanent employees), risk management insurance (operating insurance), transfers to Department of Management Services for human resource services purchased per

statewide contract, land management operations, wildlife management operations, and fire suppression equipment as an operating expense. If the chief purpose of the Amendment was to dedicate funds for the salary and operating expenses of state agencies, the title of the amendment should have read: “Environmental Conservation – Funds environmental agency operations, and acquisition and restoration of conservation and recreation lands.” It did not. And the summary should have read: “Funds the Land Acquisition Trust Fund to pay for state agencies’ programs related to conservation, and to acquire, restore, improve, and manage conservation lands . . .” It did not either. The ballot title and summary must fairly and accurately explain the chief purpose of the amendment. *Advisory Opinion, supra*, 123 So.3d at 51-52 (citing *Right to Treatment and Rehabilitation for Non-Violent Drug Offenses*, 818 So.2d 491, 497 (Fla.2002)). To interpret Amendment One as funding the salaries and operating expenses of DEP, FWC, DOS, and DACS, would render the summary inaccurate. The summary cannot be inaccurate. *Id.*

The Legislature also treats Amendment One appropriations for salaries and operating expenses of DEP, FWC, DOS, and DACS as if they need only have a nexus to “restoration of natural systems” – as if that term encompasses any activities that have a positive effect on natural systems. The phrase “restoration of

natural systems” does not appear in the title or summary, but as part of a phrase in (b)(1) of the text of the Amendment (“together with management, restoration of natural system, and the enhancement of public access...”). But reduced to its operative language concerning restoration of waters and water quality, the summary reads: “Funds the Land Acquisition Trust Fund to . . . restore . . . lands protecting water resources and drinking water sources, including the Everglades, and the water quality of rivers, lakes and streams.”⁷ It does not say “programs that protect water quality.” Restoration of water resources and protection of water quality is to be accomplished by capital outlays for restoration of lands that protect them. It therefore does not include and cannot reach agency programs that regulate water withdrawals or reduce industrial, agricultural, urban, or domestic water pollution including nonpoint source management planning, dispersed water storage, programs for establishing minimum flows and levels, the total maximum daily load program, or springs restoration (which allows spending money to treat

⁷ The summary reads “Funds the Land Acquisition Trust Fund to acquire, restore, improve, and manage conservation lands including wetlands and forests; fish and wildlife habitat; *lands protecting* water resources and drinking water sources, including the Everglades, and *the water quality of rivers, lakes and streams*; beaches and shores; outdoor recreation lands; working farms and ranches; and historic or geologic sites, by dedicating 33% of net revenues from the existing excise tax on documents for 20 years.” (Emphasis added).

wastewater pollution). *See* Undisputed Facts 126, 127, 128, 136, and 137. Thus, the term “restoration of natural systems” in the text, cannot mean that funding is for operations of environmental agencies or programs that generally improve the environment, but must mean funding for land restoration like Everglades restoration.

Nor can projects on private lands, which the Legislature has funded through the Amendment, *see* Undisputed Facts 78 and 79 (appropriating money to fund projects on agricultural lands), be funded by the Amendment, which, as stated in the summary, only allows spending on “conservation and recreation lands.” Nowhere does the Amendment contemplate spending money for restoration or improvement of private lands, or appropriations for projects on private lands that have a general environmental benefit. If that were true, funds from the Amendment could be used to modernize the wastewater treatment systems of pulp mills. Instead, the Amendment requires direct restoration or improvements of conservation and recreation lands.

Constitutional Restrictions On Legislative Appropriations Must Have Some Effect

The polestar in constitutional interpretation of voter initiative amendments is the intent of the voters. *Plante v. Smathers*, 372 So.2d 933, 936 (Fla. 1979).

There, a Sunshine amendment required financial disclosures of political candidates so that potential conflicts of interest would be disclosed in the course of the elections process. The Court emphatically rejected an interpretation suggested by the text that would have allowed the disclosures to take place after the election rather than before, reasoning that to do so would defeat the purpose of the amendment. Constitutional provisions must always be construed to effectuate their purposes. *In re Advisory Op. to the Governor*, 243 So.2d 573, 577-78 (Fla. 1971) (interpretation of governor's powers regarding judicial nominating commissions governed by purpose of constitutional amendment); *State ex rel. Dade Cnty. v. Dickinson*, 230 So.2d 130, 136 (Fla. 1970) (constitutional tax limitation; interpretations must accomplish rather than defeat purposes of provision); *State ex rel. McKay v. Keller*, 191 So. 542, 545 (Fla. 1939) (leading purpose in constitutional construction is to effectuate the intent and object of provision; city excise tax on law firm gross receipts equivalent to prohibited income tax); *Amos v. Matthews*, 126 So. 308, 315 (Fla. 1930) (local powers to impose gasoline tax; interpretation must be guided by purpose of constitutional provision).

