

F.E.B. CORP.
1001 E. Atlantic Avenue
Suite 202
Delray Beach, Florida 33483

RECEIVED
2017 MAR 30 AM 10:27
OFFICE OF THE
EXECUTIVE SECRETARIAT

March 29, 2017

VIA FEDERAL EXPRESS
The Honorable Ryan Zinke
Secretary
Department of the Interior
1849 C Street, N.W.
Washington, DC 20240

Dear Secretary Zinke:

My family is part owner of F.E.B. Corp., a Florida corporation ("FEB"). For the past 50 years, FEB has been the record title holder and taxpayer of Wisteria Island which is featured in the attached March 19, 2017 Key West Citizen article titled "Wisteria agreement moving forward".

The article states that BLM spokesperson, Davida Carnahan and Department of Interior officials are in discussions on an access plan with Monroe County officials and scheduling various County hearings as well as proposing to place a proposal in the Federal Register for public comment on our island. There has been no judicial determination that BLM owns or has any interest in our island. In fact, in the 1970's, at the request of the U.S. Navy, BLM issued two "Lands Title Report" showing that Wisteria was never part of the public domain going back to the time of Florida's statehood in 1845 and rendered opinions and made a final determination that Wisteria Island and surrounding submerged lands and areas, not titled in the U.S. or its agencies by deed, were not public lands.

As we began the process of obtaining permits to develop Wisteria, anti-development opposition, led by activist Naja Girard, questioned FEB's ownership. The Navy issued a press release clarifying that it had no claim to Wisteria. But the local press was not satisfied and on August 3, 2011, Cheryl Smith of the Key West Citizen asked BLM ***"whether the agency agrees that it owns the island or***

not." In response to inquiries about ownership of the island, Davida Carnahan, of BLM sent the attached email dated August 24, 2011 responding to the News Editor of the Key West Citizen stating: ***"Because the creation of Wisteria Island was not a natural occurrence, the island was never considered to be part of the public domain of the United States."***

Naja Girard was not satisfied with this response and sought a different answer from Anne Morkill, Wildlife Refuge Manager of Florida Keys National Wildlife Refuges Complex. I also enclose an August 26, 2011 email from Anne Morkill responding to Ms. Girard. Morkill's email advises: ***"According to the information provided to me by the BLM (confirmed again yesterday), they have made a final determination that because the creation of Wisteria Island was not a natural occurrence (created by dredged material), the island was never considered to be part of the public domain of the United States."*** The 2011 "Final Determination" ratified the 1970's Lands Title Reports and confirmed BLM's position for more than forty (40) years that Wisteria was privately owned and not public land.

But 40 years of consistency in BLM's opinion on Wisteria ownership somehow changed in just 73 days. Without any rhyme or reason whatsoever, BLM secretly met with Naja Girard and then BLM does a 180 degree turn in ownership without even once talking to FEB. In fact, it addresses its "new" ownership position in a November 7, 2011 BLM letter (not to FEB, the taxpayer and recorded title holder for 50 years) but only to Naja Girard. This letter became public and clouded FEB's title and stopped any effort to move forward on permitting. The horrible travesty is that we now have learned and proven that the November 7, 2011 letter was a "rogue" and unauthorized communication, written by a person having no right to have issued it. Worse, the head of BLM's title department at that time has stated under oath in a deposition that the letter is inaccurate. In fact, the letter was intentionally false. But the damage was done.

To make it worse, we learn that Davida Carnahan may have had a personal interest in sabotaging development of the island because she told Anne Morkill that she would like to see it not

developed because she picnicked there as a girl ...to which Anne Morkill responded that Carnahan was being "unprofessional." This sort of politics and bias has no place in deciding title issues fairly and objectively.

This is the type of roller coaster ride we've been on for the last six years featuring Davida Carnahan and other people in BLM. While the November 7, 2011 BLM letter clouded our title; there has been no court decision that validates BLM's claim.

We believe that BLM should stand by its 40 years of Lands Title Opinions and Final Determinations that Wisteria is not public land and root out what appears to us to have been a vendetta against FEB, by a select few lower level bureaucrats sympathetic to anti-development advocates and environmentalists. Environmentalists that fail to understand that the island is devoid of any protected species and an island that the U.S. Fish and Wildlife Service has repeatedly said it wants no part of.

