



Audit of Surplus Lands

Project #11-11

Prepared by
Office of the Inspector General

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SOUTH FLORIDA WATER MANAGEMENT DISTRICT

September 12, 2012

Audit and Finance Committee Members:

Mr. Timothy Sargent, Chair
Mr. Glenn J. Waldman, Vice Chair
Mr. James J. Moran, Member
Mr. Juan M. Portuondo, Member

Re: Audit of Surplus Lands
Project No. 11-11

This audit was performed pursuant to the Inspector General's authority set forth in Chapter 20.055, F.S. Our objectives focused primarily on assessing the District's process for identifying surplus and leasable lands. Jankie Bhagudas and I prepared this report.

Sincerely,

A handwritten signature in blue ink that reads "J. Timothy Beirnes".

J. Timothy Beirnes, CPA
Inspector General

TABLE OF CONTENTS

BACKGROUND	1
OBJECTIVE, SCOPE, AND METHODOLOGY	7
AUDIT RESULTS	8
Executive Summary	8
Procedures to Identify Surplus Lands Could be Enhanced	10
<i>Perform Complete Annual Land Inventory</i>	
<i>Review to Identify Potential Surplus Tracts</i>	10
<i>Strengthen Documentation of Request</i>	
<i>Process for Potential Surplus Land Suggestions</i>	11
Surplus Lands Not Sold Timely Due to Several Factors	13
Enhance Process for Identifying Leasable Lands	20

BACKGROUND

In accordance with the Office of Inspector General's Audit Plan, we conducted an Audit of the Surplus Lands.

To accomplish its mission, the District has acquired lands for flood protection, water supply, water management, ecosystem restoration, and the conservation and protection of water resources. Based on the District's Integrated Real Estate Information System (IRIS), a comprehensive land database, which includes District fee and non-fee, leased and otherwise maintained real property, the District owns over 10,500 tracts of land representing 1.4 million acres of land located throughout the District's sixteen counties costing approximately \$2.8 billion. These lands include conservation lands and project lands. Some land will ultimately be used to construct stormwater treatment areas, surface water reservoirs, groundwater recharge areas, and/or buffer lands between the Everglades and other sensitive areas and urban development, while some are for conservation purposes. The District Real Estate Section is charged with administering and maintaining the Integrated Real Estate Information System (IRIS).

The Real Estate Section is situated in the Operations, Maintenance & Construction Division's Land Resources Bureau. This section is responsible for acquiring and disposing of real estate interests and providing real estate support services needed for conservation and development of water supply, protecting and improving of water quality, mitigating impacts from floods and droughts, and restoring and preserving natural resources.

Periodically, certain District parcels are identified as surplus, which is defined as District-owned parcels that no longer need to be preserved in order to further the District's mission of environmental restoration, flood control, and water resource development and protection. The identification of surplus land is governed by the District's *Sale of Surplus Land Procedures*, dated December 3, 2010. These procedures, along with other documentation, require the Real Estate Section to conduct an annual review of District lands to identify parcels that are no longer needed for restoration, recreation or other purposes. The Real Estate Section initiates the process by sending a request to project managers and other staff requesting that they identify District lands that

are no longer needed for mission-related purposes. A list of potential surplus properties is then compiled and evaluated using several factors to determine whether a parcel should be considered for surplus. These factors include determining whether the parcel:

- Is outside a project boundary or outside the optimal boundary. Lands are sometimes purchased well in advance of the project start date. As a result, the project boundaries may change as the project design progresses.
- Is distinctly separate or distant from the core parcel and there is no potential value as a corridor for wildlife or recreation.
- Cannot meet the original conservation purposes because conditions have substantially changed.
- Presents significant management challenges that are unlikely to be overcome.
- Is significantly disturbed and provides no wildlife habitat of significance and there is no intent to either restore, or use the land for recreational activities.
- Was originally identified as surplus at the time of acquisition. Specifically, in some instances landowners were unwilling to divide a property and were only willing to sell if the District purchased the entire parcel. Thus, acquisitions were made knowing that some portions would have to be surplus in the future.

In addition, the following factors are taken into consideration when evaluating potential surplus parcels:

- Funding source used in acquisition and applicable bond restrictions. Generally, proceeds from the sale of surplus land must be returned to the appropriate trust fund and are subject to the restrictions of the fund.
- Ecological assessment of the property.
- Restoration status and/or restoration potential.
- Regional significance, recreational or potential recreational value, and connectivity to other conservation lands.
- Whether an exchange would be more advantageous than an outright surplus.
- Whether a conservation easement, deed restriction or other means of protection should be employed at the time of surplus.

Lands that are designated for surplus may result in one of the following actions:

- Offered for public bid and sold to the highest bidder for the highest price but not less than the appraised values.
- Conveyed to another governmental entity.
- Used in potential real estate exchange transactions.

