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**Lawyers: Everglades land deal should be rejected**

04/07/2010  
Associated Press (AP) - West Palm Beach Bureau  
Skoloff, Brian

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WEST PALM BEACH, Fla.—A half-billion-dollar deal aimed at buying farmland in the Everglades to help the ailing ecosystem should be rejected because it serves no public purpose and will only delay restoration further, an attorney argued Wednesday before Florida's Supreme Court.

"Land purchases alone accomplish nothing," Dexter Lehtinen, a lawyer representing the Miccosukee Indians living in the Everglades, argued before the justices in Tallahassee.

Republican Gov. Charlie Crist wants the state to pay \$536 million to U.S. Sugar Corp. for 73,000 acres of the company's holdings in the Everglades. Crist has called it a "once in a lifetime" opportunity to buy back key land long used in agricultural production.

The Miccosukee and U.S. Sugar's main rival, Florida Crystals, however, say the deal is a waste of taxpayer money.

They argue that the South Florida Water Management District, which oversees Everglades restoration, has no specific restoration plans in place for the land, which will only be bought, then leased back to U.S. Sugar at a nominal rate until construction projects are developed.

The state says it plans to build reservoirs and treatment marshes on the land to help restore some natural flow and clean pollutants from urban runoff and fertilizers in the water before it flows south into the remainder of the Everglades.

"As complicated and convoluted as the appellants want to make this case, it's very simple," argued water district attorney Randall Hanna. "What we're doing here is we're buying land for Everglades restoration."

The tribe and Florida Crystals want the High Court to reject a state bid to issue bonds to pay for the purchase. They argue that without specific plans for the land, any deal would pad the pockets of executives at the nation's largest cane sugar producer at the expense of taxpayers.

"Their plan is to buy the land and figure out what they're going to do with it later," argued Joseph Klock, an attorney representing U.S. Sugar rivals, who also claims the leaseback option in the deal will give its competitor an unfair advantage.

The justices peppered attorneys with questions about why the state must have more detailed plans for the land to consider the purchase a benefit to the public.

"How specific does the plan have to be? Do we have to have every detail outlined before we can say, 'Yes, you can begin to acquire this land?'" asked Chief Justice Peggy A. Quince.

Lehtinen argued that not enough specifics have been provided under Florida law.

"There is no proposed project," he said. "They commit to nothing."

The proposal has been supported by environmental groups as key to putting long-stalled restoration back on track.

"We believe this land acquisition provides the best and last chance for significant Everglades restoration," argued attorney E. Thom Rumberger on behalf of the Florida Audubon Society.

The Everglades have been dying for decades. Burgeoning farms and development have effectively drained and polluted much of the swamp, long dissected by dikes, dams and canals.

The state and federal governments' efforts to restore the wetlands have been stymied for years by funding shortfalls, legal challenges and political bickering.

The U.S. Sugar deal has already been cut by more than half from the initial plan announced in 2008, when Crist proposed buying out the company holdings altogether in a \$1.75 billion purchase for all its 180,000 acres and assets.

Meanwhile, U.S. Sugar says it's done negotiating with the state. If this deal falls through, it's over.

"This deal is the deal," said company spokeswoman Judy Sanchez.

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Associated Press writer Bill Kaczor contributed to this report from Tallahassee.

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## Everglades Bond Sale Not in Public Interest, Florida Court Told

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04/07/2010

Bloomberg News

Jerry Hart and Doris Bloodsworth

April 7 (Bloomberg) -- Florida's plan to borrow \$650 million to buy private land for restoring the Everglades, a 100-mile-long marshland at the state's southern tip, doesn't justify the taxpayer expense, opponents told the state Supreme Court.

The South Florida Water Management District wants to sell bonds to pay U.S. Sugar Corp. \$536 million for 72,500 acres (29,341 hectares) of central Florida farmland. Its agreement to lease the property back to the company doesn't constitute Everglades restoration, said Joseph Klock Jr., a lawyer for New Hope Sugar, a unit of Palm Beach-based Florida Crystals Corp.

"Their plan is to buy the land and figure out what to do with it later," Klock told the justices today in Tallahassee, the state capital. "They don't have a plan."

The district wants to return the area to its natural state to restore water flow to 1.4 million acres of wetlands to the south. The plan was scaled back twice since Governor Charlie Crist, a Republican running for the U.S. Senate, announced it in June 2008 as the economic recession hobbled state finances.

The current agreement would allow U.S. Sugar to continue to farm some of the acreage under a seven-year lease that may be extended. The water district would have a 10-year option to buy another 107,500 acres, which opponents argued would cost taxpayers money without achieving land restoration.

"All they're going to do is buy land and lease it back," said Dexter Lehtinen, a lawyer for the Miccosukee Tribe of Indians of Florida, whose ancestral home is the Everglades. "But there's going to be \$40 million of debt service."

### Taxpayer Money

The Miccosukee Tribe argued in its brief that the district is financially unable to meet the terms of the deal and closely held Florida Crystals says it gives an unfair advantage to a competitor at taxpayer expense.

"This is a bond issue that has not been approved by the voters," Klock told the justices. "They're asking you to approve \$536 million of taxpayer funds without their approval."

State Senator Paula Dockery, a Republican candidate for governor, opposes spending the money while the state faces a \$3.2 billion revenue gap in its 2011 budget.

