

UNCERTAIN LE

Four decades of land conservation



lawmakers replaced that funding source with the documentary stamp tax.

1964: Inspired by new federal matching funds and pressing population growth, the Legislature creates the state's first land-acquisition program. The \$20-million Outdoor Recreation and Conservation program is funded by a 5% tax on recreational items dubbed the "bathing suit tax." In 1968,



Lakes Wildlife Management Area and Paynes Prairie State Preserve.

1972: Gov. Reubin Askew champions and the Legislature passes Florida's Land Conservation Act, and in November, voters approve \$240 million in bonds to fund it. The Environmentally Endangered Lands (EEL) bond program acquired 363,382 acres, including Big Cypress National Preserve, Three



1979: The Legislature creates the Conservation and Recreational Lands (CARL) program, which carries on the earlier programs and is later bolstered by the Save Our Coast and Save Our Rivers initiatives launched by Gov. Bob Graham in 1981.



increasing the doc stamp tax to raise \$300 million a year for a decade.

1990: Gov. Bob Martinez appoints a blue-ribbon panel on Florida's environment that reports the "single most effective way to accomplish large-scale gains in our environmental well-being is to substantially increase the level of funding for the state's land-acquisition programs." The governor and Legislature respond by passing the \$3-billion initiative called Preservation 2000,



continuous, is approved by 72% of Florida's voters.

1998: The Florida Constitution Revision Commission proposes nine amendments for the statewide ballot, including one to make adequate protection of natural resources part of the constitution and authorize revenue bonds for land acquisition. The proposal, which unlike P-2000 is



1999: Gov. Jeb Bush and the Legislature respond by creating Florida Forever, which authorizes bond issues of \$3 billion over the next 10 years for the acquisition of land and water.

The state faces tough choices as it tries to get the most for its land conservation dollars.

FISHEATING CREEK:

After trying for years to buy conservation lands along Fisheating Creek from Lykes Bros., the DEP in 1999 bought a conservation easement from the company for \$35 million. Since then, DEP has bought 31 such easements.



GACY

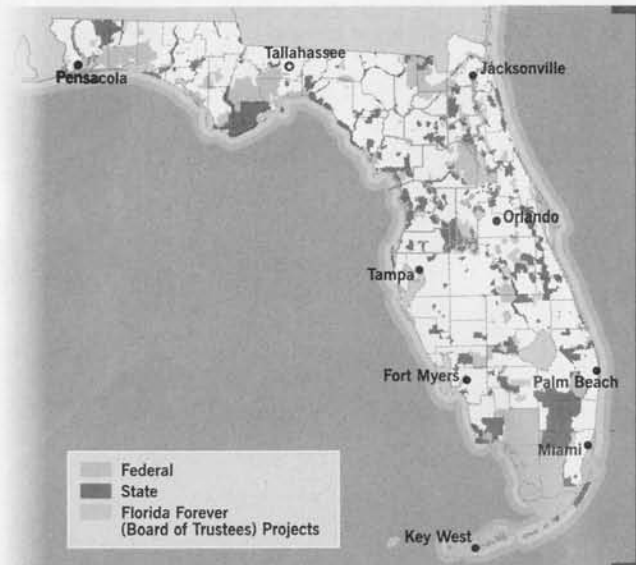
By Cynthia Barnett

Photography by James Valentine

Earlier this year, Gov. Jeb Bush and the Florida Cabinet approved an \$18-million deal to save Cypress Gardens, the down-on-its-luck, 1930s-vintage theme park near Winter Haven known for its champion water-skiers, hoop-skirted Southern belles and

Public Lands

Of Florida's 36 million acres, 9 million are conservation lands (5 million of those state lands), 4 million are urban and 5 million are mining and agricultural lands likely to be developed. The remaining half of the state includes natural lands, pine plantations and pastures that could be either developed or conserved.



lush botanical gardens.

The state's partner in the deal, Wild Adventures theme park President Kent Buescher, paid \$7 million to become owner of the 150-acre park. The state, using funds from its land-preservation program, Florida Forever, paid \$11 million.

The deal protects 30 acres of gardens and lakefront, restricting development to the remaining 120 acres, where Buescher is building an amusement park, including roller coasters, like the one he operates in Valdosta, Ga.

"Granted," said the governor just before the vote that supporters saw as the only way to save the historic park, "in nowhere but Florida would this be a cultural resource."