Before surplus lands are offered for sale to the public, the District is required to notify government organizations requesting input for alternative uses. The notified agencies have 45 days to respond with proposals to acquire the parcels or to manage them as conservation lands for the District. Further, presentations are made for feedback at the following public meetings:

- Water Resources Advisory Commission (WRAC) Sub-Committee
- Full Water Resources Advisory Commission
- Project and Lands Committee

Approval is also required by the Governing Board and the Florida Department of Environmental Protection (DEP) before a parcel can be deemed surplus. Specifically, in a memorandum from the DEP, dated April 25, 2011, the District was directed to evaluate its land acquisition program and to collaborate with the DEP before proceeding with any purchase, disposal or exchange of property to ensure that they are in the best interest of the State of Florida. In addition, the DEP instructed the District to evaluate planned and/or constructed projects to determine whether the lands previously targeted or acquired are essential. As part of the approval process, the District's requests to the DEP include, but are not limited to, the following information:

- A letter from the District's Executive Director summarizing why the parcel is no longer needed for core mission purposes and a statement verifying that Governing Board members, District staff, and other relevant parties will not benefit from the surplus.
- A completed *Request to Surplus or Exchange District Lands* form; which includes information such as source funding originally used to acquire the parcel, whether the parcel has management challenges, whether the surplus will result in a

positive conservative benefit, and whether the parcel currently has certain water management benefits.

- Information presented to the Governing Board regarding staff's determination that the parcel is no longer needed for the purposes for which it was acquired.

The DEP then ensures that the proposed surplus tract is not a critical natural or cultural resources, or part of a landscape linking or conservation corridor and that the surplus will have minimal impact on public access or use of the land. Approval may also be required from the U.S. Army Corps of Engineers. It should be noted that potential surplus lands may require an ecological assessment.

In addition, the District must comply with Chapters 373.056, 373.089, and 383.096, Florida Statutes, and other District rules, policies, and procedures related to the disposal of surplus lands. Based on Chapter 373.089, Florida Statutes, the District must adhere to several requirements, including the following:

- Lands offered to the public must be sold at the highest price obtainable but not less than the appraised value, which is determined by a certified appraisal performed within 120 days before the sale.
- The District is required to place a "Notice of Intent to Surplus" advertisement in an area newspaper where the property is located. Surplus lands cannot be advertised for less than the appraised value and the advertisement must run once each week for three consecutive weeks. Further, the first weekly advertisement cannot be less than 30 days or more than 45 days prior to the sale.
- Sales of land must be for cash or upon terms and security to be approved by the Governing Board.

In June 2010 and December 2011, the Governing Board approved disposing of 2,935.84 acres of surplus lands, which accounted for 0.38% percent of District fee-owned acres, as shown in the table following table.

Ownership Interests, as September 30, 2011	Acres	Acquisition Cost
Fee (District has ownership rights and can dispose of potential surplus.)	779,847.81	\$2,524,415,140
Non-Fee (District does not have full ownership rights, e.g., conservation and flowage easements, access rights, etc. These interests are rarely surplus.)	692,193.62	\$228,893,601
Total District Lands	1,472,041.43	\$2,753,308,741
Fee-Owned Lands Approved for Surplus		
Surplus Lands Approved by the Governing Board	Acres	Estimated Revenue
June 2010 (<i>Note 1</i>)	1,097.04	\$6,667,420
December 2011	1,838.80	\$19,537,298
Total Fiscal Year 2010 & 2011 Surplus Lands	2,935.84	\$26,204,718
Percentages of District-Owned Lands Surplus	0.38%	1.04%

Note 1: Based on the Real Estate Section's documents, the total surplus acres were subsequently revised from 1,097.4 acres to 1,091.48 acres.

Most of the land identified for potential surplus were parcels outside project boundaries and were approved for either exchange or offered to the public for bid to be sold for the highest obtainable price (but not less than the appraisal value). It should be noted that the District also identified multiple tracts totaling 1,058.50 acres of potential surplus estimated at \$32.8 million in the Bird Drive Area because the project is no longer feasible as initially planned. Stakeholders have expressed concerns about surplus these lands and the District is currently exploring other options for alternative uses.

Land acquired prior to its intended use that is not specifically acquired or designated for environmental enhancement, restoration, preservation, or other purposes, may be available for lease between the acquisition of the property and the commencement of construction. The timeframe between land acquisition and construction commencement for certain projects could be several years. In these instances, the District utilizes agricultural leases or commercial reservations¹ on as many

¹ A right reserved by an owner in the grant (sale or lease) of a property.

water resource project lands as possible. The leases are an important source of revenue for the District and keep the properties in productive use and on the tax rolls until the project is ready for construction. Typically, the lessee takes on most of the management responsibilities for these lands, thereby reducing District land management expenditures for exotic animal control, and vegetation control, and other required maintenance.

The Land Resources Bureau's responsibilities include planning and managing District lands, which includes natural and project lands. The Bureau manages project lands until the lands are needed for construction. District natural lands are those acquired to protect and enhance water resources by buffering critical flow-ways from urban development and by maintaining large wetland areas for aquifer recharge and additional storage of surface water. The Bureau's primary focus on these lands is to restore and maintain their ecological functions so that they are able to provide the benefits for which they were acquired. Further, certain natural lands are used by the public for recreational purposes. Project lands are specifically acquired for environmental enhancement, restoration or preservation purposes; such as the Comprehensive Everglades Restoration Plan. Project lands will be used to construct infrastructure such as stormwater treatment areas and surface water reservoirs.