"Continuing to pursue this purchase is not just fiscally irresponsible, it is nothing short of reckless," Dockery wrote to the water district last month.

Standard & Poor's, a bond-rating company, classifies Florida's credit outlook as "negative" because housing prices have collapsed and unemployment of 12.2 percent in February topped the national average of 9.7 percent.

### Left Over

The water district argued today that the U.S. Sugar acres were part of a larger effort in which not all land would be reclaimed.

"You buy land for the purposes of water restoration and as you design the projects you may have some left over," said Randall W. Hanna, the district's lawyer. "Buying this 72,000 acres is certainly in the public interest."

The Florida Audubon Society said the purchase has merit even if no immediate work is done.

"The value of the land lies in taking it out of production" eventually, said E. Thom Rumberger, a lawyer for the society.

"This acquisition provides the best and last chance for Everglades restoration."

Crist called his original plan to buy 187,000 U.S. Sugar acres for \$1.75 billion one of the largest environmental land deals in U.S. history. It was reduced to 180,000 acres for \$1.34 billion in November 2008 and to the current size in April 2009.

#### Ruling Appealed

The district sought to borrow \$2.2 billion even as the purchase was trimmed. That plan was blocked in August by Palm Beach County Circuit Judge Donald Hafele, who limited the amount to \$650 million. Today's hearing is an appeal of that ruling.

The land purchase received a potential setback last week when the federal judge ruled the district must proceed with a \$700 million reservoir-construction project that was put on hold while the U.S. Sugar deal was being negotiated.

Financing the reservoir and the land purchase together may strain the district's finances. A consultant said in February that any new debt service would add to projected deficits at the district of as much as \$110 million in each of the next two budget years. That might affect its credit rating, said Public Financial Management Inc., the Philadelphia-based adviser.

#### Real Estate

Debt sold by the district in 2006 for land purchases is rated AA+ by S&P, its second-highest grade. The \$546.1 million of bonds, called certificates of participation, are backed by a portion of property taxes in 16 counties from Orlando in the state's center, south to the Florida Keys. That revenue source is being hurt by falling real-estate prices, the adviser said.

"Future growth in taxable value will likely be muted," limiting the water district's ability to borrow, it said.

The Supreme Court has until its recess in July to rule on the U.S. Sugar purchase, said Klock. Water managers won't have to decide on selling debt until then, when economic conditions may have changed, Eric Buermann, chairman of the district's governing board, said in an interview last month.

The case is Miccosukee Tribe of Indians of Florida, etc. vs. South Florida Water Management District, etc., et al., Florida Supreme Court Case No. SC09-1817.

--Editors: Stacie Servetah, Pete Young

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## Three Battles Worth Winning

04/07/2010

Florida Sportsman - Online

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Let's look at the proverbial water glass as half full for the moment:

- \* A new assessment of Atlantic red snapper stocks surely will show abundance to be much higher than was divined in the suspect data leading to a total fishing closure.
- \* The state is moving forward with plans to purchase 72,800 acres of sugar and citrus holdings in order to help curtail over-drainage and horrendous pollution.
- \* The U.S. Environmental Protection Agency is drafting a rule to limit numerically the amount of nutrient pollution allowed in our waters, hopefully ending decades of failed promises and toothless rhetoric.

All three steps could have profound effects on our fishing future, and on the overall well-being of Florida.

First, a revised look at Atlantic red snapper populations, now being organized by the South Atlantic Fishery Management Council, is supposed to review the methods and findings by government scientists in "SEDAR 15," utilizing, we hope, fresh thinking.

The latest assessment, as you probably well know, claimed that the spawning potential ratio (percentage of fish compared to what it would be in an unfished state) is down to under 3 percent. The assessment was based on what many say were fanciful, totally unverified guesstimates of fish numbers from back in 1945.

Protests from persons on the water who report red snapper catches to be the best in memory obviously played a major role in ordering the new assessment.

While we worry that the science will be plagued by some of tainted apples from the first barrel, we think the new work will be more realistic and the onerous closure eventually lifted. Plus, the agonizingly messy red snapper scenario should have a positive effect on getting better research in the future.

Second, virtually all fisheries (even including red snapper) are influenced by the quality (or lack thereof) of estuaries, where fresh and salt water meet and mingle to form amazing cradles of life.

Sadly, the St. Lucie to the east and the Caloosahatchee to the west were transformed into agricultural sewers in order to drain, or overdrain, Big Sugar property just south of Lake Okeechobee. The hundreds of billions of gallons of polluted fresh water wiped out fundamental wildlife affecting thousands of species up and down the two coasts.

Now, in a stunning and complex development, U.S. Sugar Corp. is willing to sell its property at a reasonable price (\$7,000 an acre). This would allow a flowway that could restore much ground water and ultimately prevent much of the wasteful discharges to sea.

We're not thrilled by the prospect of sugar barons making more big bunches of money, but, you know, they'd have that equity either way now. Let's get on with it. The price will be looked back on as peanuts.

Third, a decision by the EPA to impose a clear-cut numeric limit on the amount of phosphorous and nitrogen dumped into the public's waters by agricultural and other sources is a long-overdue action.

What we might call the Pollution Establishment has ignored the public, the waters and wildlife for far too long, putting private profits ahead of the public good at every ring of the cash register.

So enjoy this quick view of a half-full glass of water. And be alert and active against self-serving compromises that will pop up just down the road.