Such is the complex nature of land preservation in Florida these days. Flori-

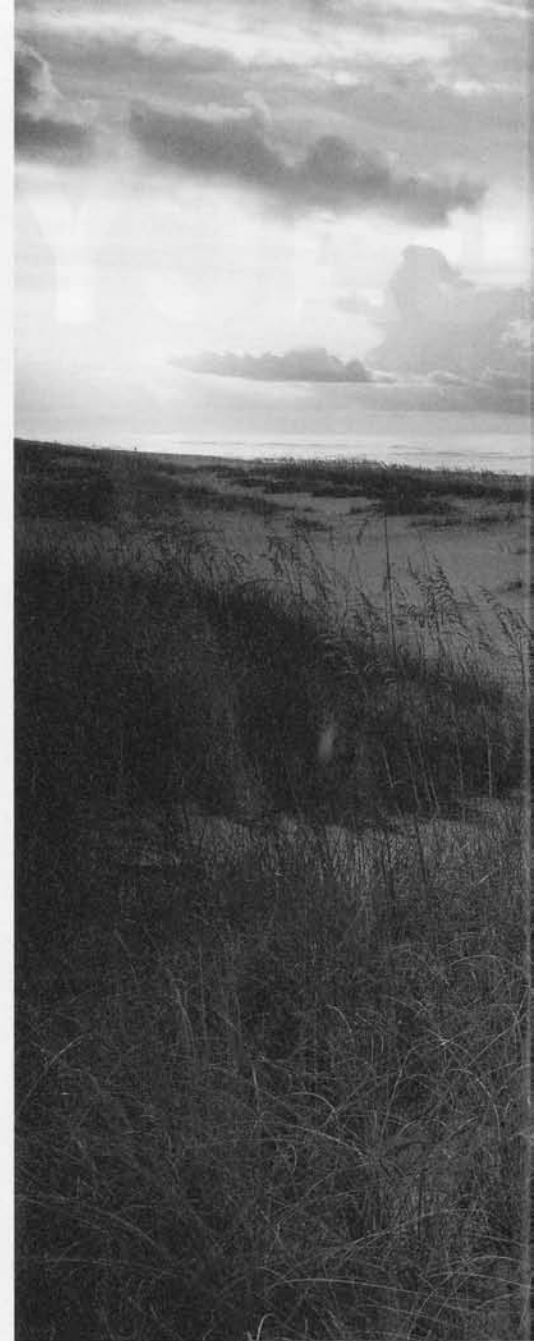
da Forever — the current name of a land-buying effort that dates to 1964 — is widely regarded as the most successful such program in the U.S. Funded by the state's documentary stamp tax on real estate transactions, the program and its predecessors have spent more than \$3.7 billion acquiring nearly 4 million acres. The conservation lands stretch across the state, from the Florida Keys Ecosystem at the southernmost tip to Perdido Key in the westernmost corner.

With time, however, rising land prices and the diminishing number of large, environmentally sensitive parcels have presented the state with tough choices about how to conserve land. Five years ago, when the state launched Florida Forever, it recalibrated its strategy in an effort to stretch its preservation dollars.

A FLORIDA TREND analysis of purchases since that time reveals two key trends. Both raise questions about whether the state is creating an uncertain legacy for its preservation lands — whether, in effect, it can keep the "forever" in Florida Forever.

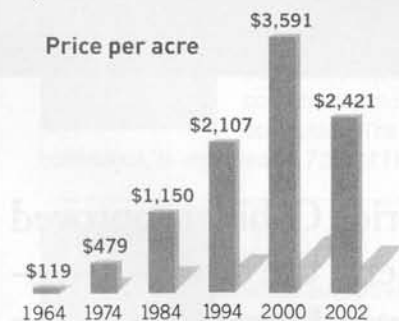
The first trend is an increasing reliance on conservation easements such as Cypress Gardens — permanent deed restrictions that limit development like subdivisions while often permitting a landowner to continue using the land for other purposes like farming.

TREND examined land purchases by the Florida Department of Environmental Protection, which is generally responsible for Florida Forever's recreational and conservation land buys ("How Florida Forever Works," page 43). The agency struck its first conservation easement five years ago



The Price of Preservation

The average price Florida has paid for preservation land passed \$3,500 an acre in 2000. It has declined since then, but only because of conservation easements.



Source: Florida Department of Environmental Protection Division of State Lands

to acquire a parcel in Glades County that's now the Fisheating Creek Wildlife Management Area, stretching for 40 miles along the only free-flowing tributary to Lake Okeechobee.