It should be noted that during our audit, on April 23, 2012, the Executive Director instructed the Operations, Maintenance, and Construction's Division Director to take certain actions to improve the Districts' land inventory and surplus processes, which included the following:

- Conducting a comprehensive inventory of all District lands and identifying properties not directly or currently utilized for mission-specific purposes.
- Evaluating and recommending disposal of surplus lands.
- Analyzing the surplus process and developing guidelines that ensure transparency and public involvement.
- Identifying and disposing of leased lands no longer needed for mission-related purposes.

The issues cited by the Executive Director address many of the issues revealed during our audit.

OBJECTIVE, SCOPE, AND METHODOLOGY

Our objectives primarily focused on assessing the District's process for identifying surplus and leasable lands.

To accomplish our objectives, we obtained an understanding of the process in place for identifying potential District surplus and leasable lands by interviewing relevant District staff. We reviewed relevant documentation; for example, *Sale of Surplus Land Procedure* and Chapter 373.089, Florida Statutes, relating to the sale of surplus lands. We determined whether the process in place to identify potential surplus and leasable lands were adequate. We also determined whether there are adequate efforts in place to ensure surplus lands are disposed in a timely manner.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

AUDIT RESULTS

Executive Summary

Our audit disclosed that the District's process for identifying potential surplus lands that are not needed for flood control infrastructure, water quality improvement, ecosystem restoration, and other mission-related activities could be enhanced. The current process is informal and not sufficiently documented. Our review revealed that a complete detailed and documented assessment of District-owned lands has not been conducted. Instead, the Real Estate Section relies on its staff's knowledge of District lands and justifications for retaining lands. Further, in 2011 project managers were not formally asked to identify potential surplus District lands that are no longer needed for mission-related projects. Instead, senior management provided feedback and the Real Estate Section made oral requests to project managers' supervisors.

We also found that the District has only disposed of 7.85 of the 2,930 surplus acres approved for disposal by the Governing Board in June 2010 and December 2011 due to several factors. The stringent disposal requirements outlined in Chapter 373.089, Florida Statutes, and current real estate market conditions are not conducive to disposing of surplus lands in a timely and efficient manner. In addition, the District's process for disposing of surplus lands needs strengthening. It should also be noted that the Department of Environmental Protection has to approve disposal of surplus lands before the District can begin its disposal process.

Chapter 373.089, Florida Statutes, requires that a surplus property cannot be advertised for less than 30 days or more than 45 days before the closing date and once each week for three successive weeks. Based on this requirement, about 15 days are allocated for advertisement. Using the 45-day timeframe, this leaves 30 days for bid openings, bid awards, and for winning bidders to obtain financing, if necessary. Further, about 10 days are allocated by the District for bid receipt and award after the last advertisement. As a result, after bids are received and opened only about 20 days remain to close the sale, otherwise the advertising and possible appraisal process has to start over.

Our audit also revealed that, as of May 2012, the District has not submitted any of the surplus tracts approved by the Governing Board in December 2011 to the Florida Department of Environmental Protection for final surplus approval; however, District staff spent \$9,948 to appraise six of the tracts. Based on statutory requirements, these tracts will have to be re-appraised and the District will incur additional appraisal fees.

There are some efforts in place to identify additional District-owned lands that can be leased; however, the identification process can be improved. Specifically, we noted that a comprehensive review of all District lands has not been conducted to determine whether all potential leasable lands have been identified and analyzed. Since current budget constraints may result in the delay of several projects, all lands should be evaluated to determine whether they can be leased.

Procedures to Identify Surplus Lands Could be Enhanced

The District's process to identify potential surplus lands that are not needed for flood control infrastructure, water quality improvement, ecosystem restoration, and other mission-related activities could be enhanced, as detailed in the following sections.

Perform Complete Annual Land Inventory Review to Identify Potential Surplus Tracts

The Real Estate Section annually reviews tracts of lands in the District's Integrated Real Estate Information System (IRIS) and the Geographic Information System (GIS). The GIS includes aerial maps of District lands and interfaces with Google Earth, to identify potential surplus lands. We found that the Real Estate Section's review process is not formal and not sufficiently documented. Specifically, the Real Estate Section relies on its staff's knowledge of District lands and justifications for retaining lands. The Real Estate Section Leader explained that his staff is very knowledgeable about District lands and can identify potential surplus lands since they are involved in all aspects of the acquisition process and are familiar with the reasons for acquisitions. Regardless of staff's knowledge, the review process should be documented to provide assurance that all District-owned parcels have been reviewed for potential surplus. Reliance only on staff's knowledge does not ensure that all potential surplus lands will be identified. Furthermore, such knowledge may be lost over time due to staff attrition if this knowledge is not documented.

A detailed and documented assessment of all District-owned tracts of land has not been conducted. A detailed assessment will identify those lands which are required for mission-related purposes and projects and those that should be considered for disposal. As a result, we informed the Real Estate Section that a documented comprehensive initial assessment of all District lands should be conducted to determine whether all lands are still needed for District's mission-related purposes. The analysis should, at a minimum, include the following:

- Reason for the original tract acquisition.

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- Assessment whether the tract is still needed for mission-related purposes such as conservation, environmental restoration, flood control and water resources projects.
 - Feasibility of the project for which tract was initially acquired (if tract was acquired for a specific project).
 - Justification for retaining or surplussing each tract.