A necessary corollary to the principles that interpretations of constitutional amendments must be faithful to voter intent and to the purposes of the amendment is that no constitutional amendment can be construed so as to deprive it of

meaningful effect. *Plante, supra*, 372 So. 2d at 936-37. In *Plante*, an interpretation requiring financial disclosure only after the election would have still provided voters with information that would be meaningful in a subsequent election cycle, but the Court held that a *de minimis* effect was insufficient to save an interpretation that evaded the central purposes of the amendment. *Id.* at 937. The purpose of Amendment One is explained by the title that all voters saw and 75% of voters approved: to dedicate funds to “acquire and restore conservation and recreation lands.” Instead of appropriating money for those purposes, the Legislature appropriated Amendment One funds as if the terms “management” and “restoration of natural systems” in the text of the Amendment encompassed the salaries and operating expenses of state agencies with a nexus to conservation or improvement of the environment.⁸ That interpretation gives the Amendment no effect other than preventing expenditures by environmental agencies to be reduced below one-fifth of the current funding level. *Compare* Ch. 2014-51, §§5, 6 at 219, 247, 260, 391, Laws of Fla. (appropriated \$1,536,678,071, \$1,562,274,994, \$364,315,100, and \$162,451,079 to DACS, DEP, FWC, and DOS, respectively, for

⁸ The Legislature also appropriated money for water condition programs and agricultural pollution control projects on private land if they had a nexus to conservation or improvement of the environment.

a total of \$3,625,719,244 for Fiscal Year 2014-2015), *with* Undisputed Fact #11 (\$713 million appropriated from LATF for Fiscal Year 2015-2016 — meaning that if Amendment One had simply been a floor for environmental spending, it would have allowed 80% cuts in such spending). That is a *de minimis* effect which is not faithful to the purposes of Amendment One that the voters understood from the ballot title and summary.

“Finance Or Refinance” And Capital Outlays

Section (b) of the Amendment requires that funds in the Land Acquisition Trust Fund “shall be expended only for” the following purposes: “1. As provided by law, *to finance or refinance: the acquisition and improvement of land, water areas and related property interests . . . ;*” and “restoration of natural systems” (emphasis added). This term “finance or refinance” must be construed in reference to the other constitutional provisions that use that same term. *Bush v. Holmes*, 918 So. 2d 392, 406-07 (Fla. 2006) (education provision construed in context with other parts of the same provision and of related constitutional provisions).

All other constitutional provisions using the term “finance or refinance” restrict expenditures to capital outlays. Article VII, section 11(d) states “[r]evenue

bonds may be issued by the state . . . to finance or refinance the cost of state fixed capital outlay projects . . . and purposes incidental thereto.” Fla. Const. Art. VII, § 11(d). Amendment One’s sister provision in the Constitution, Article VII, section 11(e), deals with acquisition and restoration of conservation and recreation lands by authorizing issuance of revenue bonds:

“to *finance or refinance the acquisition and improvement of land, water areas, and related property interests* and resources for the purposes of conservation, outdoor recreation, water resource development,⁹ *restoration of natural systems*, and historic preservation.”

Fla. Const. Art. VII, § 11(e) (emphasis added). The italicized terms quoted above are identical to the terms used in Amendment One. Indeed, the two provisions are so interrelated that section (b)(2) of Amendment One authorizes funds to be used “to pay debt service on bonds issued pursuant to Article VII, section 11(e).” Fla. Const. Art. X, § 28(b)(2).

Other constitutional provisions confirm that the term “finance and refinance” restricts the use of funds to capital outlays. Article VII section 11(a) prohibits the issuance of state revenue bonds for anything other than the cost of state fixed capital outlay projects authorized by law, and “purposes incidental thereto.” And

⁹ Water resources development is not included as a use of Amendment One moneys.

the phrase “finance or refinance” appears in nine other constitutional provisions, all of which concern funding of capital projects. Article VII, section 11(d) (“to finance or refinance the cost of fixed capital outlay projects” where debt service not paid by state tax revenues); Article VII, section 10(c) (“to finance or refinance capital projects” for airports, and “to finance or refinance capital projects” for industry and manufacturing); Article VII, section 12 (local bonds “to finance or refinance capital projects”); Article VII, section 16(a) (“to finance or refinance housing and related facilities”); Article VII, section 16(a) (“finance or refinance the cost of acquiring real property . . . for state roads . . .” and “finance or refinance the cost of state bridge construction, and purposes incidental to such property acquisition or state bridge construction”); Article X section 33(9)(a)(2) (preserving the power of the Legislature “to finance or refinance capital projects”).

The use of the phrase “to finance or refinance” in Amendment One invokes the same restriction as in all other usages of that phrase in the Florida Constitution: expenditures are permissible only for capital outlays, and purposes incidental to capital outlays.

The Principle Of *Noscitur A Socius*

Land acquisitions, acquisition of interests in land, improvements to land, and restoration of natural systems are all capital outlay expenditures that are mentioned in Amendment One. In with those specific terms is the general term “management.” Because “management” is a general term in the company of specific terms that are all capital expenditures, this context evokes the maxim *noscitur a sociis* (a term is known by the company it keeps) which limits the meaning of general terms to those of the same class of other terms in a list of specific provisions. *See Nehme v. SmithKline Beecham Labs., Inc.*, 863 So. 2d 201, 205 (Fla. 2003) (maxim of *noscitur a sociis* limits the term “concealment” to class of intentional misrepresentation because other terms of the statute required specific intent); *Dunham v. State*, 192 So. 324, 326 (Fla. 1939) (*noscitur a sociis* applied to limit statutory term to the class of persons entrusted with property to type of bailments listed in the statute).

Thus, the term “management” must be management in the capital outlay sense – the cost of managing acquisition, improvement, and restoration. Those types of costs, such as surveying and engineering, are treated as capital costs in other constitutional provisions. Undisputed Fact #148.