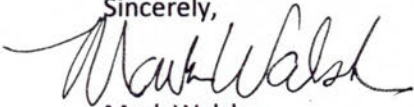
The BLM has not moved forward to legally establish its claim to Wisteria nor to recognize as others in the Navy and the BLM have and have admitted in writing since 1956 ... that the United States has no valid claim to Wisteria. We would be happy to present you with overwhelming evidence that FEB is the proper owner, including admissions by the Navy going back as far as 1956 (sadly hidden from us in public record requests to BLM and the Navy and that we found by researching Naval archives ourselves), testimony before Congress and subsequent acts by the Navy and the U.S. government (including recent license agreements for use of the island by Navy Seals for training exercises recognizing FEB as lawful owner). We feel that if fairly judged, this evidence is determinative.

Therefore, we ask that all efforts to take control of our island stop immediately. At most, BLM has an unproven claim. We have received no contact from either BLM or DOI before or after they initiated what we consider illegal and inappropriate efforts with the County and other agencies regarding our land.

I've also attached two aerial photos which show the location of Wisteria Island. It's in the busy Key West federal channel and is covered with invasive pine trees with no significantly sensitive environmental areas, but a small mangrove area which we would like to clean up and preserve. Please note FEB Corp. also is the owner of 125 acres of contiguous submerged land which can only be granted to the legal upland owner which is FEB Corporation and Wisteria Island. The adjacent sister island in the photo was developed by our family 20 years ago and is called Sunset Key.

We would greatly appreciate the opportunity to meet with you or someone in your Department to work through the issues to see if we can find an agreement or agree to disagree; but the continuing over-reach by BLM and interference with our rights as a property owner and taxpayer in all fairness, needs to please stop immediately. Sorry for being so long-winded; this is very frustrating and a huge waste of taxpayers' money in our opinion. I thank you for your consideration and hope you can grant us a meeting at your earliest convenience.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Walsh', written in a cursive style.

Mark Walsh
Vice President

MW/dh
Enclosures

Chloe Hartie



THE CITIZEN

KEY WEST

The Florida Keys Only Daily Newspaper, Est. 1876


Just 1-25

Sunday

March 19, 2017 ♦ Vol. 141 ♦ No. 78 ♦ 30 pages

Lady Conchs top Vero Beach — Page 1B

WEATHER



Suzy Shook, fifth grade, Poinciana Elementary School. See forecast on Page 2A.

FLORIDA

Pence campaigns for GOP health bill

Wisteria agreement moving forward

BY TIMOTHY O'HARA
Key West Citizen

Local and federal government agencies seem to be closer to reaching an agreement on how to handle people camping and living on Wisteria Island.

Monroe County, Bureau of Land Management and the Department of Interior officials discussed moving forward with an access plan during a conference call on

Tuesday, BLM spokeswoman Davida Carnahan said.

BLM and the Department of Interior have asked the Monroe County Commission to write them a letter stating the preferred hours of access on Wisteria Island, Carnahan said.

Sheriff Rick Ramsay, who for months has been asking BLM for the power to issue trespassing warnings there, wants the hours of access to be limited to mainly day-

light hours.

The BLM can't restrict access to public lands without placing notices in the Federal Register and taking public comment on them, Carnahan said.

Sheriff Ramsay will have a conference call on April 2 with the BLM.

"I think we are finally moving along," Carnahan said.

County Attorney Bob Shillinger discussed the letter with the Monroe County Commission when

it met on Wednesday.

The commission will approve the language for the letter and sending it when it meets next month in Marathon, Shillinger said.

BLM would take the recommendation on hours of access and then place a proposal in the Federal Register for public comment, Carnahan said.

For more than a year, peo-

See **WISTERIA**, Page 9A

9A

WE 1

Wisteria

Continued from Page 1A

ple have been living on the island. The Sheriff's Office and other local law enforcement agencies have stepped up patrols in and around the island in recent months.

In August, sheriff's deputies, the Coast Guard, Florida Fish and Wildlife Conservation Commission, DEA and Key West Police Department authorities did a sweep of the island after receiving several reports about drug possession and grand theft occurring on the island and about a sexual offend-

er residing there.