The comprehensive initial review should distinguish between lands that may be considered for potential future surpluses (e.g., project lands for restoration and water resource projects) and lands that cannot be considered for surplus (e.g., natural wetlands, land used for state parks, and lands with existing infrastructure used for current operations). A detailed initial assessment of District lands by knowledgeable staff will facilitate and expedite future reviews for surplus lands. Lands that cannot be surplused may not have to be examined closely during future assessments and result in periodic rather than annual detailed inventory. Real Estate Section staff agreed with our suggestion and acknowledged that the surplus lands identification process can be improved and that a documented review of all District lands by the Real Estate Section and other knowledgeable staff is warranted. The Executive Director has also directed staff to perform such review.

**Strengthen Documentation of Request
Process for Potential Surplus Land Suggestions**

Based on the District's *Sale of Surplus Interests Procedures*, the Real Estate Section is required to send a request to all project managers to identify potential surplus District lands that are no longer needed for mission-related projects. Our audit procedures included requesting copies of the requests that the Real Estate Section is required to send to project managers and other District staff. However, a written request was not sent in 2011. Instead, senior management provided feedback and the Real Estate Section made oral requests to project managers' supervisors.

It appears that some additional efforts were made to identify surplus lands; however, they were insufficient. Specifically, Real Estate Section staff informed us that

they meet with other Land Resources Bureau staff regularly to discuss potential surplus lands. In addition, a principal scientist in the Office of Everglades Policy and Coordination Division stated that an annual meeting is held with the Real Estate Section to discuss potential surplus lands. Nevertheless, the Real Estate Section should send out a written request to all project managers and relevant staff to identify potential surplus lands, as required by the *Sale of Surplus Interests Procedures*. The written request provides assurance and documents the District's efforts to ensure that all knowledgeable staff are involved in the surplus lands identification process. Further, staff's responses to the surplus lands identification requests document their involvement in the surplus land process. It should be noted that after the 2011 list of potential surplus was compiled, the Real Estate Section e-mailed it to relevant staff (e.g., division directors, bureau chiefs, and section leaders) for review in order to determine whether any of the proposed tracts are needed for current or future District purposes. While, this is a good practice it would be more efficient to involve relevant staff at the beginning of the process.

Recommendations

- 1. Conduct a detailed assessment of all District lands to identify those lands, which are required for mission-related purposes and projects, and those lands that should be considered for surplus. Further, ensure that the review process is adequately documented and include justifications why parcels are or are not needed for mission-related purposes.**

Management Response: Agree

Responsible Division: Operations, Maintenance, and Construction

Estimated Completion: August 2013

- 2. Consider performing a review for surplus District lands on a periodic basis utilizing the results of the initial comprehensive assessment.**

Management Response: Agree. After the initial review process is completed, a determination will be made to address the most appropriate frequency for future land assessments for District lands.

Responsible Division: Operations, Maintenance, and Construction

Estimated Completion: August 2013

3. Require that the annual requests to staff to identify potential surplus District lands are adequately documented.

Management Response: Agree. A review of the appropriate documentation to be included in surplus land consideration by staff will be included in the new land assessment process currently being developed.

Responsible Division: Operations, Maintenance, and Construction

Estimated Completion: August 2013

Surplus Lands Not Sold in Timely Manner Due to Several Factors

The District has yet to dispose of most of the lands declared surplus by the Governing Board in June 2010 and December 2011 due to several factors. Only 7.85 of the 1,091 acres authorized in June 2010 for surplus have been sold and none of the 1,839 acres authorized in December 2011 have been sold. In sum, as of May 2012, only 7.85 of the 2,930 surplus acres have been sold.

The stringent disposal requirements outlined in Chapter 373.089, Florida Statutes, and current real estate market conditions are not conducive to disposing of surplus lands in a timely and efficient manner. In addition, the District's process for disposing of surplus lands needs strengthening. It should also be noted that the Department of Environmental Protection has to approve disposal of surplus lands before disposal process can begin.

Chapter 373.089, Florida Statutes, requires following:

- Lands offered to the public must be sold at the highest price obtainable but not less than the appraised fair market value.
- Each property must be appraised and the appraisal must be performed within 120 days before the closing date.
- The District is required to place a "Notice of Intent to Surplus" advertisement in area newspapers where the property is located. The surplus cannot be advertised for less than the appraised value and the notice must run once each week for three consecutive weeks. Further, the first weekly advertisement cannot be less than 30 days or more than 45 days from the closing date. The advertisements must also be placed once each week for three successive weeks.
- Sales of land must be for cash or upon terms and security approved by the Governing Board.