There is but one interpretation of the text that does comport with the ballot title and summary and with the terms of Article VII, section 11(e) and the other nine provisions in the Constitution that concern revenue bonds. “[M]anagement, restoration of natural systems, and enhancement of public access and recreational enjoyment” must refer to capital projects of the type indicated by the ballot title and summary. For example, beach renourishment, planting trees, and building fences around conservation and recreation lands are treated as capital projects. *See, e.g.*, Ch. 2015-232, § 5, at 240-41, Laws of Fla. (appropriation number 1647 appropriating money as a fixed capital outlay for beach projects, including renourishment projects). Restoration of natural systems, like Everglades restoration are also capital outlay projects, as are the roads, hiking trails, and campgrounds that facilitate public access and recreational enjoyment. *See, e.g.*, Ch. 2015-232, § 5, at 237, Laws of Fla. (appropriation number 1621 appropriating money as a fixed capital outlay for Everglades Restoration); Ch. 2015-232, § 5, at 249, Laws of Fla. (appropriation number 1707 appropriating money as a fixed capital outlay for state park facility improvements).

Affirmative Defenses

Furthermore, the Legislature's affirmative defenses – failure to state a cause of action, non-justiciable controversy, and taxpayers are without standing to bring this case – cannot preclude summary judgment because this Court denied the Legislature's motion to dismiss on those same grounds. *See* Order on Legislative Parties' and Jeff Atwater's Motions to Dismiss the First Amended Complaint at 1 (Dec. 10, 2015); The Legislative Parties' Motion to Dismiss at 9-10 (Sept. 8, 2015); Plaintiffs' Response to the Legislative Parties' Motion to Dismiss at 3-6 (Oct. 2, 2015). There is no genuine issue of disputed fact as to standing because Plaintiffs have submitted affidavits establishing that each are taxpayers and that each pay a variety of Florida taxes. Undisputed Fact #147.

CONCLUSION

Summary judgment should be granted when the decision turns on questions of law because of the absence of genuinely disputed issues of material fact.

Maronda Homes, Inc. v. Lakeview Reserve Homeowners Ass'n, 127 So. 3d 1258, 1268, 1275-76 (Fla. 2013) (affirming summary judgment finding retroactive repeal of implied warranty of fitness to be unconstitutional); *Volusia Cnty. v. Aberdeen at Ormond Beach*, 760 So.2d 126, 130-31 (Fla. 2000) (affirming summary judgment

order determining that school impact fees were unconstitutional). As demonstrated above, Plaintiffs have shown that there are no genuinely disputed issues of fact. Therefore, this Court can and should decide this case on the questions of law raised in this motion.

In all, \$216,017,782 was appropriated from the Land Acquisition Trust Fund for salaries and operating expenses, \$56,745,656 was appropriated from the Land Acquisition Trust Fund to pay for water condition programs by DEP, and \$26,697,449 was appropriated from the Land Acquisition Trust Fund for agricultural pollution control projects on private land.

Based on the plain language and meaning of Amendment One, and the Legislature's unauthorized and improper appropriations, Plaintiffs respectfully submit that this Court should enter summary judgment in their favor and issue a declaratory judgment order: declaring that the appropriations listed in paragraphs 54(a-k) and 55 of the Third Amended Complaint violate Article X section 28 of the Florida Constitution; declaring that money paid into the Land Acquisition Trust Fund by reason of Article X section 28 of the Florida Constitution may not be used for purposes other than those within the scope of Amendment One; requiring the Legislative Parties to transfer \$299,460,887 of General Revenue surplus to the Land Acquisition Trust Fund; and granting such further and other relief as the

Court deems just and proper.

Counsel for Plaintiffs have consulted with counsel for Defendants, and are authorized to represent that Defendants oppose the motion and will be filing a response.

Respectfully submitted on this 1st day of June, 2016.

/s/David G. Guest

David G. Guest

Primary email: davidguest@earthlink.net

Florida Bar No. 0267228

Alisa Coe

Primary email: acoe@earthjustice.org

Florida Bar No. 10187

Earthjustice

111 S. Martin Luther King Jr. Blvd.

Tallahassee, Florida 32301

(850) 681-0031 (Phone)

(850) 681-0020 (Facsimile)

Secondary email:

kstandridge@earthjustice.org

Attorneys for Plaintiffs

BLEDSON JACOBSON SCHMIDT

WRIGHT & SUSSMAN

/s/ Kenneth B. Wright

Kenneth B. Wright, Esquire

Florida Bar No.: 0893791

1301 Riverplace Blvd., Suite 1818

Jacksonville, FL 32207

Telephone: [904-398-1818](tel:904-398-1818)

Facsimile: [904-398-7073](tel:904-398-7073)

Primary: service@jacobsonwright.com
Secondary: jacobsonwrightpa@gmail.com
Email: ken@jacobsonwright.com
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I CERTIFY that a true and correct copy of the foregoing was furnished electronically through the Florida Courts E-filing Portal to Andy Bardos at Andy.Bardos@gray-robinson.com, and George Meros at geroge.meros@gray-robinson.com, at 301 S. Bronough St., Suite 600, Tallahassee, FL 32301; and to George Levesque at levesque.george@flsenate.gov, glevesque4@comcast.net, everette.shirlyne@flsenate.gov, at 302 the Capitol, 404 South Monroe St., Tallahassee, FL 32399; and to Matthew J. Carson at matthew.carson@myfloridahouse.gov, Jason.rojas@myfloridahouse.gov, at Suite 422, The Capitol, 402 South Monroe St., Tallahassee, FL 32399; and to Joseph Little at littlegnv@gmail.com, on this 1st day of June, 2016.

s/David G. Guest
Attorney

APPENDIX A

ADDITIONAL UNDISPUTED FACTS

18. Appropriation number 1376 appropriated \$2,819,038 from the Land Acquisition Trust Fund for salaries and benefits for Agricultural Water Policy Coordination at the Florida Department of Agriculture and Consumer Services (“DACs”). Exhibit 8.