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## High court could decide fate of ambitious plan to save River of Grass

04/08/2010  
Florida Tribune  
Ritchie, Bruce

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The future of Gov. Charlie Crist's ambitious plan to save the Everglades may be decided by the seven justices who sit across the street from the Capitol.

And on Wednesday morning the state Supreme Court did not give any clear signs on whether or not it will thwart Crist's plan to have the state purchase 73,000 acres of land now owned by U.S. Sugar.

Justices hammered both sides during the hour-long hearing and challenged the points made by supporters of the \$536 million deal, as well as the Miccosukee Tribe and rivals of U.S. Sugar who oppose the proposal.

"You have to agree there is some value in having this land south of Lake Okeechobee as, the evidence supported, in order to begin the restoration efforts coming south of Lake Okeechobee," Justice Barbara A. Pariente said. "That is part of their plan. You have to have the land first before you can go to the next step, don't you?"

But Dexter Lehtinen, representing the Miccosukee Tribe, said the district has no identifiable projects they are going to build on the U. S. Sugar land.

"If you are going to require my children to be paying for bonds 28 and 30 years from now, you have to have more -- according to the Florida Supreme Court and statute -- than pie in the sky plans," he said.

After the hearing, South Florida Water Management District Chairman Eric Buermann said the agency does have a "blueprint" for what it will do with the tracts of U. S. Sugar land that it plans to buy. But during the hearing, attorney Randy Hanna, representing the district, said issuing the "certificate of participation" bonds is legal under state law only because the purchase served the public purpose of water conservation.

But justices asked Hanna, who said more than 800,000 acres has been identified for eventual Everglades restoration, whether it was legal to transfer 3,000 acres to local governments for economic development.

"You may need substantially more than this property involves," Justice R. Fred Lewis said. "But if this project contemplates the transfer of most of it to somebody else as part of a plan, what is the standard? What's the standard?"

Hanna said only a minimal amount of the land may be transferred and that the standard is clear in state law. "The standard is, are you buying land for water treatment and storage?" he said.

Lehtinen, a former U.S. attorney, said after the hearing that ruling in the tribe's favor would kill the deal. Buermann said he's confident the Florida Supreme Court will rule in the district's favor, but he added that his agency is considering other financing means if the court rules against the deal or the bond market isn't favorable.

Another question, however, is whether or not the U.S. Sugar deal is in jeopardy for other reasons.

Last week, U.S. District Judge Frederico A. Moreno ordered the water management district to resume construction on an \$800-million reservoir in Palm Beach County that was part of an earlier court agreement involving Everglades restoration. Moreno's ruling was viewed by some as a fatal blow to the U.S. Sugar deal, which has become an issue in the race a U. S. Senate seat between Crist and former state House Speaker Marco Rubio.

Buermann said Tuesday that Moreno left a lot "wiggle room" in his order for the parties involved to work out a new agreement that includes the U. S. Sugar purchase.

The district believes that a cheaper water treatment marsh could be built in place of the more expensive reservoir if the parties can work out an agreement. Therefore, a favorable Supreme Court ruling is key to keeping the district's U. S. Sugar deal on track, Buermann said.

"There is more to the Moreno decision" than meets the eye," he said. "I don't view it as the death knell to the acquisition of U. S. Sugar. I think it is another factor we have to look at in the whole thing."

Sam Poole, a former district executive director and attorney who now represents U.S. Sugar-rival Florida Crystals, says a ruling Wednesday could be big depending on what the court says. He is not representing Florida Crystals before the Florida Supreme Court.

Poole says Moreno indicated that the district didn't have the money to proceed with both the reservoir and with land acquisition. The district could be held in contempt by Moreno if the U.S. Sugar bonds are approved by the Supreme Court and the district buys the land.

The current Everglades restoration plan "would be severely limited if the district were to go ahead with this purchase," Poole said.

Thom Rumberger, an attorney representing Audubon of Florida and the National Audubon Society, said the cases are separate and that a ruling by the Supreme Court validating the issuance of bonds is critical. A ruling against the district on Wednesday would bring a "solemn ending" to the attempt to purchase the U.S. Sugar land, he said.

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## Lumps in the Sugar Deal

04/08/2010

Island Sand Paper

Keri Hendry

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As season comes to end, many islanders are looking forward to slowing down a bit, maybe taking a day off or two and perhaps enjoying an idyllic afternoon of fishing or kayaking in our beautiful back bay. Right now, those waters are pristine and clear, the seagrass that cradles baby fish lush and healthy. However, with Lake Okeechobee already at 14.75 feet and the rainy season yet to come, that situation is likely to change. When the rains come and the lake gets too high, water managers have little choice other than to send most of that excess fresh water – laden with phosphorous and nitrogen – down the Caloosahatchee River or else risk breaking the dike on the lake's southern edge. It is a story that has happened time and time again, with the result being that the nutrient-laden water upsets the salinity balance and creates excess algae – smothering the seagrass beds and killing the fish.

Our water managers and legislators have been trying to find a solution for this. Storing the extra water in reservoirs or sending it to underground aquifers are ideas that have been put on the table. However, many scientists and conservationists argue that those so-called solutions are akin to putting a bandaid on a busted vein, and that the only way to really fix the problem is to restore the water flow south to the Everglades – the way the system ran for thousands of years until man intervened.