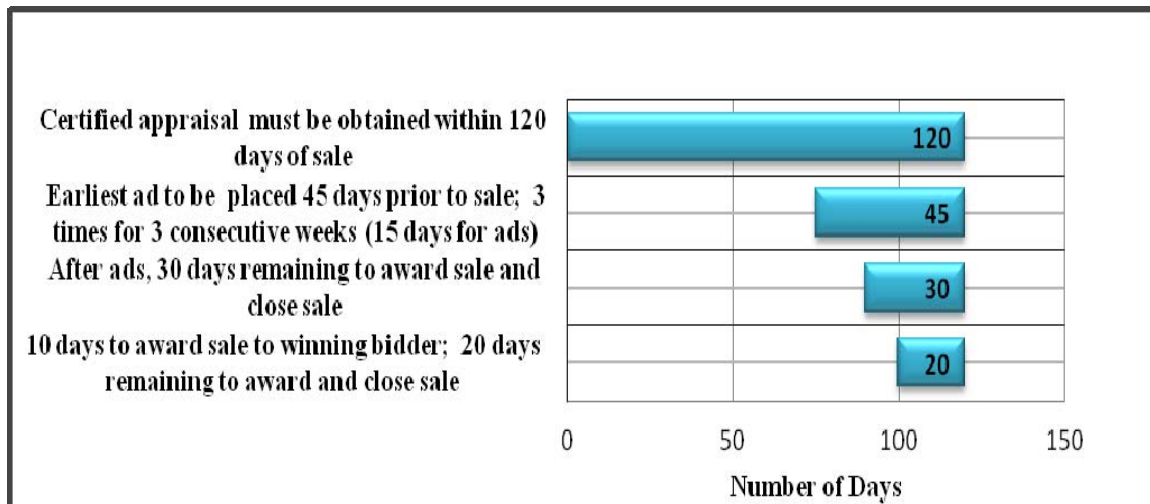
According to District staff, the statutory requirements are excessively stringent for the following reasons:

- Appraisal Requirement: The requirement that an appraisal must be performed within 120 days of the closing date is restrictive. An appraisal reflects the estimated market value of a property, which is the amount of money a willing buyer would pay a willing seller. Inherent in the willing buyer and willing seller test is the requirement that the seller has a reasonable time to find a buyer. Under typical market conditions, a reasonable timeframe for a real estate sale is about six months; but under current market condition a reasonable timeframe is anywhere from six to 18 months. Thus, a willing buyer may not be found within the 120-day timeframe. Based on statutory requirements, if a sale is not closed within 120-days from the appraisal date, the process will have to start over and require by updating the appraisal. This results in additional costs and utilizing additional District resources. The updated appraisal fee generally depends primarily on the time from the original appraisal report and changes in market conditions. Typically, the cost to update an appraisal conducted six months ago is approximately half of the original appraisal cost.

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- Advertisement Requirement: The requirement that a property cannot be advertised for less than 30 days or more than 45 days before the closing date and once each week for three successive weeks also has limitations. This results in about 15 days allocated for advertisement. Specifically, if the first advertisement is made 45 days before the closing date and the property is advertised for three consecutive weeks, this leaves about 30 days for the District to open bids and award the sale to the winning competitive bidder and for the buyer to obtain financing.

Furthermore, bids are due within 10 days of the third advertisement. Therefore, after bids are received and opened only about 20 days remains to close the sale, otherwise the advertising and possible appraisal process has to start over. It should be noted that the winning bidder may have to secure financing and 20 days may not be sufficient. During the 20-day timeframe, all title work document preparation, and any other work needed to close the sale must be performed.

The chart below summarizes a typical timeline for the sale of surplus land parcels taking into consideration statutory and other requirements.



It should be noted that the District obtained appraisals for two surplus tracts in May 2011 and subsequently advertised the sale; however, there were no bids. As of May

2012, these tracts have not been sold. Since the tracts were not sold within the 120-day appraisal and 45-day advertisement period, the District will have to re-appraise and re-advertise the tracts.

Although, we found that the Statute appears to have stringent requirements and is not conducive to disposing of surplus lands in a timely and efficient manner, we also concluded that the District could improve its efforts to dispose of surplus lands. It appears that there is no formal process in place to guide staff as to what steps to take after Governing Board approves disposing of surplus lands.

After the Governing Board approves the disposal of surplus land parcels, the District is required to obtain final approval from the Florida Department of Environmental Protection before appraisals are performed and the tracts are offered to the public for sale. Further, District staff must also obtain the Governing Board's approval before advertising surplus lands for sale after appraisals are completed. According to Real Estate Section staff, they rely on the public's interest in disposing of surplus District lands. Currently, the public is primarily made aware of surplus tracts when the tracts are approved at Governing Board Meetings and through the advertisements required by Chapter 373.089, Florida Statutes. In addition, to increase public awareness of the surplus parcels available for sale, the tracts are listed on the District's website and include the following information: map of the property, overview information on size, estimated value, deed restrictions, and reason why the tract was declared surplus.

Our review of the Governing Board's June 2010 and December 2011 surplus land approval disclosed the following:

- Only 7.85 acres of surplus lands have been sold,
- Appraisals have been performed prior to the Department of Environmental Protection's approval to surplus the tracts, and
- None of the tracts approved for surplus in December 2011 were listed on the District's website as potential surplus lands available for sale.

The following table summarized the status of the surplus tracts approved by the Governing Board in June 2010 and December 2011.