19. Appropriation number 1377 appropriated \$449,091 from the Land Acquisition Trust Fund for operational expenses for Agricultural Water Policy Coordination at DACs. Exhibit 9.

20. Appropriation number 1382 appropriated \$1,258,450 from the Land Acquisition Trust Fund for salaries and benefits for Executive Direction and Support Services at DACs. Exhibit 10.

21. Appropriation number 1406 appropriated \$40,550,981 from the Land Acquisition Trust Fund for salaries and benefits for the Florida Forest Service at DACs. Exhibit 11.

22. Appropriation number 1407 appropriated \$878,821 from the Land Acquisition Trust Fund for other personal services for the Florida Forest Service at DACs (salary and operating expenses). Exhibit 12.

23. Appropriation number 1408 appropriated \$8,049,438 from the Land Acquisition Trust Fund for operating expenses for the Florida Forest Service at DACS. Exhibit 13.

24. Appropriation number 1419 appropriated \$135,172 from the Land Acquisition Trust Fund for overtime for the Florida Forest Service at DACS (salary and operating expenses). Exhibit 14.

25. Appropriation number 1422 appropriated \$178,611 from the Land Acquisition Trust Fund for salaries and benefits for the Office of Agriculture Technology Services at DACS. Exhibit 15.

26. Appropriation number 1516 appropriated \$9,561,860 from the Land Acquisition Trust Fund for salaries and benefits for Executive Direction and Support Services at the Florida Department of Environmental Protection (“DEP”). Exhibit 16.

27. Appropriation number 1518 appropriated \$16,018 from the Land Acquisition Trust fund for operating expenses for Executive Direction and Support Services at DEP. Exhibit 17.

28. Appropriation number 1525 appropriated \$640,113 from the Land Acquisition Trust Fund for salaries and benefits for the Florida Geological Survey at DEP. Exhibit 18.

29. Appropriation number 1533 appropriated \$6,527,320 from the Land Acquisition Trust Fund for salaries and benefits for Technology and Information Services at DEP. Exhibit 19.

30. Appropriation number 1535 appropriated \$1,001,412 from the Land Acquisition Trust Fund for operating expenses for Technology and Information Services at DEP. Exhibit 20.

31. Appropriation number 1555 appropriated \$1,074,954 from the Land Acquisition Trust Fund for salaries and benefits for Land Administration and Management at DEP. Exhibit 21.

32. Appropriation number 1556 appropriated \$190,178 from the Land Acquisition Trust Fund for other personal services for Land Administration and Management at DEP (salary and operating expenses). Exhibit 22.

33. Appropriation number 1557 appropriated \$251,758 from the Land Acquisition Trust Fund for operating expenses for Land Administration and Management at DEP. Exhibit 23.

34. Appropriation number 1572 appropriated \$2,279,773 from the Land Acquisition Trust Fund for salaries and benefits for Land and Recreation Operation Services at DEP. Exhibit 24.

35. Appropriation number 1573 appropriated \$139,391 from the Land Acquisition Trust Fund for other personal services for Land and Recreation Operation Services at DEP (salary and operating expenses). Exhibit 25.

36. Appropriation number 1574 appropriated \$71,748 from the Land Acquisition Trust Fund for operating expenses for Land and Recreation Operation Services at DEP. Exhibit 26.

37. Appropriation number 1579 appropriated \$12,748,399 from the Land Acquisition Trust Fund for salaries and benefits for Water Resource Protection and Restoration, District Offices, at DEP. Exhibit 27.

38. Appropriation number 1581 appropriated \$1,291,752 from the Land Acquisition Trust Fund for operating expenses for Water Resource Protection and Restoration, District Offices, at DEP. Exhibit 28.

39. Appropriation number 1599 appropriated \$1,577,740 from the Land Acquisition Trust Fund for salaries and benefits for Executive Direction and Support Services, District Offices, at DEP. Exhibit 29.

40. Appropriation number 1601 appropriated \$20,678 from the Land Acquisition Trust Fund for operating expenses for Executive Direction and Support Services, District Offices, at DEP. Exhibit 30.

41. Appropriation number 1606 appropriated \$1,401,277 from the Land Acquisition Trust Fund for salaries and benefits for Water Policy and Ecosystems Restoration at DEP. Exhibit 31.

42. Appropriation number 1608 appropriated \$163,427 from the Land Acquisition Trust Fund for operating expenses for Water Policy and Ecosystems Restoration at DEP. Exhibit 32.

43. Appropriation number 1623 appropriated \$6,184,450 from the Land Acquisition Trust Fund for salaries and benefits for Water Science and Laboratory Services at DEP. Exhibit 33.

44. Appropriation number 1624 appropriated \$89,189 from the Land Acquisition Trust Fund for other personal services for Water Science and Laboratory Services at DEP (salary and operating expenses). Exhibit 34.

45. Appropriation number 1625 appropriated \$1,283,191 from the Land Acquisition Trust Fund for operating expenses for Water Science and Laboratory Services at DEP. Exhibit 35.

46. Appropriation number 1642 appropriated \$3,385,896 from the Land Acquisition Trust Fund for salaries and benefits for Beach Management at DEP. Exhibit 36.

47. Appropriation number 1643 appropriated \$237,457 from the Land Acquisition Trust Fund for other personal services for Beach Management at DEP (salary and operating expenses). Exhibit 37.

48. Appropriation number 1644 appropriated \$396,034 from the Land Acquisition Trust Fund for operating expenses for Beach Management at DEP. Exhibit 38.

49. Appropriation number 1648 appropriated \$450,647 from the Land Acquisition Trust Fund for salaries and benefits for Water Resource Management at DEP. Exhibit 39.