In 2008, the Sand Paper attended a two-day meeting where the South Florida Water Management District (SFWMD) made the historic decision to purchase all U.S. Sugar land - 180,00 acres for \$1.75 billion - to be used to store and treat water from Lake Okeechobee before sending it south to the Everglades – thus aiding in Everglades Restoration and solving the excess water problem at the same time (see Sand Paper Issue 410, December 19th, 2008). Since that time, Governor Crist has scaled back the purchase to 73,000 acres at \$536 million - or \$7,000 an acre.

However, opponents of the purchase claim that other Everglades Restoration projects will be sidelined while the District uses all the money to pay for the land, while some other sugar companies feel left out of the deal. Last week, two of these groups – the Miccosukee Indian Tribe and New Hope Sugar Company (an affiliate of U.S. Sugar rival Florida Crystals) got a federal judge to agree with them – at least partway – when Federico Moreno ruled that the A-1 Reservoir Project had to be resumed.

The A-1 project, began under then-Governor Jeb Bush, is a 25-square-mile reservoir which is the largest of its kind in the world. Work was halted in 2008 after water managers said a lawsuit from environmentalists could hinder their ability to complete the project.

One month later, the SFWMD voted to buy the U.S. Sugar lands.

"The court is now uncertain as to what role the downsized land purchase will play in Everglades restoration," Moreno wrote in his ruling. "Meanwhile, the projects devised years ago ... are waiting in standstill."

Agreeing with the the Miccosukee Indians - who live in the Everglades – that halting the reservoir project, "despite the best efforts of Governor Crist" would further pollute the tribe's land, Moreno granted their motion to force the SFWMD to resume construction of the massive reservoir at an estimated cost of up to \$800 million.

Wednesday morning, the Florida Supreme Court heard what could end up being an even bigger challenge to the land purchase when the Miccosukees, now united with Florida Crystals, argued that a previous court's decision to validate a \$650 million bond issue by the District benefits the private landowner selling the land and serves no public purpose, even questioning whether it's possible for the South Florida Water Management District to fund it and still be able to maintain its mission of flood control and water supply. In anticipation of this, last month the SFWMD voted to extend the deadline on the purchase until the end of September to allow the Florida Supreme Court to rule on the constitutionality of bonding for the purchase.

During the hearing, the court thoroughly questioned both the plaintiff and the defendant.

Justice Ricky Polston had issues with a provision in the deal that gives the SFWMD a three-year option to lock in the \$7,400-per-acre price to buy another 107,000 acres from U.S. Sugar.

Other justices seemed to disagree with the claim that the purchase serves no public good.

"Doesn't buying "a large section" of South Florida farmland "serve the purpose of the Everglades," asked Justice Barbara Pariente. "You got to have the land first before you can do something with it."

"The tribe doesn't believe in, 'I'm from the government, trust me,'" said Miccosukee Tribe attorney Dexter Lehtinen. "Land purchases alone accomplish nothing."

"We believe this land acquisition provides the best and last chance for significant Everglades restoration," said Thom Rumberger, an attorney representing Florida Audubon. "The purchase of the land itself has merit."

The Supreme Court must decide whether to uphold the ruling of Palm Beach County Circuit Court Judge Donald Hafele, who in August found in favor of the deal, saying that it "provides a public purpose that justifies allowing the South Florida Water Management District to borrow the money". If the Court does not find in favor of the District, then they will have to find a way to fund the buyout without borrowing the money, which will likely result in the purchase of a much smaller amount of land.

U.S. Sugar doesn't seem worried about the ruling.

"It is ironic that Florida Crystals' counsel would bring up ancient Chinese foot-binding while they are doing everything they can to cripple Everglades restoration," said Judy Sanchez, director of corporate communications. "We are confident that the Florida Supreme Court carefully will adhere to the letter of the law in their review of this case and confirm its important public purpose and approve bond validation, finally clearing the way for meaningful restoration."

Lee County Commissioner Ray Judah says that the claim that the land purchase serves no public purpose "couldn't be further from the truth".

"The reservoirs are not adequate because they have no filtration systems – no marshes – to clean the nitrogen and phosphorous from the water," he said.

Scientists and environmental leaders agree. In a conference call Tuesday, the Sand Paper discussed the importance of the land purchase with Tom Van Lent, Senior Scientist for the Everglades Foundation; Karl Wickstrom, Publisher of Florida Sportsman and founder of the Rivers Coalition (Florida's west coast); Kirk Fordham, CEO of the Everglades Foundation; Rae Ann Wessel, Natural Resources Policy Director for the Sanibel-Captiva Conservation Foundation and Vice-Chair of the Everglades Foundation, Nathaniel Reed.

"This (land purchase) is the only plan that works," said Van Lent.

"Last year, the tourism industry in Lee County brought in \$2.9 billion dollars," Fordham told us. "This depends on clean water. While everyone loves Everglades Restoration, the projects have been mere tourniquets up till now."

Nathaniel Reed and Rae Ann Wessel emphasized the importance of the land deal.

"It has been a dream of mine for 35 years to gain a foothold in the Everglades Agricultural Area," said Reed. "It was not possible to find a willing seller before because of the subsidies the sugar industry receives from the government."

"The loss of storage capacity in Lake Okeechobee has left us with 2.2 million less acre feet of storage area for water," said Wessel. "Now that water is forced into 2 systems – the St. Lucie and the Caloosahatchee Rivers. During the high water season of 2004-2006, the toxic algae blooms resulted in the loss of \$40 million to Lee County alone."