Status, as of May 2012	Notes	Governing Board Surplus Land Approvals			
		June 2010		December 2011	
		Tracts	Acres	Tracts	Acres
Approved Surplus Lands	1	10	1,091.48	39	1,838.80
Tracts / Acres Sold		2	7.85	0	0
Tracts / Acres Remaining		8	1,083.63	39	1,838.80
Department of Environmental Protection's (DEP) Surplus Approval					
DEP Approved, as of May 2012	2	8	1,083.63	0	0
Appraisals Performed by the District					
Appraisals Performed	3	2	2.60	6	244.91
Surplus Tracts Listed on District's Website					
Tracts on District's Website	4	8	1,081.03	0	0

Notes

- 1 According to Real Estate Section staff, certain tracts approved in December 2011 will be combined for appraisal purposes. As a result, the 39 tracts will require 24 appraisals.
- 2 The District is required to obtain the Department of Environmental Protection's approval to surplus tracts prior to performing appraisals and advertising the sale of surplus lands. The DEP took about five months to approve the eight surplus requests. These surplus parcels were approved by the Governing Board in June 2010 and submitted to the DEP for approval in June 2011 and July 2011. As of May 25, 2012, the District has not requested the DEP's approval for the December 2011 surplus parcels.
- 3 The District performed the six appraisals in January 2012 and March 2012 for surplus lands that the Governing Board approved in December 2011; however, as of May 2012, the DEP has not approved the tracts for surplus. Appraisals should not be performed prior to DEP approving the tracts for surplus.
- 4 As of May 2012, none of the surplus tracts that the Governing Board approved for disposal in December 2011 have been listed on the District's website as surplus lands available for sale.

As indicated in the preceding table, the District obtained appraisals for six tracts that the Governing Board approved as surplus in December 2011. Three of the six appraisals were performed in January 2012 and the remaining three were performed in March 2012. The appraisals were performed by independent appraisal professionals for a total of \$9,948. Before disposing of any surplus tracts approved by the Governing Board, the District is required to obtain the Department of Environmental Protection's approval to surplus the tracts. However, as of May 2012, the District has not submitted

any of the December 2011 approved surpluses to the Department of Environmental Protection for approval. Further, District staff requested the Governing Board's approval in March 2012 to advertise five of the six appraised parcels for sale to the public.

Since Chapter 373.089, Florida Statutes, requires that a property must be appraised within 120 days before the closing date of a surplus parcel sale, the three appraisals performed in January 2012 will have to be updated since they were done over 120 days ago. The three appraisals performed in March 2012, will also have to be updated because the District has not requested the DEP's approval, as of May 2012. Real Estate Section staff stated that they are now preparing request packages for submittal to the DEP and that this was not done earlier due to staff reductions and workload priorities. Performing appraisals prior to obtaining the DEP's approval is an inefficient use of District resources and results in non-compliance with the DEP's requirements.

District staff have acknowledged that the disposal process needs improvement in order to efficiently dispose of surplus lands. For example, the Real Estate Section is considering additional marketing efforts such as outreach to inform neighboring landowners of the potential surplus lands. In addition, each property will be analyzed to determine marketability and the best disposal strategy.

Recommendations

4. Obtain approval from Florida's Department of Environment Protection to dispose of surplus lands prior to performing appraisals.

Management Response: Agree. This is consistent with DEP requirements for processing requests from the District, allowing sufficient time to receive a response before initiating the surplus marketing sequence, including requests for appraisals.

Responsible Division: Operations, Maintenance, and Construction

Estimated Completion: Submit to DEP by October 2012

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5. **Ensure that all Governing Board approved surplus lands available for sale are listed on the District's website.**

Management Response: Agree

Responsible Division: Operations, Maintenance, and Construction

Estimated Completion: September 2012

6. **Consider proposing revisions of Chapter 373.089, Florida Statutes, to the Florida's Department of Environmental Protection. Revisions should address appraisal and advertisements timeframe requirements.**

Management Response: Agree. Due to the necessity to prepare a proposal to DEP, the anticipated completion time cannot be attained before the next legislative cycle.

Responsible Division: Office of Everglades Policy and Coordination

Estimated Completion: June 2013

7. **Establish detailed marketing strategies for disposing surplus tracts in an efficient manner. Considers strategies such as notifying neighboring landowners and posting sale signs on the properties.**

Management Response: Agree

Responsible Division: Operations, Maintenance, and Construction

Estimated Completion: December 2012

Enhance Process for Identifying Leasable Lands

In the interim time frame between land acquisition and the commencement of project construction, certain lands are made available for lease. For example,

- Lands that were not specifically acquired or designated for environmental enhancement, restoration or preservation purposes, and
- Lands that are not proposed for recreational or other public uses.

As of January 2012, the District had 97 leases/agreements for 129,337 acres of land that generate about \$4.3 million in revenue annually, as illustrated in the following table.