50. Appropriation number 1649 appropriated \$40,000 from the Land Acquisition Trust Fund for other personal services for Water Resource Management at DEP (salary and operating expenses). Exhibit 40.

51. Appropriation number 1650 appropriated \$93,060 from the Land Acquisition Trust Fund for operating expenses for Water Resource Management at DEP. Exhibit 41.

52. Appropriation number 1694 appropriated \$28,068,344 from the Land Acquisition Trust Fund for salaries and benefits for State Park Operations at DEP. Exhibit 42.

53. Appropriation number 1696 appropriated \$84,550 from the Land Acquisition Trust Fund for operating expenses for State Park Operations at DEP. Exhibit 43.

54. Appropriation number 1713 appropriated \$3,695,752 from the Land Acquisition Trust Fund for salaries and benefits for Coastal and Aquatic Managed Areas at DEP. Exhibit 44.

55. Appropriation number 1714 appropriated \$570,939 from the Land Acquisition Trust Fund for other personal services for Coastal and Aquatic Managed Areas at DEP (salary and operating expenses). Exhibit 45.

56. Appropriation number 1715 appropriated \$1,042,662 from the Land Acquisition Trust Fund for operating expenses for Coastal and Aquatic Managed Areas at DEP. Exhibit 46.

57. Appropriation number 1740 appropriated \$6,333,502 from the Land Acquisition Trust Fund for salaries and benefits for the Office of Executive Direction and Administrative Support Services at the Florida Fish and Wildlife Conservation Commission (“FWC”). Exhibit 47.

58. Appropriation number 1757 appropriated \$11,839,463 from the Land Acquisition Trust Fund for salaries and benefits for Fish, Wildlife and Boating Law Enforcement at FWC. Exhibit 48.

59. Appropriation number 1759 appropriated \$422,585 from the Land Acquisition Trust Fund for operating expenses for Fish, Wildlife and Boating Law Enforcement at FWC. Exhibit 49.

60. Appropriation number 1769 appropriated \$20,160 from the Land Acquisition Trust Fund for salary incentive payments for Fish, Wildlife and Boating Law Enforcement at FWC (salary and operating expenses). Exhibit 50.

61. Appropriation number 1778 appropriated \$492,805 from the Land Acquisition Trust Fund for salaries and benefits for Hunting and Game Management at FWC. Exhibit 51.

62. Appropriation number 1780 appropriated \$1,852 from the Land Acquisition Trust Fund for operating expenses for Hunting and Game Management at FWC. Exhibit 52.

63. Appropriation number 1794 appropriated \$7,861,819 from the Land Acquisition Trust Fund for salaries and benefits for Habitat and Species Conservation at FWC. Exhibit 53.

64. Appropriation number 1795 appropriated \$96,372 from the Land Acquisition Trust Fund for other personal services for Habitat and Species Conservation at FWC (salary and operating expenses). Exhibit 54.

65. Appropriation number 1796 appropriated \$1,197,637 from the Land Acquisition Trust Fund for operating expenses for Habitat and Species Conservation at FWC. Exhibit 55.

66. Appropriation number 1818 appropriated \$47,870 from the Land Acquisition Trust Fund for salaries and benefits for Freshwater Fisheries Management at FWC. Exhibit 56.

67. Appropriation number 1820 appropriated \$20,000 from the Land Acquisition Trust Fund for operating expenses for Freshwater Fisheries Management at FWC. Exhibit 57.

68. Appropriation number 1843 appropriated \$168,836 from the Land Acquisition Trust Fund for salaries and benefits for the Fish and Wildlife Research Institute at FWC. Exhibit 58.

69. Appropriation number 1845 appropriated \$3,952 from the Land Acquisition Trust Fund for operating expenses for the Fish and Wildlife Research Institute at FWC. Exhibit 59.

70. Appropriation number 3056 appropriated \$67,733 from the Land Acquisition Trust Fund for other personal services for Executive Direction and Support Services at the Florida Department of State (“DOS”) (salary and operating expenses). Exhibit 60.

71. Appropriation number 3081 appropriated \$2,541,172 from the Land Acquisition Trust Fund for salaries and benefits for Historical Resources Preservation and Exhibition at DOS. Exhibit 61.

72. Appropriation number 3082 appropriated \$1,407,423 from the Land Acquisition Trust Fund for other personal services for Historical Resources Preservation and Exhibition at DOS (salary and operating expenses). Exhibit 62.

73. Appropriation number 3083 appropriated \$1,137,549 from the Land Acquisition Trust Fund for operating expenses for Historical Resources Preservation and Exhibition at DOS, including a direction to DOS to study the feasibility of implementing a one-time amnesty program of limited duration for persons who possess specimens, objects, or materials of historical or archaeological value found on land owned or controlled by the state or on land owned by a water authority. Exhibit 63.

74. Appropriation number 3092 appropriated \$34,746 from the Land Acquisition Trust Fund for data processing services for Historical Resources Preservation and Exhibition at DOS (salary and operating expenses). Exhibit 64.

75. Appropriation number 3113 appropriated \$716,837 from the Land Acquisition Trust Fund for salaries and benefits for Cultural Affairs at DOS. Exhibit 65.

76. Appropriation number 3114 appropriated \$90,272 from the Land Acquisition Trust Fund for other personal services for Cultural Affairs at DOS (salary and operating expenses). Exhibit 66.

77. Appropriation number 3115 appropriated \$676,418 from the Land Acquisition Trust Fund for operating expenses for Cultural Affairs at DOS. Exhibit 67.