Florida Sportsman Publisher Wickstrom, a resident of St. Lucie County, said that the opponents' claim that the deal isn't affordable is just a myth.

"They may have to rearrange projects, but this will fit in the District's budget," he said. "The naysayers are connected with Florida Crystals. \$7,000 an acre is a good deal. The SFWMD brings in \$450 million a year in real estate taxes, and the payments for the land will be spread out over 45 to 50 years."

Fordham agreed, saying that it's the special interest groups who are making the 'no money' claim.

"This (land purchase) is the central component to all the restoration projects," he said.

When we asked about the A-1 Reservoir, Van Lent told us that it's not even going to connect to Lake Okeechobee.

"As a deep reservoir, it's a disaster," he said. "And there's no guarantee that that water is going to ever make it to the Everglades – it may be used for irrigation."

Eric Buermann is the Chairman of the South Florida Water Management District. He agrees with Wickstrom and Fordham, saying, "Last year, the lower court properly and thoughtfully ruled that the SFWMD met its legal requirements for issuing its financing, but special interests, mainly U.S. Sugar's longtime rival in the competitive sugar industry, appealed to the Florida Supreme Court."

"Indeed, if such land as U.S. Sugar's had been available when the current environmental restoration program was designed some 10 years ago, it would have been a showcase feature in lieu of certain existing components for providing storage and treatment."

Buermann went on to explain that the 73,000 acres is just the beginning of a vast land reclamation.

"The 73,000-acre acquisition under review is but the first phase of the 180,000-acre U.S. Sugar purchase to address these problems for South Florida. Water storage of this magnitude will significantly reduce freshwater releases into coastal estuaries and vastly improve water flow into the Everglades."

Buermann broke down how the initial 73,000 acres would be used:

"25,000 acres directly south of Lake Okeechobee for water storage and treatment; 20,000 acres for water treatment wetlands to improve water quality in an area south of the lake, where farm runoff pollution has been historically high;

10,000 acres to expand existing water treatment areas feeding the Loxahatchee National Wildlife Refuge; 10,000 acres near Lake Hicpochee to store and treat water - improving water quality flowing into the Caloosahatchee Estuary and 3,500 acres to store and treat water - significantly reducing the harmful effects of back-pumping polluted agricultural runoff into Lake Okeechobee."

The governor has often stated that he considers the purchase to be the cornerstone of a legacy of Everglades Restoration that he wants to leave to the citizens of Florida. However, in an election year where he faces harsh criticism from his own Republican party and fierce competition for a Senate seat from frontrunner Marcus Rubio, some say that the land purchase has become more of a political football than a restoration project. A political action committee that supports Rubio - Club for Growth Action – has been hammering Crist over the deal, comparing it to the "disastrous bailouts coming from Washington." It urges Floridians to "Tell Charlie Crist that taxpayers need his help more than U.S. Sugar."

But the fact remains that the Everglades has been dying for years from decades of intrusion from farms and development, which has effectively drained much of the swamp and polluted it with fertilizers and urban runoff. Any attempts by state and federal governments to restore the wetlands have been stymied by funding shortfalls, legal challenges and political bickering.

On March 2nd, the Army Corps of Engineers opened the floodgates from Lake Okeechobee and began a 21-day release of nutrient-laden water into the Caloosahatchee River. On March 27th, releases began into the St. Lucie River. Within one week's time, salinity levels there were already dropping.

Meanwhile, even though the SFWMD has requested an expedited ruling, it may take months before the Florida Supreme Court issues it.

"I can only hope that they uphold the previous ruling and appeal that favored the purchase," said Judah.

"Let's keep our fingers crossed."

Keri Hendry

## Florida Supreme Court Hears U S Sugar Buyout Challenge

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### Case

04/07/2010

News Service of Florida, The

Peltier, Michael

THE CAPITAL, TALLAHASSEE, APRIL 7, 2010... ..The controversy over a proposed \$536 million deal to purchase 73,000 acres of U.S. Sugar property for Everglades restoration landed in the Florida Supreme Court Wednesday as parties jostled over whether the project is worth the debt.

The state's highest court is being asked to determine if the South Florida Water Management District was justified in approving the sale of bonds for the project.

Lawyers for the Miccosukee Tribe and competitors including Florida Crystals say the parcel, reduced from its original footprint of more than 180,000 acres, is essentially a sweetheart deal for U.S. Sugar Co., which will still be allowed to farm much of the tract for years to come.

"U.S. Sugar knows what it's doing," Dexter Lehtinen, attorney for the tribe, told the Supreme Court.

Water management officials and environmentalists say the purchase is critical in efforts to substantially improve water quality in the River of Grass.

"We believe this land acquisition provides the best and last chance for significant Everglades restoration," said Thom Rumberger, an attorney representing Florida Audubon. "The purchase of the land itself has merit."

Gov. Charlie Crist announced plans in 2008 for the purchase of 180,000 acres of land from U.S. Sugar located south of Lake Okeechobee for more than \$1.3 billion in what would have been the largest land purchase in state history.

Economic realities, however, forced negotiators to downsize the project to 73,000 acres. Last year, the water management district voted to levy \$536 million in bonds to pay for it.

The Miccosukee challenged the new deal, saying the parcel no longer satisfies a requirement that it serve a public purpose because it's too small to substantially improve the region. If it doesn't, the water management district cannot float bonds to pay for it, Lehtinen argued. And there's no clear improvement project laid out anyway, the tribe says.