Lease/Agreement Type	Number of Leases / Agreements	Acreage	Annual Revenue
Revenue Leases	74	98,241	\$4,285,925
Management Agreements (<i>Note A</i>)	8	6,310	No Revenue
Reservations (<i>Note B</i>)	12	6,250	
Miscellaneous (e.g., exchanges or negotiated as part of acquisition)	3	18,536	
Total	97	129,337	\$4,285,925

Notes

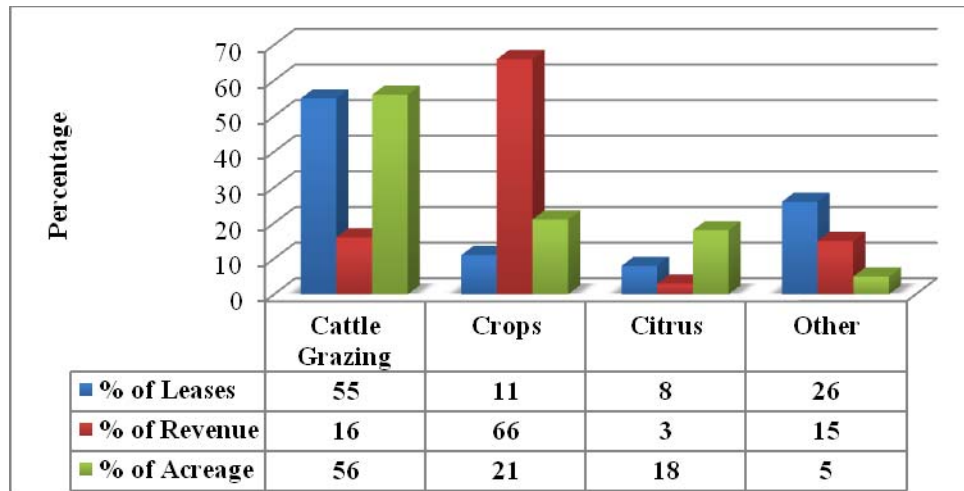
A – A management agreement is an agreement with another government entity to manage the lands.

B – A reservation is when a seller reserves a right; e.g., use and occupancy of the property usually for a specific term. Consideration can be in the form of a reduction in the purchase price or periodic payments made during the reservation period.

District lands are leased for various purposes; however most are leased for cattle grazing, crops, and citrus. Lands are also leased for other purposes; for example, access roads, marinas, and communication towers. The following table summarizes the different lease types by acreages and annual revenue.

Lease Type	Number of Leases	% of Total Leases	Acreage	% of Acreage	Annual Revenue	% of Annual Revenue
Cattle Grazing	53	55%	72,233	56%	\$671,216	16%
Crops	11	11%	27,010	21%	\$2,848,081	66%
Citrus	8	8%	23,323	18%	\$143,427	3%
Other	25	26%	6,771	5%	\$623,201	15%
Total	97	100%	129,337	100%	\$4,285,925	100%

Further, as illustrated in the following chart, lease revenue is mostly generated from crop leases. In addition, the District leases about 112 acres for three cell towers that generate \$308,037 annually.



Note that most of the District’s leases are for cattle grazing, which generate less revenue than other leases. However, the major benefit of a cattle grazing lease is the cost avoidance of land maintenance.

The Land Resources Bureau’s staff and District project managers are responsible for identifying vacant lands that can be leased. In addition, the public makes inquiries about potential leasable lands, which staff research to determine whether the lands are

leasable. Further, the Land Resources Bureau holds bi-weekly meetings to discuss land issues which include discussions of leasing opportunities. These communications assist in identifying leasable lands; however, the identification process can be improved. Specifically, we noted that a comprehensive review of all District lands has not been conducted to determine whether all potential leasable lands have been identified and analyzed. Since current budget constraints may result in the delay of several projects, all lands should be evaluated to determine whether they can be leased.

According to District staff, they are required to ensure all leasable lands are leased since leases are an important source of revenue, which are used to support land management activities throughout the District. Lease holders provide significant benefits to the District since they keep the properties in productive use, pay taxes and local assessments, control exotic vegetation, and implement best management practices until the lands are needed for project implementation.

During our audit, we requested that the Real Estate Section compile a list of additional lands that could be leased. A formal list was not maintained at the time of our request. According to Real Estate Section staff, as of March 2012, approximately 10,775 acres of additional lands and approved surplus tracts have been identified as leasable, primarily for cattle grazing. The 10,775 acres of potentially leasable lands include the following:

- 3,933 acres of Kissimmee River (Lake Hatchineha) natural lands: According to staff, an assessment will have to be conducted to determine the feasibility of leasing these lands because the land is wet and not easily accessible.
- 3,427 acres of C-23 / C-24 project lands: Several cattle grazing leases are being considered.
- 1,072 acres of C-44 Governing Board approved surplus project lands: Due to current market conditions, this land is under lease consideration to generate revenue.
- 960 acres of Cypress Creek/Loxahatchee project lands: Under consideration to be leased for vegetable crops.

It should be noted that in March 2011, the District issued a request for bids for clearing and leasing approximately 5,737 of the 10,775 leasable acres for a two-year period. The bid received only one response and an agreement was negotiated; however, the potential lessee did not execute the lease. These lands have still not been leased. Real Estate Section staff anticipates that these will be leased for cattle grazing within the next few months.

In addition to discussions at bi-weekly meetings, the Land Resources Bureau maintains a spreadsheet of natural and project lands, which includes the following detailed information: project component, easement acres (where District does not have ownership rights), fee acres (where District has ownership rights and in some cases may have acquisition partners), project status (under construction, completed), leased acres, and vacant acres.

The following table provides a summary of the spreadsheet information.