78. Appropriation number 1380 appropriated \$21,697,449 from the Land Acquisition Trust Fund to Agricultural Water Policy Coordination at DACS for Agricultural Nonpoint Sources Best Management Practices Implementation, \$4,332,449 of which is provided for implementation of agricultural nonpoint source controls in the Okeechobee, Caloosahatchee, and St. Lucie River watersheds (agricultural pollution control projects on private land). Exhibit 68.

79. Appropriation number 1381A appropriated \$5,000,000 to Agricultural Water Policy Coordination at DACS as fixed capital outlay for Okeechobee restoration agricultural projects (agricultural pollution control projects on private land). Exhibit 69.

80. Appropriation number 1379 appropriated \$6,137 from the Land Acquisition Trust Fund for risk management insurance for Agricultural Water Policy Coordination at DACS (salary and operating expenses). Exhibit 70.

81. Appropriation number 1420 appropriated \$221,746 from the Land Acquisition Trust Fund for risk management insurance for the Florida Forest Service at DACS (salary and operating expenses). Exhibit 71.

82. Appropriation number 1564 appropriated \$1,949 from the Land Acquisition Trust Fund for risk management insurance for Land Administration and Management at DEP (salary and operating expenses). Exhibit 72.

83. Appropriation number 1578 appropriated \$9,592 from the Land Acquisition Trust Fund for risk management insurance for Land and Recreation Operation Services at DEP (salary and operating expenses). Exhibit 73.

84. Appropriation number 1614 appropriated \$6,828 from the Land Acquisition Trust Fund for risk management insurance for Water Policy and Ecosystems Restoration at DEP (salary and operating expenses). Exhibit 74.

85. Appropriation number 1635 appropriated \$66,912 from the Land Acquisition Trust Fund for risk management insurance for Water Science and Laboratory Services at DEP (salary and operating expenses). Exhibit 75.

86. Appropriation number 1705 appropriated \$608,851 from the Land Acquisition Trust Fund for risk management insurance for State Park Operations at DEP (salary and operating expenses). Exhibit 76.

87. Appropriation number 1721 appropriated \$108,771 from the Land Acquisition Trust Fund for risk management insurance for Coastal and Aquatic Managed Areas at DEP (salary and operating expenses). Exhibit 77.

88. Appropriation number 1749 appropriated \$5,632 from the Land Acquisition Trust Fund for risk management insurance for the Office of Executive Direction and Administrative Support Services at FWC (salary and operating expenses). Exhibit 78.

89. Appropriation number 1788 appropriated \$7,776 from the Land Acquisition Trust Fund for risk management insurance for Hunting and Game Management at FWC (salary and operating expenses). Exhibit 79.

90. Appropriation number 1808 appropriated \$120,880 from the Land Acquisition Trust Fund for risk management insurance for Habitat and Species Conservation at FWC (salary and operating expenses). Exhibit 80.

91. Appropriation number 1827 appropriated \$19,209 from the Land Acquisition Trust Fund for risk management insurance for Freshwater Fisheries Management at FWC (salary and operating expenses). Exhibit 81.

92. Appropriation number 1852 appropriated \$3,325 from the Land Acquisition Trust Fund for risk management insurance for the Fish and Wildlife Research Institute at FWC (salary and operating expenses). Exhibit 82.

93. Appropriation number 3089 appropriated \$34,550 from the Land Acquisition Trust Fund for risk management insurance for Historical Resources Preservation and Exhibition at DOS (salary and operating expenses). Exhibit 83.

94. Appropriation number 1415 appropriated \$838,570 from the Land Acquisition Trust Fund for forestry wildlife protection and suppression equipment for the Florida Forest Service at DACS (salary and operating expenses). Exhibit 84.

95. Appropriation number 1744 appropriated \$499,838 from the Land Acquisition Trust Fund for enhanced wildlife management for the Office of Executive Direction and Administrative Support Services at FWC (salary and operating expenses). Exhibit 85.

96. Appropriation number 1745 appropriated \$123,205 from the Land Acquisition Trust Fund for non-CARL wildlife management for the Office of Executive Direction and Administrative Support Services at FWC (salary and operating expenses). Exhibit 86.

97. Appropriation number 1381 appropriated \$11,517 from the Land Acquisition Trust Fund for transfer to Department of Management Services for human resources services purchased per statewide contract for Agricultural Water Policy Coordination at DACS (salary and operating expenses). Exhibit 87.

98. Appropriation number 1390 appropriated \$3,749 from the Land Acquisition Trust Fund for transfer to Department of Management Services for human resources services purchased per statewide contract for Executive Direction and Support Services at DACS (salary and operating expenses). Exhibit 88.

99. Appropriation number 1421 appropriated \$159,522 from the Land Acquisition Trust Fund for transfer to Department of Management Services for human resources services purchased per statewide contract for the Florida Forest Service at DACS (salary and operating expenses). Exhibit 89.

100. Appropriation number 1428 appropriated \$716 from the Land Acquisition Trust Fund for transfer to Department of Management Services for human resources services purchased per statewide contract for the Office of Agriculture Technology Services at DACS (salary and operating expenses). Exhibit 90.

101. Appropriation number 1646 appropriated \$21,723 from the Land Acquisition Trust Fund for transfer to Department of Management Services for human resources services purchased per statewide contract for Beach Management at DEP (salary and operating expenses). Exhibit 91.

102. Appropriation number 1723 appropriated \$27,473 from the Land Acquisition Trust Fund for transfer to Department of Management Services for

human resources services purchased per statewide contract for Coastal and Aquatic Managed Areas at DEP (salary and operating expenses). Exhibit 92.