Officers documented 18 campsites, a small make-shift boat repair shop, 12 people with active warrants and one registered sex offender, according to the Monroe County Sheriff's Office.

During the sweep, a deputy discovered nine marijuana plants hidden among some bushes and being grown inside chicken wire in 5-gallon buckets

"We want it open to the public, but we want it to be clean and safe. We don't want people camping on the island," Ramsay said. "They (BLM) are now being responsive."

tohara@keysnews.com

Best, Diane

"Cheryl Smith"
<csmitth@keysnews.com>
08/09/2011 01:33

August 3rd 2011

To <calla_boddington@blm.gov>
cc
Subject

media request

Please respond to
<csmitth@keysnews.com>

Ms. Boddington,

Attached is a Navy press release that says the Federal Bureau of Land Management owns Wisteria Island off Key West, Fla. However, private citizens claim ownership and are trying to build a resort on the island.



Can I get a comment from FBLM re: whether the agency agrees that it owns the island or not, and, if so, what the agency is going to do about the dispute.

I understand this likely will take some time to research. Can you at least confirm receipt of this request, even if you can't answer my questions yet.

Thank you so much for your time,

Cheryl Smith, News Editor
The Key West Citizen
3420 Northside Drive
Key West, FL 33940
305-292-7777 ext.271
csmitth@keysnews.com

Diane Hendry
External Affairs
Bureau of Land Management - Eastern States
7450 Boston Boulevard
Springfield, VA 22153-3121
Office: 703.449.1720
Cell: 703-801-6463
Fax: 703.449.1722
http://www.blm.gov/es



-----Original Message-----
From: Carmahan, David
Sent: Wednesday, August 24, 2011 9:40 AM
To: csmi@keystems.com
Subject: RE: Histeria Island

August 24 2011

H8 Cheryl. A review of our records disclosed that Histeria Island has

DOC 17

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August 24 2011

created when the Department of the Navy dredged a navigable channel in Key West harbor in the early to mid 1900s. Because the creation of Misteria Island was not a natural occurrence, the island was never considered to be part of the public domain of the United States. Therefore, the Public Land Orders and Executive Orders that were referenced in the Navy's news release, never did apply to Misteria Island.

The State of Florida claimed sovereign rights to Misteria Island under the authority of the Submerged Land Act of May 23, 1953, 43 U.S.C. 1301 - 1315. The Act grants coastal states title to offshore lands within their historic boundaries, generally up to three miles from the coastline, as well as the rights to the natural resources on or within those lands.

I hope this may answer all your questions, but please do call me if you would like to discuss further. Thanks Cheryl.

-----Original Message-----
From: Cheryl Smith [mailto:csmith@keynews.com]
Sent: Tuesday, August 23, 2011 12:41 PM
To: Hendry, Diane L
Cc: Carnahan, Davida
Subject: Misteria Island

Hi Diane and Davida,

I just wanted an update on your research because I was off last week, unexpectedly for a funeral, and someone else was handling my emails. I wanted to make sure I didn't miss something important from you.

Thanks,

Cheryl Smith, News Editor
The Key West Citizen
3420 Northside Drive
Key West, FL 33948
385-282-7777 ext.271
csmith@keynews.com

-----Original Message-----
From: dhendry@flm.gov [mailto:dhendry@flm.gov]
Sent: Wednesday, August 18, 2011 12:16 PM
To: csmith@keynews.com
Subject: Misteria Island

Hello Ms. Smith, This e-mail is a follow-up to the voice mail I left for you earlier today. Our lands staff is working on the legal description for Misteria Island. While they now have a deed copy from the Navy, they do not have the section, township and range details. Their goal is to research the ownership issue via deed description. That will take some time. The External Affairs lead, Davida Carnahan, returns next Wednesday and the Eastern States Land Law Examiner feels he can have a definite answer by that date. Davida will follow up with Nate for a response to your request. Davida's contact information is: davida.carnahan@flm.gov Phone: 783-448-1717. After today, I will be out of the office until August 23, but please contact me by COB if you'd like to talk further.

