

# Biking Through History in the Keys

by Patricia L. Gertenbach, P.G.

The Florida Keys consist of a necklace of islands off the southern tip of the Florida peninsula. Before Henry Flagler completed his Florida East Coast Railway in 1912, the only way to travel from island to island was by boat.

The islands are now connected by 126 miles of modern highway and bridges which replaced the railroad destroyed by the 1935 Labor Day hurricane. Nearly a century later, 23 original Flagler railway beds and bridges that survived modernization will become part of a different kind of link – the 106-mile Florida Keys Overseas Heritage Trail.

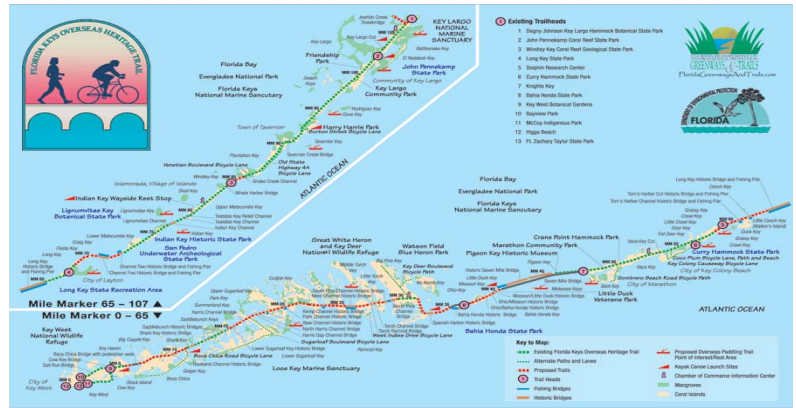
The Trail is a multi-use bicycle and pedestrian facility currently under design and construction by the Florida Department of Environmental Protection's Office of Greenways and Trails (OGT). It will link unique ecological resources including National Parks, Wildlife Refuges and Marine Sanctuaries.

Existing bike trails will be upgraded and additional miles of trail will be added this year as part of the multi-year project. For more information: visit [www.dep.state.fl.us/gwt/state/keystrail/](http://www.dep.state.fl.us/gwt/state/keystrail/).

The Trail runs parallel to US 1 within a narrow corridor between the Atlantic Ocean to the east and Florida Bay to the west. Some unavoidable secondary impacts which would have added to the project's construction and maintenance costs were recently alleviated by a new

exemption in the Permit Manual: 40E-4.051(12). Effective September 9, 2007, recreational paths that are not located within wetlands or other surface waters are exempt from permitting.

E Sciences' Ft. Lauderdale office is serving as the OGT's environmental consultant, coordinating environmental issues with the design engineers, reviewing plans for compliance with environmental regulations, preparing NEPA documentation and creating a GIS database.



# Gopher Tortoises Uplisted by FWC

by Angela Bowen Warm

In September 2007, the gopher tortoise (*Gopherus polyphemus*) was elevated from a "listed species of special concern" to a "listed threatened species" by the Florida Fish and Wildlife Conservation Commission (FWC). With this change came an elevated permitting status.

The FWC is still finalizing the details, but the new Management Plan will include the elimination of the incidental take or "entombment" option for developers. There are several levels of on-site and off-site permitting that include a per tortoise

fee to be paid to the FWC on top of the fees paid to consultants and recipient sites.

In addition, consultants who provide gopher tortoise services such as surveying and relocation will now be required to be registered as an Authorized Agent with the FWC to certify that they are trained and adhere to certain protocols when encountering tortoises. The per tortoise fees for relocations range from \$200 to \$4,000 depending on the circumstances.

The new 2008 plan also includes stricter guidelines for capture, handling and transport of relocated tortoises. Please contact E Sciences for further information or go to: <http://myfwc.com/imperiledspecies/pdf/GT-Mgmt-Plan.pdf>.



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## Plan Ahead for Your Seagrass Survey

Don't forget that for projects with proposed boat slips, or those requiring dredging or filling within navigable waters, the regulatory agencies will require a seagrass survey. Seagrass surveys must be conducted between the months of April and August to be accepted. Call your local E Sciences office to learn more about our seagrass mapping and environmental permitting services.

## A Question of Risk Tolerance: TSA or Phase I?

In real estate transactions, location is prime among the decision variables. But what about hidden liabilities?

With the potentially large costs associated with cleanup of an impacted property and transference of those liabilities to the new owner, the past history and uses of a particular site are rapidly becoming just as important as its location.

When it comes to environmental liabilities, many would-be property owners would like to rely on the "innocent landowner defense" offered by the tenets of federal regulations such as CERCLA. However, to qualify for the innocent landowner defense, a potential property owner must satisfy the "all appropriate inquiry" clause. This requires a careful inquiry into the past uses of the property and the surrounding area.

The most common means of satisfying this requirement is by hiring a competent

environmental professional to perform a Phase I Environmental Site Assessment (ESA).

If you have personal knowledge about the history of the property, or if the value of your acquisition cannot sustain the costs of a traditional ESA, there is another

### *Past history and uses of a site are just as important as its location*

vehicle known as the Transactional Site Audit or TSA. TSAs are covered by ASTM standard E-1528, which was updated in 2006 to encompass the amendments to the Brownfields legislation passed in the early 2000s.

Learn more about the applicability of TSAs at: <http://www.ednet.com/reports%5Cwhitpapers%5Ce1528whitepaper.pdf>.

## E Sciences Opens New Office in Stuart

E Sciences, Incorporated is pleased to announce the acquisition of Ibis Environmental, Inc. of Stuart, Florida. E Sciences now has four locations: Orlando, Sarasota, Ft. Lauderdale and Stuart. This newest office on the Treasure Coast is located at 616 SE Central Parkway, Stuart.

Our staff there includes staff scientists, Tom Gaboian and Sandie Simon, senior ecologist, Angela Bowen Warm, senior

scientist, Jena Mier, and administrative assistant, Bets Miller.



## Project News

The staff of E Sciences' Stuart office recently helped plant 130 mangrove seedlings on a tiny island in the Intracoastal Waterway.

Our client was required by the DEP to plant the mangroves as mitigation for a development project. Crawling around on hands and knees in muck to plant mangroves is no picnic, but it's all part of a day's work for E Sciences' dedicated ecological staff.



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