103. Appropriation number 1605 appropriated \$4,209 from the Land Acquisition Trust Fund for transfer to Department of Management Services for human resources services purchased per statewide contract for Executive Direction and Support Services, District Offices, at DEP (salary and operating expenses). Exhibit 93.

104. Appropriation number 1523 appropriated \$50,801 from the Land Acquisition Trust Fund for transfer to Department of Management Services for human resources services purchased per statewide contract for Executive Direction and Support Services at DEP (salary and operating expenses). Exhibit 94.

105. Appropriation number 1532 appropriated \$2,830 from the Land Acquisition Trust Fund for transfer to Department of Management Services for human resources services purchased per statewide contract for the Florida Geological Survey at DEP (salary and operating expenses). Exhibit 95.

106. Appropriation number 1569 appropriated \$12,285 from the Land Acquisition Trust Fund for transfer to Department of Management Services for human resources services purchased per statewide contract for Land

Administration and Management at DEP (salary and operating expenses). Exhibit 96.

107. Appropriation number 1706 appropriated \$234,396 from the Land Acquisition Trust Fund for transfer to Department of Management Services for human resources services purchased per statewide contract for State Park Operations at DEP (salary and operating expenses). Exhibit 97.

108. Appropriation number 1539 appropriated \$36,272 from the Land Acquisition Trust Fund for transfer to Department of Management Services for human resources services purchased per statewide contract for Technology and Information Services at DEP (salary and operating expenses). Exhibit 98.

109. Appropriation number 1617 appropriated \$4,572 from the Land Acquisition Trust Fund for transfer to Department of Management Services for human resources services purchased per statewide contract for Water Policy and Ecosystems Restoration at DEP (salary and operating expenses). Exhibit 99.

110. Appropriation number 1660 appropriated \$11,515 from the Land Acquisition Trust Fund for transfer to Department of Management Services for human resources services purchased per statewide contract for Water Resource Management at DEP (salary and operating expenses). Exhibit 100.

111. Appropriation number 1583 appropriated \$80,298 from the Land Acquisition Trust Fund for transfer to Department of Management Services for human resources services purchased per statewide contract for Water Resource Protection and Restoration, District Offices, at DEP (salary and operating expenses). Exhibit 101.

112. Appropriation number 1638 appropriated \$37,871 from the Land Acquisition Trust Fund for transfer to Department of Management Services for human resources services purchased per statewide contract for Water Science and Laboratory Services at DEP (salary and operating expenses). Exhibit 102.

113. Appropriation number 3091 appropriated \$19,054 from the Land Acquisition Trust Fund for transfer to Department of Management Services for human resources services purchased per statewide contract for Historical Resources Preservation and Exhibition at DOS (salary and operating expenses). Exhibit 103.

114. Appropriation number 1753 appropriated \$2,456 from the Land Acquisition Trust Fund for transfer to Department of Management Services for human resources services purchased per statewide contract for the Office of Executive Direction and Administrative Support Services at FWC (salary and operating expenses). Exhibit 104.

115. Appropriation number 1855 appropriated \$1,226 from the Land Acquisition Trust Fund for transfer to Department of Management Services for human resources services purchased per statewide contract for the Fish and Wildlife Research Institute at FWC (salary and operating expenses). Exhibit 105.

116. Appropriation number 1772 appropriated \$11,794 from the Land Acquisition Trust Fund for transfer to Department of Management Services for human resources services purchased per statewide contract for Fish, Wildlife and Boating Law Enforcement at FWC (salary and operating expenses). Exhibit 106.

117. Appropriation number 1813 appropriated \$44,651 from the Land Acquisition Trust Fund for transfer to Department of Management Services for human resources services purchased per statewide contract for Habitat and Species Conservation at FWC (salary and operating expenses). Exhibit 107.

118. Appropriation number 1790 appropriated \$3,013 from the Land Acquisition Trust Fund for transfer to Department of Management Services for human resources services purchased per statewide contract for Hunting and Game Management at FWC (salary and operating expenses). Exhibit 108.

119. Appropriation number 1416A appropriated \$5,486,703 from the Land Acquisition Trust Fund for land management for the Florida Forest Service at DACS (salary and operating expenses). Exhibit 109.

120. Appropriation number 1722 appropriated \$368,417 from the Land Acquisition Trust Fund for coastal and aquatic managed areas – CARL management funds for Coastal and Aquatic Managed Areas at DEP (salary and operating expenses). Exhibit 110.

121. Appropriation number 1559A appropriated \$3,634,992 from the Land Acquisition Trust Fund for land management, including resource stewardship, program management, inventory management, administration, and planning for Land Administration and Management at DEP (salary and operating expenses). Exhibit 111.

122. Appropriation number 1562 appropriated \$250,000 from the Land Acquisition Trust Fund for state lands stewardship for Land Administration and Management at DEP (salary and operating expenses). Exhibit 112.

123. Appropriation number 1705A appropriated \$2,207,436 from the Land Acquisition Trust Fund for greenways CARL management funding for Land Administration and Management at DEP (salary and operating expenses). Exhibit 113.

124. Appropriation number 1612B appropriated \$11,000,000 from the Land Acquisition Trust Fund for grants and aids to water management districts for land management, appropriated to Water Policy and Ecosystems Restoration at

DEP, with \$825,000 of that to be provided to the Northwest Florida Water Management District, \$825,000 to be provided to the Suwannee River Water Management District, \$2,750,000 to be provided to the St. Johns Water Management District, \$2,750,000 to be provided to the Southwest Florida Water Management District, and \$3,850,000 to be provided to the South Florida Water Management District (salary and operating expenses). Exhibit 114.