Anne
Morkill/R4/FWS/DOI

Tonaja girard <najagirard@yahoo.com>

August 26 2011 08/26/2011 10:27 AM

ccdcarnahan@blm.gov, nfelton@blm.gov, Winston
Hobgood/R4/FWS/DOI@FWS

Subject: Re: Fw: FL Keys Islands []

Dear Ms. Girard,

According to the information provided to me by the BLM (confirmed again yesterday), they have made a final determination that because the creation of Wisteria Island was not a natural occurrence (created by dredged material), the island was never considered to be part of the public domain of the United States. The State of Florida claimed sovereign rights to Wisteria Island under the authority of the Submerged Lands Act of 1953, which grants coastal states title to offshore lands within their historic boundaries, generally up to three miles from the coastline, as well as the rights to the natural resources on or within those lands. Please contact Nate Felton, BLM at nfelton@blm.gov or (703) 440-1511 for further information on this matter.

Additionally, while PLO 6214 did indeed revoke several military reservations, one of which affected islands within the Key West National Wildlife Refuge (e.g. Man and Woman Key per our previous correspondence), it specifically refers to "public lands," but as stated above, Wisteria Island was never considered to be public domain. PLO 6214 further states "in accordance with..." the original executive orders that established the refuges and delineated their boundaries; therefore, PLO 6214 did not explicitly expand the refuge boundaries. Our current refuge boundaries are consistent with the original executive orders dated 1908 and 1938, respectively. Wisteria Island is outside of our refuge boundaries and falls under the jurisdiction of the State of Florida.

In regards to your concerns about the butterfly species that were recently listed under an emergency order, I am also copying Winston Hobgood at the USFWS Ecological Services Office in Vero Beach. His office would handle any consultation that may be required with regards to listed species on private property.

Thank you,

Anne Morkill
Wildlife Refuge Manager
Florida Keys National Wildlife Refuges Complex
U.S. Fish and Wildlife Service
28950 Watson Blvd.
Big Pine Key, FL 33043
(305) 872-2239 ext 209 Office
(305) 872-3675 Fax
(305) 304-4907 Cell
naja girard <najagirard@yahoo.com>



United States Department of the Interior
Bureau of Land Management

Eastern States
7450 Boston Boulevard
Springfield, Virginia 22153
BUREAU OF LAND MANAGEMENT



PERMITS UNIT
181103817M
FIS 5224

CERTIFIED MAIL 7010 1060 0000 5208 1199 - RETURN RECEIPT REQUESTED

November 7, 2011

NOV 7, 2011

Naja Girard
1214 Newton Street
Key West, Florida 33040

Dear Naja Girard:

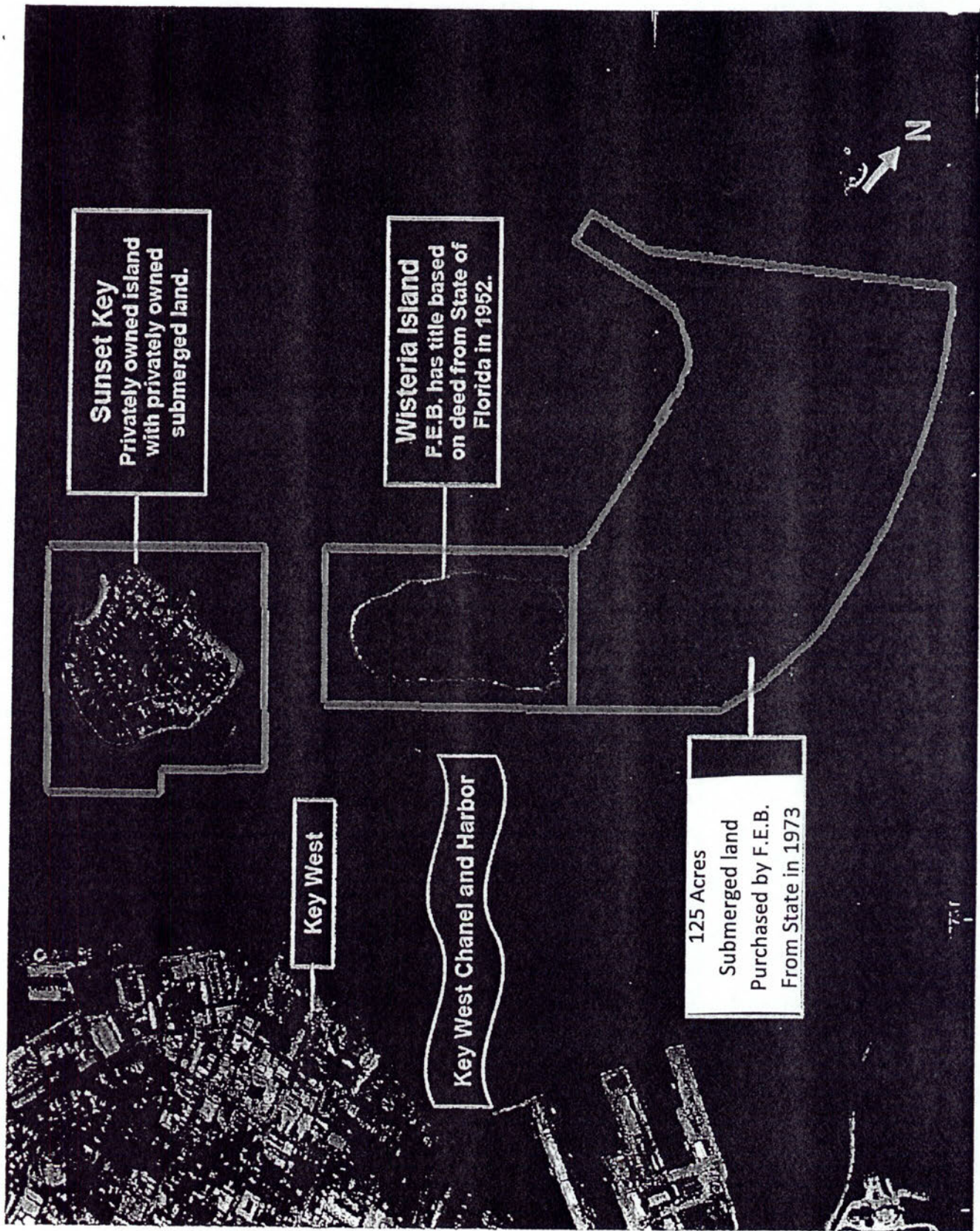
This further responds to your letter dated August 9, 2011, inquiring about the ownership of lands described as Section 36, Township 67 South, Range 24 East, and Section 31, Township 67 South, Range 25 East, Tallahassee Meridian, County of Monroe, State of Florida. These lands are also known as Wisteria Island.

After further review of the records, a Federal Interest Determination was performed by Dominica Van Koten, Chief, Branch of Cadastral Survey. The Federal Interest Determination revealed that Wisteria Island was built by the United States Navy on an existing shoal. The Shoal was included in Executive Order No. 4060 which reserved the area for United States Naval purposes. Florida became a State in 1845, at which time the Executive Order was in effect and in addition the Statehood act reserved all of the Florida Keys area to the Military. Much of the lands were later relinquished to the State of Florida but not the Key West area. Public Land Order No. 6214 revoked Executive Order 4060. The land is currently under the management of the Department of Interior and is now under the administrative jurisdiction of the United States Fish and Wildlife Service's Key West National Wildlife Refuge. Legal title, therefore, would appear to be still vested in the United States.

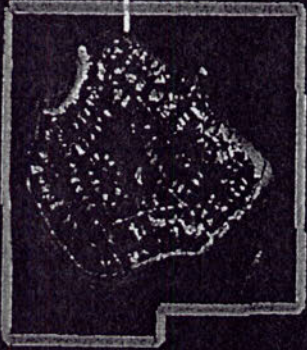
If you have any questions or need further assistance in relation to this matter, feel free to contact Frankie Morgan, Land Law Examiner at 703-440-1595.

cc: Anne Merrill
U.S. Fish and Wildlife Service
38950 Watson Blvd.
Big Pine Key, Florida 33043

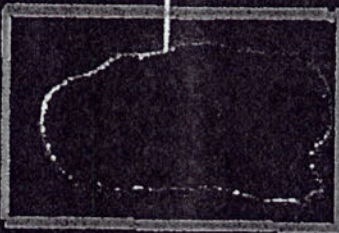
DOC 19



Sunset Key
Privately owned island
with privately owned
submerged land.