DISTRICT'S NATURAL AND PROJECT LANDS, as of September 30, 2011						
	Easement Acres (Not District Owned) (Note 1)	Fee-Simple Acres (District Owned)	Total Acres	Leased Acres	Projects Under Construction / Completed Acres	Vacant District-Owned Project Lands Acres
Summary of Natural Lands						
Non-CERP District Managed	20,644	180,824	201,468	38,865	NA – Natural Lands	<i>See Natural Lands Explanation (on following page)</i>
Non-CERP Partner Managed (Note 2)	662,475	337,494	999,969	2		
CERP	844	32,467	33,311	15,992		
Total Natural Lands	683,963	550,785	1,234,748	54,859		
Summary of Project Lands (Note 3)						
CERP STAs	280	25,041	25,321	11,134	12,883	1,145
CERP Reservoirs	731	47,826	48,557	10,629	9,615	27,630
STAs	30	88,537	88,567	22,343	65,709	515
Other Lands	600	41,990	42,590	26,640	10,940	4,980
Total Project Lands	1,641	203,394	205,035	70,746	99,147	34,270
TOTAL ACRES	685,604	754,179	1,439,783	125,605	99,147	34,270

Note 1: Easement acres are not District-owned. Project land easements are usually owned by the State or local governments.

Note 2: The District has agreements with partners who are responsible for land management. Partners follow their own policies and procedures, which include Florida Fish and Wildlife Conservation Commission (FWC), the Florida Department of Environmental Protection (FDEP), and the Florida Department of Agriculture and Consumer Services (FDACS).

Note 3: District-Owned Vacant Lands and Leased Acres do not include easement acres. However, Projects under Construction /Completed include easement acres. As a result, vacant lands cannot be calculated from this table. Vacant lands acreage was obtained from other detailed audit spreadsheets.

CERP: Comprehensive Everglades Restoration Plan

STAs: Stormwater Treatment Areas

Audit procedures included reviewing the spreadsheet with Land Resources Bureau staff and obtaining reasons why vacant lands were not leased. Based on our discussions and review, we concluded that the vacant land explanations were reasonable, as detailed in the following sections. However, improvements are needed.

Natural Lands

According to the Land Resources Bureau's staff, since natural lands were acquired for their water resource values and are managed to restore and/or protect natural resources, much of the lands cannot be leased. The leased natural lands are primarily for cattle grazing, communication towers, and apiary operations. The Bureau's staff explained that leasing additional natural lands is not feasible because all natural lands that can be leased have been leased. However, during our audit Real Estate Section staff informed us that an additional 6,261 acres of additional leasable natural lands has been identified. As a result, the Land Resources Bureau should increase coordination and conduct a thorough review to determine whether additional natural lands can be leased.

Project Lands

As part of our audit we met with the Land Resources Bureau's staff to determine why the 34,270 acres of vacant project lands were not leased. As a result of our review and discussions, we concluded that the justifications provided for not leasing certain vacant lands appeared reasonable and that some of lands are under consideration for lease. Specifically, we concluded that the District plans to lease about 5,231 acres of the vacant project lands. These lands were acquired for the C-23/C-24 project including the stormwater treatment area and reservoir project components. It should be noted that some of these lands have been approved for surplus. According to the Real Estate Section staff, they anticipate soliciting requests for bids by early August 2012. Examples of the reasons why the remaining 29,039 acres of vacant lands have not been leased are as follows:

- 10,556 acres of land for the Caloosahatchee Basin/C-43 West Basin Storage Reservoir project was previously leased for citrus production; however,

construction was anticipated and the lease was terminated. The land was not maintained and the trees were infected with citrus canker and surrounding landowners complained that the canker was spreading to their land. As a result, the District spent approximately \$1,125,000 to remove the citrus trees. Land Resources Bureau staff stated that the District is currently reviewing these lands for potential cattle grazing leases and dispersed water management (water retention).

- 1,548 acres of land for the C-11 Impoundment project was leased for an asphalt plant and a nursery. Initially, the District was going to construct this project and the lease was terminated in anticipation of construction; however, due to land acquisition from US Sugar for the River of Grass, the project was placed on hold. The U.S. Army Corps of Engineer will now be responsible for construction. Land Resources Bureau staff stated that the land is suitable for industrial purpose and leasing this land will not be cost beneficial to potential lessees because the huge startup costs.
- 9,396 acres of land for the EAA Storage Reservoir project was leased for sugar cane crops. The lease was terminated after the construction started. However, the project is currently on hold. There are plans for a revised project.

A detailed assessment should also be conducted of all District lands to identify whether additional lands can be leased.

Recommendations

- 8. Conduct a detailed assessment of all District lands to determine whether additional lands could be leased.**

Management Response: Agree. This will coincide with the completion of the land assessment process currently in development.

Responsible Division: Operations, Maintenance, and Construction

Estimated Completion: August 2013

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- 9. Explore the potential of leasing additional lands for communications towers or tower space to businesses in the telecommunication industry.**

Management Response: Agree

Responsible Division: Operations, Maintenance, and Construction

Estimated Completion: March 2013

- 10. Expedite the assessment process to determine whether the 10,775 acres of additional lands are leasable and, if so, initiate the leasing process.**

Management Response: Agree. The assessment process has been initiated. The 10,775 acres are located in multiple zones and is being reviewed by zones.

Responsible Division: Operations, Maintenance, and Construction

Estimated Completion: March 2013