Located near Big Cypress Swamp, Babcock-Webb Wildlife Management Area and Lake Okeechobee, the area is considered critical to the long-term survival of the Florida panther, black bear, swallow-tailed kite and numerous other native species. It's also an important piece of south Florida's water puzzle. And it offers myriad recreational opportunities, from canoeing and camping to hunting for feral hogs or Osceola turkey.

The area was an obvious conservation prize. But its owner, Lykes Bros., rebuffed the state's offers to buy it for decades. In 1999, however, the company agreed to sell



PERDIDO KEY: Rising land prices and the diminishing number of pristine parcels like Perdido Key (above) have forced the state to shift its land acquisition strategy.

How Florida Forever Works

The Florida Forever law created a panel of state officials and private citizens called the Acquisition and Restoration Council (ARC) to evaluate and select major preservation properties the state should buy with Florida Forever funds.

The state DEP coordinates the ARC buys, generally targeting recreation and conservation lands. Other agencies also use Florida Forever funds for different goals, for example, the Florida Communities Trust focuses on urban lands/parks and the state's water management districts target water-resource protection.

The law established 34 goals for the state

to accomplish in acquiring land. An advisory council led by former Jacksonville Mayor John Delaney shaped those into eight general objectives that ARC members bear in mind when making recommendations. The objectives range from preserving the state's biodiversity to protecting its water resources.

While previous programs gave tracts a numerical ranking, the DEP axed that system under Florida Forever because it hurt the state's bargaining position with the property owners at the top of the list. Now, ARC puts desired tracts on one of two lists: "A," the highest priority, and "B," important projects that are not of the highest priority.

Once a property is listed, the DEP launches its appraisal process and then negotiates with the seller. The negotiations are successful only about 40% of the time, DEP says. After successful negotiations, a contract is sent to the board of trustees of Florida's Internal Improvement Trust Fund — the governor and Cabinet — for review and approval.

If the trustees approve the contract, the DEP proceeds to closing. Title is transferred to the trustees, and the property is leased to the state agency that will manage it — for example, the Division of Forestry or the Division of Recreation and Parks.



While conservation easements are written “in perpetuity,” many are concerned about what the next generation of owners may attempt to do.

a 41,600-acre conservation easement to settle a decade-long battle over public access to Fisheating Creek. The state paid Lykes \$35 million for development rights but let the company keep cattle ranching and other agricultural uses.

The deal is a textbook illustration of the benefits of a conservation easement. First, easements are often the only way the state can ensure the property won't be developed if a landowner won't sell a property outright. Second, easements can cost half as much as buying the land.

In addition, the land stays on the tax rolls. And the landowner, rather than the government, is responsible for management costs, a crucial issue as Florida faces a steep deficit in land-management funds.

For the landowner, easements offer significant tax advantages. And they can give a cattle rancher or citrus grower a way to stay in business without selling beloved land for development.

The advantages to both sides led the Legislature to encourage conservation easements in the Florida Forever law, and the state has followed through. The DEP has entered into 31 easements since Fisheating Creek, with three in 2000, seven in 2001, eight in 2002 and 13 last year.

For all their benefits, though, easements carry some negative consequences — and some big unknowns.

One downside: Most easements limit public access — an ostensibly important criteria for Florida Forever purchases. In

addition, a quarter of the easements allow property owners to divide the land and often to build homes. For example, a 150-acre easement in Lake County's Green Swamp allows the owner to subdivide the property three times, build three houses, graze cattle, grow timber, stock fish and game and allow hunting.

More worrisome is what heirs or new owners of the land may do in the future. While the easements are written in perpetuity, “everyone is concerned about the next generation,” acknowledges Richard Hilsenbeck, associate director of protection for Florida's chapter of The Nature Conservancy.

Most of Florida's easements are with longtime ranch families whose land is already well-managed. But if they divide the land and sell it, will new owners have a similar ethic? Elsewhere in the country, new owners or heirs have sued to get out of easements or have violated them knowing they could make far more money

Protecting Fly Zones

This spring, news releases from the state Department of Environmental Protection and the U.S. Department of Defense crowed that Florida would become the first state to use federal funds designed to stop the encroachment of development on military bases. Floridians would benefit from the environmental protection of thousands of acres. The federal government would reap security for its military-training exercises, which also require thousands of acres of undeveloped, rural land.

The governor and Cabinet voted to spend \$12.9 million on the Florida Forever project, which created an 8,500-acre buffer around Camp Blanding in Clay County. But it was easy to see who got the better end of the deal. The U.S. government kicked in only \$500,000, or 4% of the total.