"The South Florida Water Management District fails to identify with any specificity any project they plan to carry out with the money raised," Lehtinen told the court.

Proponents of the sale say details of the effort will emerge as the state moves forward. First, the state has to buy the land.

"It's simple. We're buying 73,000 acres of very valuable land south of Lake Okeechobee and north of the Everglades," said Randy Hanna, representing the water management district. "It will be used for Everglades restoration and water storage."

The court's review is limited to the propriety of the bond sale, but other issues including a recent federal court ruling ordering water managers to continue work on a reservoir project stalled by the U.S. Sugar deal provide a larger backdrop.

In March, Chief U.S. District Judge Frederico Moreno ordered the state to restart an \$800 million reservoir project in the Everglades Agricultural Area that had been mothballed to free up funds for the U.S. Sugar deal. By his order, Moreno upheld a 2006 special master's ruling recommending the construction in response to a lawsuit by the Miccosukee Tribe.

"The court cannot allow members of the consent decree to abandon projects when new opportunities arise unless the property process is employed to amend those commitments," Moreno wrote.

Justices made no ruling Wednesday, but pressed Lehtinen during his presentation on what degree of specificity would be enough to allow the district to sell bonds paid for by property taxes levied on residents of the 16-county area.

"Doesn't the purchase of a large section of property ...serve the purpose of Everglades restoration just by having undeveloped land?," Justice Barbara Pariente asked.

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## **COLUMN: Sugar deal's sour politics; biggest critic has self-interest at heart**

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04/08/2010

Palm Beach Post

Engelhardt, Joel

In 2008, before Florida Crystals began to criticize the U.S. Sugar land deal, the company offered to be part of it.

The Fanjul-family owned, West Palm Beach-based company would have been happy to buy just about everything its rival owned: land, railroad, mill, refineries, warehouses — everything the water district didn't want for Everglades restoration. Florida Crystals even put its price in writing: \$250 million to \$350 million. The South Florida Water Management District had agreed to pay five times as much — \$1.75 billion — for those assets.

Some would argue that the disparity is proof that government pays too much for land. Others might conclude that Florida Crystals' bid was about as realistic as suggesting to a young Bill Gates that he sell that new operating system he called MS-DOS for \$50,000.

When Florida Crystals made its offer, just four months after Gov. Crist announced the deal, swapping unwanted U.S. Sugar land for ideally located Florida Crystals land could have made all sides happy. U.S. Sugar would exit the sugar business at a more than fair price. Florida Crystals would get the best muck land for growing sugar and take over its biggest rival. Water managers would control the missing piece of the Everglades puzzle: enough land to store so much water during wet times that some could flow to the Everglades during dry times.

It was the negotiations, however, that became waterlogged. What followed were court fights, political grandstanding, competing development schemes and a campaign to portray the most cost-effective approach to saving the Everglades as a scandalous waste of taxpayer money.

On Oct. 16, 2008, as part of secret negotiations, Florida Crystals put its proposal in writing. It remained confidential, its existence denied, until this year. Here's how Florida Crystals spokesman Gaston Cantens characterized those talks: "We were getting the run-around." Here's how U.S. Sugar spokeswoman Judy Sanchez saw them: "They tried to buy the Hope diamond at cubic zirconia prices."

Florida Crystals maintains that it never got a response to its low-ball bid. Instead, the state tweaked its deal with U.S. Sugar, cutting the price to \$1.3 billion and leaving U.S. Sugar in position to continue farming.

In December 2008, with the water district set to approve the amended deal, a Florida Crystals contingent met with Gov. Crist to say that the company would oppose the deal. The governor grabbed his cellphone, said Mr. Cantens, a former state legislator who was in the meeting, and said: "Where have you been for six months? Why didn't you call me?"

Mr. Cantens said the governor's response shocked him because he had watched in October as his company's written offer had been handed to the governor.

The low bid carried no water. U.S. Sugar now says Florida Crystals used the negotiations to demand secret information about its operations. "We wouldn't turn over trade secrets for feelers," Ms. Sanchez said. "They convinced themselves that U.S. Sugar was on the verge of disaster, and they could get a hold of our assets for pennies on the dollar. We were not interested in fire-sale negotiations."

The negotiating failure leaves water managers with only about half the land they need for water storage. The rest belongs to Florida Crystals. The district's sole bargaining chip is control of fertile U.S. Sugar land that Florida Crystals covets.

With stakes so high, it's not surprising that Florida Crystals has established itself as the deal's biggest critic. The deal can't move forward until the Florida Supreme Court rules on a case it heard Wednesday. If Crystals can stall until Gov. Crist is out of office in November, the deal may collapse.

Florida Crystals would like its low-ball offer to be the only offer. To eliminate that option, however, the district must consummate the deal.

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## Top Florida court mulling Everglades debt deal

04/08/2010

Reuters Television

By Michael Peltier

Reuters

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Florida's top court has taken on a high-stakes environmental dispute over a proposed \$536 million deal between the state and U.S. Sugar Corp to purchase 73,000 acres of farmland for Everglades restoration.

Lawyers on Wednesday asked the Florida Supreme Court to determine if the South Florida Water Management District was justified in approving the sale of bonds to buy the land when it signed off on the historic deal in 2009.