Wisteria Island
F.E.B. has title based
on deed from State of
Florida in 1952.



Key West

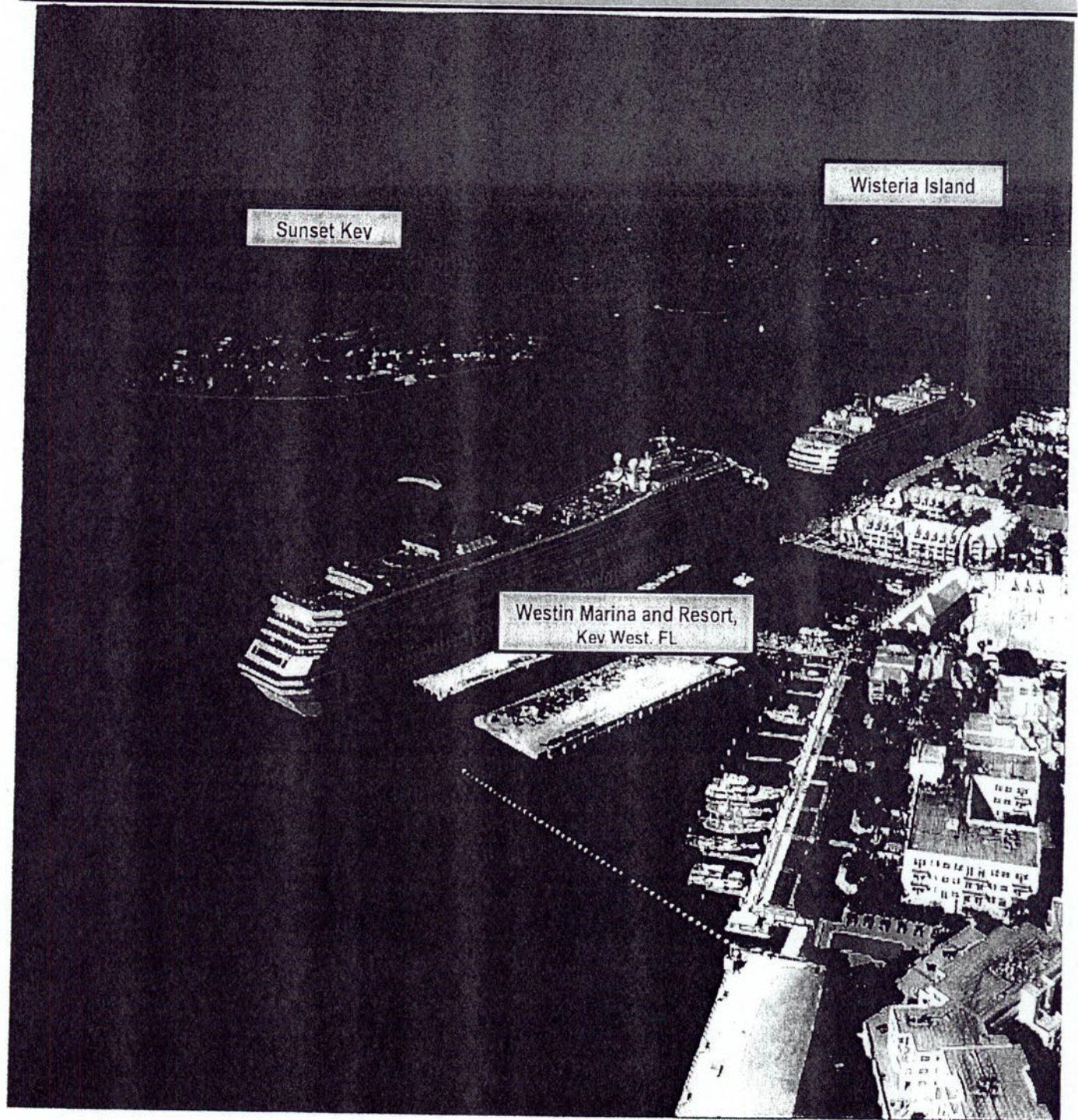
Key West Chanel and Harbor

125 Acres
Submerged land
Purchased by F.E.B.
From State in 1973



WISTERIA ISLAND History and Timeline

Location of Wisteria Island.



DOC 24