Camp Blanding is just the first in a string of Florida Forever partnerships with the military that could buffer bases such as Whiting Field, home of the U.S. Naval Air Station in Santa Rosa County. The federal government is lobbying the state hard to make the buy, but it has not offered any financial commitment.

Some of the military projects on Florida Forever's list are politically popular but

rank relatively low on the state's natural-amenities scale. Some also limit public access to conservation land. Meanwhile, they tie the fortunes of state lands to those held by the Department of Defense, which since the war in Iraq has sought to reduce some environmental-management spending and to exempt military bases from some federal environmental laws.

Still, environmentalists generally support the buffers because they connect so much undeveloped land and keep wildlife undisturbed by people. They point out that military bases are home to some of the best environmental management in the state, from the 464,000-acre Eglin Air Force Base that spans Santa Rosa, Okaloosa and Walton counties in the Panhandle to the Avon Park Air Force Range, a 106,000-acre bombing and gunnery range in Highlands and Polk counties.

Capitalizing on the military's need for buffers and the post-Sept. 11 patriotism that has bolstered public support for them, The Nature Conservancy is touting a 100-mile corridor in the Panhandle that preserves the same routes used by Florida black bears over land and military jets in the sky.

Last fall, the governor and Cabinet approved the first buy in the so-called Northwest Florida Greenway, the 7,597-acre Box R Ranch at the southernmost tip of the corridor.

MILITARY BUFFERS:
State land purchases around military bases — including the 464,000-acre Eglin Air Force Base pictured here — help to create buffers from development.

doing so than they would be penalized.

Another issue with easements is whether the state needs more rigorous policies as it negotiates them. Hilary Swain is executive director of the Archbold Biological Station in Highlands County and a member of the Acquisition and Restoration Council (ARC), which recommends Florida Forever purchases to the governor and Cabinet. She worries that the state has little minimum criteria for easements and that it may not be aggressive enough about long-term planning on easement lands, such as securing timber and other rights. "Any easement is only as good as the deal that is written, and to me, the state must have a good plan for what it is trying to negotiate," Swain says. "The concept is good, but the devil is absolutely in the details."

DEP officials say that their conservation easements are airtight but shouldn't contain a cookie-cutter set of rules. Mark Glisson, ARC's staff director, says that flexibility is crucial because the state has

different objectives for different tracts. For example, if the goal is water recharge, the easement should prohibit row-crop agriculture. If the idea is to provide woodpecker habitat, row-crops would be OK. "The most important thing is to get the deal and protect the resource," he says. "You have to be very careful that they are neither too restrictive nor too lenient because you can't predict the future."

Quality vs. quantity

The second major trend in the state's land preservation acquisitions is a shift away from focusing on ecologically pristine areas toward acquiring as many acres as possible.