In oral arguments, attorneys for the Miccosukee Tribe living near the Everglades and U.S. Sugar competitors say the parcel, reduced from an original footprint of more than 180,000 acres, is a sweetheart deal that will allow U.S. Sugar to farm much of the tract for years to come.

Water management officials and environmentalists discount that argument, calling the purchase critical to efforts to substantially improve water quality in the Everglades as part of a sweeping effort to revive the "River of Grass" ecosystem.

"We believe this land acquisition provides the best and last chance for significant Everglades restoration," said Thom Rumberger, an attorney representing Florida Audubon. "The purchase of the land itself has merit."

Gov. Charlie Crist, a Republican, announced plans in 2008 to purchase from U.S. Sugar 180,000 acres south of Lake Okeechobee for more than \$1.3 billion in what would have been the largest land purchase in state history.

The severe U.S. recession that stung Florida especially hard and other economic headwinds, however, forced negotiators to downsize to 73,000 acres. Last year, the water management district voted to levy \$536 million in bonds to pay for it.

The Miccosukees challenged the new deal, saying the parcel no longer satisfies a requirement that it serve a public purpose. If the deal does not meet that standard, the water management district cannot float bonds to pay for it.

The court's review is limited to the propriety of the bond sale, but other issues, including a recent federal court ruling ordering water managers to continue work on a reservoir project stalled by the U.S. Sugar deal, provide a larger backdrop.

In March, Chief U.S. District Judge Frederico Moreno ordered the state to restart an \$800 million reservoir project in the Everglades Agricultural Area mothballed to free up funds for the U.S. Sugar deal. By his order, Moreno upheld a 2006 special master's ruling recommending the construction in response to a lawsuit by the Miccosukee Tribe.

The Florida justices made no ruling Wednesday and may issue a decision at any time.

(Additional reporting by Michael Connor in Miami; Editing by Padraic Cassidy)

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## Florida Supreme Court raises its own questions about Everglades land deal

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Sun Sentinel - Online

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After nearly two years of political fights and legal battles over Gov. Charlie Crist's Everglades-restoration land deal, the Florida Supreme Court now decides whether the public benefit is worth the cost to South Florida taxpayers.

Supporters and opponents of Crist's \$536 million bid to buy 73,000 acres from U.S. Sugar Corp. argued their sides Wednesday morning before the Florida Supreme Court.

Opponents, led by the Miccosukee Tribe and U.S. Sugar rival Florida Crystals, maintain that \$536 million costs taxpayers too much and takes money away from already overdue Everglades-restoration projects.

Miccosukee Attorney Dexter Lehtinen hammered the South Florida Water Management District for having no specific plan for, or ability to pay for, the construction of reservoirs and treatment areas proposed for the U.S. Sugar land.

"The tribe doesn't believe in, 'I'm from the government, trust me,'" Lehtinen told the Supreme Court justices. Later he said, "Land purchases alone accomplish nothing."

Proponents of the deal contend it offers a historic opportunity to acquire strategically located farmland long unavailable to Everglades restoration. They say plans are in the works to use the property to build a series of reservoirs and treatment areas to restore water flows from Lake Okeechobee to the Everglades.

"This land acquisition provides the best and last chance for significant Everglades restoration," attorney Thom Rumberger, representing Audubon of Florida, told the justices. "It's an essential part of Everglades restoration."

The Supreme Court must decide whether to uphold the ruling of Palm Beach County Circuit Court Judge Donald Hafele, who in August found that the deal provides a public purpose that justifies allowing the South Florida Water Management District to borrow the money.

As proposed, the district would be able to borrow up to \$650 million to buy the 73,000 acres and cover other costs, with South Florida property taxpayers paying off the long term debt.

On Wednesday, Supreme Court justices peppered both sides with questions.

They justices questioned the deal's proponents about plans to use tax money to buy the land and then potentially sell or trade some of it to cobble together other restoration land deals.

"Where does that stop?" Justice Fred Lewis asked.

Chief Justice Peggy Quince called it a potential "payoff" to provide 3,000 acres of U.S. Sugar land to Glades communities that had objected to the land deal because of the expected loss of agricultural jobs.

Justice Ricky Polston questioned the cost and enforceability of a provision in the U.S. Sugar contract that gives the water management district a three-year option to lock in the \$7,400-per-acre price to buy another 107,000 acres from U.S. Sugar.

That provision is estimated to have added \$50 million to the cost of the 73,000-acre deal.

Justices also questioned the opponents' contention that land deal serves no public purpose.

"In general the project is the Everglades restoration," Quince said. "I think that was laid out. ? Why isn't that a public purpose?"

Doesn't buying "a large section" of South Florida farmland "serve the purpose of the Everglades," asked Justice Barbara Pariente.

"You got to have the land first before you can do something with it," Pariente said.

The Water Management District has asked the Supreme Court for an expedited ruling, but when that ruling comes is up to the justices.

The district last month agreed to extend a key contract deadline with U.S. Sugar until Sept. 30 to allow time for the Supreme Court ruling.

If the Supreme Court endorses the financing plan, the district still has to find a lender. A provision in the deal allows the district to walk away if its board, appointed by the governor, determines that the cost of buying the 73,000 acres would hamper the agency's core duties of overseeing water supplies and guarding against flooding. If the Supreme

Court rejects the financing plan, the district could rework the deal to try to afford it without having to borrow the money. That likely would include reducing the amount of land bought.