125. Appropriation number 1701 appropriated \$1,625,876 from the Land Acquisition Trust Fund for land management for State Park Operations at DEP (salary and operating expenses). Exhibit 115.

126. Appropriation number 1612C appropriated \$1,500,000 from the Land Acquisition Trust Fund for Water Policy and Ecosystems Restoration at DEP to give a grant to the Northwest Florida Water Management District for activities related to establishing minimum flows and levels (water condition program). Exhibit 116.

127. Appropriation number 1641 appropriated \$2,285,118 from the Land Acquisition Trust Fund for Water Science and Laboratory Services at DEP to give, as fixed capital outlay, grants and aids to local governments and non-state entities non-point source management planning grants (water condition program). Exhibit 117.

128. Appropriation number 1640 appropriated \$9,385,000 from the Land Acquisition Trust Fund for total maximum daily loads as a fixed capital outlay for Water Science and Laboratory Services at DEP (water condition program).

Exhibit 118.

129. Appropriation number 1849 appropriated \$87,964 from the Land Acquisition Trust Fund for enhanced wildlife management for the Fish and Wildlife Research Institute at FWC (salary and operating expenses). Exhibit 119.

130. Appropriation number 1763 appropriated \$272,166 from the Land Acquisition Trust Fund for enhanced wildlife management for Fish, Wildlife and Boating Law Enforcement at FWC (salary and operating expenses). Exhibit 120.

131. Appropriation number 1824 appropriated \$40,800 from the Land Acquisition Trust Fund for enhanced wildlife management for Freshwater Fisheries Management at FWC (salary and operating expenses). Exhibit 121.

132. Appropriation number 1799 appropriated \$8,747,308 from the Land Acquisition Trust Fund for enhanced wildlife management for Habitat and Species Conservation at FWC (salary and operating expenses). Exhibit 122.

133. Appropriation number 1800 appropriated \$4,588,222 from the Land Acquisition Trust Fund for non-CARL wildlife management for Habitat and Species Conservation at FWC (salary and operating expenses). Exhibit 123.

134. Appropriation number 1782 appropriated \$48,015 from the Land Acquisition Trust Fund for enhanced wildlife management for Hunting and Game Management at FWC (salary and operating expenses). Exhibit 124.

135. Appropriation number 1783 appropriated \$115,595 from the Land Acquisition Trust Fund for non-CARL wildlife management for Hunting and Game Management at FWC (salary and operating expenses). Exhibit 125.

136. Appropriation number 1616 appropriated \$5,000,000 from the Land Acquisition Trust Fund for Water Policy and Ecosystems Restoration at DEP to transfer to the South Florida Water Management District for dispersed water storage (water condition program). Exhibit 126.

137. Appropriation number 1639 appropriated \$38,575,538 from the Land Acquisition Trust Fund as a fixed capital outlay to Water Science and Laboratory Services at DEP for springs restoration, and specified that the money may be used for land acquisition to protect springs and for capital projects that protect the quality and quantity of water that flow from springs (water condition program). Exhibit 127.

138. Appropriations in paragraphs 18-77 total \$174,078,574 appropriated from the Land Acquisition Trust Fund for salaries and overhead for personnel within DACS, DEP, FWC, and DOS (salary and operating expenses).

139. Appropriations in paragraphs 78-79 total \$26,697,449 appropriated from the Land Acquisition Trust Fund for agricultural pollution control projects on private land.

140. Appropriations in paragraphs 80-93 total \$1,222,158 appropriated from the Land Acquisition Trust Fund for risk management insurance for various divisions in DEP, DACS, DOS, and FWC (salary and operating expenses).

141. Appropriations in paragraphs 94-96 total \$1,461,613 appropriated from the Land Acquisition Trust Fund for fire suppression equipment at DACS and wildlife management at the Office of Executive Direction and Administrative Support Services at FWC (salary and operating expenses).

142. Appropriations in paragraphs 97-118 total \$781,943 appropriated from the Land Acquisition Trust Fund for transfer to Department of Management Services for human resources services purchased per statewide contract for DACS, DEP, FWC, and DOS (salary and operating expenses).

143. Appropriations in paragraphs 119-125 total \$24,573,424 appropriated from the Land Acquisition Trust Fund for land management operations at DEP and DACS (salary and operating expenses).

144. Appropriations in paragraphs 126-128 total \$13,170,118 appropriated from the Land Acquisition Trust Fund to pay for water pollution control by DEP (water condition program).

145. Appropriations in paragraphs 129 – 135 total \$13,900,070 appropriated from the Land Acquisition Trust Fund to pay for wildlife management by FWC (salary and operating expenses).

146. Appropriations in paragraphs 136-137 total \$43,575,538 appropriated from the Land Acquisition Trust Fund to pay for dispersed water storage and springs restoration at DEP (water condition program).

147. Plaintiffs and their members pay Florida taxes, including sales taxes, fees, property taxes, and documentary stamp taxes. Affidavits D- H.

148. Fixed capital outlay expenditures include incidental spending on necessary management expenses. *See, e.g.*, Exhibit 128 (Florida spending transparency website maintained by the Executive Office of the Governor showing spending on engineering, appraisals, and surveys as part of a fixed capital outlay expenditure for land acquisition, *available at* http://www.transparencyflorida.gov/Disbursements/DisbByDtlObj.aspx?FY=13&Obj=13****&BE=37100200&AC=084108&Fund=2348&FundType=&LI=1589&OB=Y&SC=F).