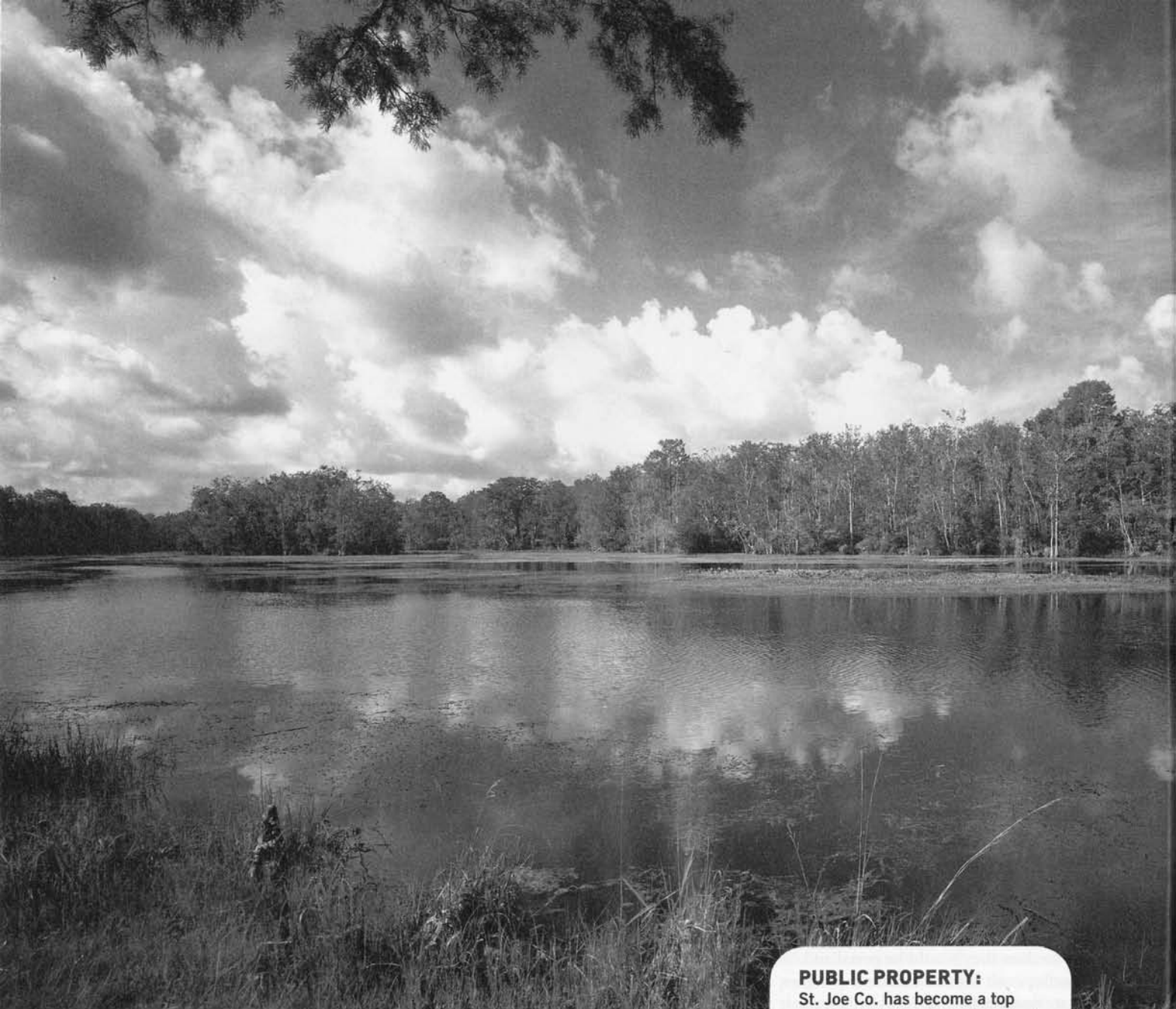
Even as Florida Forever spends more and more each year — a total of \$206 million for 116,669 acres in 2003 — taxpayers are getting fewer ecological jewels like the

wide, white-sand beaches of St. Joseph Bay State Park, purchased by the state in the late 1960s, or the unique Fakahatchee Strand in Big Cypress National Preserve, acquired under the EEL program in the 1970s.

Instead, over the past five years, the popularity of conservation easements and other factors have pushed the state toward acquiring less-pristine tracts that let it protect more acres for less money.

One result has been a steep increase in the acquisition of cattle ranches. In some cases, such as Fisheating Creek, the ranches contain some of the most environmentally important land in the state. But in others, the ranches carry a lower ecological value than other potential buys.

For example, Panther Glades, a 57,604-acre Florida Forever project in Hendry County, has a relatively low natural-resources ranking but is on the state's



Preservation and St. Joe

For years, state officials and environmentalists tried to persuade the old St. Joe Paper Co. to sell some of its million acres in Florida for preservation. They fretted over ecologically important tracts such as Snipe Island on the Big Bend coast, Sweetwater Creek Ravines near the Apalachicola River and the Box R Ranch in Franklin County — the private hunting preserve for then St. Joe President Ed Ball.

St. Joe was adamant that its land wasn't for sale. That changed, of course, when the company turned to real estate in the late 1990s. Over the past five years, St. Joe has sold more than 160,000 acres to Flori-

da, Georgia and the federal government for preservation.

In doing so, the company has become the top recipient of Florida Forever funds. The Florida Forever purchases include Snipe Island, Sweetwater Creek and the Box R, among thousands of acres that range from less-than-pristine pinelands to unspoiled endangered-species habitat.

Some environmentalists charge that St. Joe is selling land it would have had a hard time developing. And in two cases, state auditors found the state paid too much for St. Joe property. But those who have spent years trying to move St. Joe land to state

conservation rolls say some of Florida's most important preservation buys in recent years have come from the company.

As it builds its 33 developments in the Panhandle, St. Joe plans to continue preservation sales. The state's Acquisition and Restoration Council has more than 85,000 acres of St. Joe lands on its "A" list, with a tax-assessed value of nearly \$54 million. Says Richard Hilsenbeck, associate director of protection for Florida's chapter of The Nature Conservancy: "They are cooperating to let us acquire lands that we have had our eye on for a long, long time."