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## **BLOG: Supreme Court speculation begins over Everglades land deal**

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04/07/2010

Sun Sentinel - Online

Reid, Andy

Let the tea leaf reading begin.

The Florida Supreme Court on Wednesday waded into the nearly two-year political fight over Gov. Charlie Crist's high-priced Everglades restoration land deal.

Those for and against the \$536-million, 73,000-acre land deal with U.S. Sugar Corp. on Wednesday argued their case before the state's highest court. The court is being asked to decide whether the public benefit of the deal is worth the cost to South Florida taxpayers.

A ruling from the court could be weeks or even months away, but each comment or question from the Supreme Court at the hearing Wednesday is already being dissected to see which way the court could be leaning.

"It's very hard to predict," said long-time attorney Thom Rumberger, who represented Audubon of Florida before the Supreme Court on Wednesday.

At a Supreme Court hearing, attorneys for each side have short periods of time to make their arguments and the justices can jump in with questions as they please.

During Wednesday's hour-long hearing, both sides were peppered with questions about the cost of the deal and the fight over whether it serves a "public purpose." Justices also asked about disputed terms of the deal including potential land swaps and a \$50 million option to freeze the per-acre price for three years to buy another 107,000 acres from U.S. Sugar.

While some of those questions seemed critical of the proposed land deal, a question from Chief Justice Peggy Quince was among the comments that buoyed the hopes of the deal's supporters.

"In general the project is the Everglades restoration," Quince said to the opponents. "I think that was laid out. ... Why isn't that a public purpose?"

Crist's plan calls for buying 73,000 acres of U.S. Sugar farmland that would be used to build reservoirs and treatment areas to restore water flows from Lake Okeechobee to the Everglades.

Supporters, including Audubon and other prominent environmental groups, maintain that Crist's plan to buy 73,000 acres from U.S. Sugar offers a historic opportunity to acquire strategically located farmland long unavailable to Everglades restoration.

Opponents, led by the Miccosukee Tribe and U.S. Sugar rival Florida Crystals, contend that the \$536 million deal costs taxpayers too much and takes money away from already overdue Everglades restoration projects.

Those in attendance at Wednesday's Supreme Court hearing included Florida Department of Environmental Protection Secretary Mike Sole, who helped lead negotiations of the U.S. Sugar deal. Also attending was a large contingent of officials from the South Florida Water Management District, which would be the agency purchasing the U.S. Sugar land.

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## Opponents challenge Everglades land deal

04/07/2010

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Tampa Tribune - Online

TALLAHASSEE - A half-billion-dollar deal aimed at buying farmland in the Everglades to help the ailing ecosystem should be rejected because it serves no public purpose and will only delay restoration further, an attorney argued today before Florida's Supreme Court.

"Land purchases alone accomplish nothing," Dexter Lehtinen, a lawyer representing the Miccosukee Indians living in the Everglades, argued before the justices in Tallahassee.

Republican Gov. Charlie Crist wants the state to pay \$536 million to U.S. Sugar Corp. for 73,000 acres of the company's holdings in the Everglades. Crist has called it a "once in a lifetime" opportunity to buy back key land long used in agricultural production.

The Miccosukee and U.S. Sugar's main rival, Florida Crystals, however, say the deal is a waste of taxpayer money.

They argue that the South Florida Water Management District, which oversees Everglades restoration, has no specific restoration plans in place for the land, which will only be bought, then leased back to U.S. Sugar at a nominal rate until construction projects are developed.

The state says it plans to build reservoirs and treatment marshes on the land to help restore some natural flow and clean pollutants from urban runoff and fertilizers in the water before it flows south into the remainder of the Everglades.

"As complicated and convoluted as the appellants want to make this case, it's very simple," argued water district attorney Randall Hanna. "What we're doing here is we're buying land for Everglades restoration."

The tribe and Florida Crystals want the court to reject a state bid to issue bonds to pay for the purchase. They argue that without specific plans for the land, any deal would pad the pockets of executives at the nation's largest cane sugar producer at the expense of taxpayers.

"Their plan is to buy the land and figure out what they're going to do with it later," argued Joseph Klock, an attorney representing U.S. Sugar rivals, who also claims the leaseback option in the deal will give its competitor an unfair advantage.

The justices peppered attorneys with questions about why the state must have more detailed plans for the land to consider the purchase a benefit to the public.

"How specific does the plan have to be? Do we have to have every detail outlined before we can say, 'Yes, you can begin to acquire this land?'" asked Chief Justice Peggy A. Quince.

Lehtinen argued that not enough specifics have been provided under Florida law.

"There is no proposed project," he said. "They commit to nothing."

The proposal has been supported by environmental groups as key to putting long-stalled restoration back on track.

"We believe this land acquisition provides the best and last chance for significant Everglades restoration," argued attorney E. Thom Rumberger on behalf of the Florida Audubon Society.

The Everglades have been dying for decades. Burgeoning farms and development have effectively drained and polluted much of the swamp, long dissected by dikes, dams and canals.

The state and federal governments' efforts to restore the wetlands have been stymied for years by funding shortfalls, legal challenges and political bickering.

The U.S. Sugar deal has already been cut by more than half from the initial plan announced in 2008, when Crist proposed buying out the company holdings altogether in a \$1.75 billion purchase for all its 180,000 acres and assets.

Meanwhile, U.S. Sugar says it's done negotiating with the state. If this deal falls through, it's over.

"This deal is the deal," said company spokeswoman Judy Sanchez.