PUBLIC PROPERTY:

St. Joe Co. has become a top recipient of Florida Forever funds. The company has sold various Wacissa River parcels to the state over the years.

Should the state spend its dollars on pristine ecological gems that will result in fewer acres saved overall or on big tracts that, while damaged, offer space for water recharge and wildlife corridors?



top-priority list for acquisition partly because of the willingness of landowners there to sell easements.

But nowhere is the quantity vs. quality issue highlighted more than in the case of timberlands. From July 2001 until February 2004, the state acquired 144,420 acres of timber, protecting forests at a greater rate than other resources, according to the Florida Natural Areas Inventory, a Florida State University-based environmental science program under contract with DEP to evaluate potential land acquisitions.

The trend toward timber shows signs of continuing — even though many timber parcels are less ecologically valuable than other sites.

Case in point: The San Pedro Bay Florida Forever project. Straddling northeastern Taylor and southeastern Madison

counties, the 44,787-acre site is owned by Wachovia and Foley Timber and Land Co. Just over half of it is planted pine. In recent years, the parcel has been clear-cut, ravaged by wildfire and picked clean of its best hardwood trees. It was ranked a “medium-low” conservation priority compared to other projects by the Florida Natural Areas Inventory. Yet ARC has San Pedro on its “A” list, meaning state negotiators will go forward to try to buy the parcel, which has a tax-assessed value of \$7.9 million.

Some believe the state would be foolish not to acquire the big tracts while timber companies are in a selling mood. Besieged by rising property taxes, mergers and steep debt in recent years, the nation’s largest timber companies have been eager to unload millions of acres of forest.

Luther “Jack” Moller, ARC’s vice chairman, says the state must think long-term about its conservation purchases, focusing on the future potential rather than the current condition of land. Timber tracts such as San Pedro Bay will create key wildlife corridors as north Florida faces more intense development. “Sure, it’s ugly,” Moller says. “But the bears love ugly.”

In the case of Panther Glades, he says, the sheer acreage saved will have a dramatic impact on development patterns, will provide important roaming space for the Florida Panther and will offer significant water-storage capacity as Florida figures out how to solve its looming water crisis.

Pointing to the transformation across the South of cotton plantations to quail plantations and to the increasing success of ecological restoration on Florida’s old phosphate mines and other damaged landscapes, Moller says Florida’s best strategy for preservation is to accumulate acreage — even disturbed parcels. “It’s a relative term,” he says. “The panthers don’t think that cattle ranch is disturbed, and the bears don’t think that forest is disturbed. The fact is there are no ‘undisturbed’ areas of Florida.”

Priorities

Questions of quantity vs. quality and the mechanisms by which the state preserves Florida’s essential turf will only become more important. Land managers and others believe the state already faces a fiscal

crisis in managing the acres it now owns. In a 2001 state policy analysis report, managers from all Florida’s land agencies said it would take an additional \$440 million to adequately manage the state’s vast preservation lands. That doesn’t include an estimated \$980 million it would take to control invasive plants on the lands.

At the Division of State Lands, which has primary responsibility for DEP’s part of the Florida Forever program, Director Eva Armstrong says the Legislature in recent years has caught up some of the shortfall, allocating \$63 million this year for management. Meanwhile, the more forest land the state owns, the more revenue it can generate harvesting timber.

Armstrong took over the division in 1999, the year Florida Forever came into being. She previously worked for Florida Audubon, where she helped spearhead the 1998 amendment that required the conservation and protection of natural resources and authorized revenue bonds for their acquisition. That measure passed with 72% support, a clear message, Armstrong says, that Floridians want the state to continue acquiring preservation land and to do a good job of managing that land. “The citizens move here for the land that makes Florida what it is,” she says. “That’s why they come here, and that’s why they stay.”

Armstrong has received high marks for speeding up the state’s acquisition process. It used to take 440 days from first contact with the seller to closing; Armstrong has gotten it down to 270 days. But some environmentalists and others criticize the department’s success rate in negotiating contracts — only 40%. They worry the state is buying from only the most eager sellers, who may not have the most desirable land on the Florida Forever list.

ARC has added so many new projects to the list in recent years that the state would never have enough money to buy them all. Total acreage on the list has surpassed 2 million acres. The DEP estimates the entire program will have enough money to buy only about half that. Ultimately, says Swain, Florida’s challenge boils down to one question: “Are we putting Florida Forever funds toward those lands that are the very most important to protect?” □