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Former U.S. Attorney Lehtinen steps down as Miccosukee Everglades lawyer

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05/15/2010

Palm Beach Post

Stapleton, Christine

For more than 20 years, former U.S. Attorney Dexter Lehtinen and the Miccosukee Tribe have made a formidable team in pushing for the cleanup of the Everglades.

On Thursday, they broke up, with Lehtinen filing court documents late in the day that said he was withdrawing from representing the tribe "for reasons unrelated to Everglades matters."

Lehtinen also wrote, "The Tribe is expected to litigate as aggressively as previously, and tribal positions remain unchanged," but other advocates for the Everglades said the split was not good for their cause.

"We're a small group and without Dexter and resources and energy of the Tribe and their consultants, it's going to be very difficult," said John Childe, attorney for The Friends of the Everglades. "Not many people have a handle on all the issues as Dexter."

The government agencies targeted in the relentless litigation were cautiously hopeful about Lehtinen's departure. That news coupled with the recent election of a new tribal Chairman could signal a change in the Tribe's priorities: spend less on lawyers and more on expanding its gambling operation.

Unlike the Seminole Tribe, which has over 3,000 members and operates the Seminole Hard Rock Casino in Fort Lauderdale, the Miccosukee Tribe has only 650 members, and operates a small resort and casino on the southeastern edge of the Everglades. Earlier this year Colley Billie, a poker manager at the casino, narrowly defeated Chairman Billy Cypress, a longtime supporter of the costly litigation.

Last month Eric Buermann, chairman of the South Florida Water Management District, met with Billie. The one-hour meeting between the legal adversaries turned into a three-hour meeting. Lehtinen was not invited.

"The position the Miccosukee have taken over the years is 'take no prisoners,'" Buermann said. "We're trying to forge

some kind of working relationship and he seemed very interested in that. I think there may be an opportunity here for working better together."

Lehtinen, who grew up near the Everglades, is considered a legal renegade who launched the Everglades restoration with a novel lawsuit he filed in 1988. As U.S. Attorney General for the Southern District of Florida, Lehtinen sued Florida for violating its own water quality standards and damaging federal property - the Everglades National Park. In 1992 he left the U.S. Attorney's Office and began representing the Tribe.

Besides his encyclopedic knowledge of its history, science and legal wranglings of the Everglades, Lehtinen's political connections and clout are widely known and respected. During the 1980s he was elected to the Florida House of Representatives and then the Florida Senate. He is married to U.S. Rep. Ileana Ros-Lehtinen, who represents parts of Miami-Dade and Monroe counties.

Lehtinen's split with the Tribe comes after two of his biggest victories. Last month two frustrated federal judges sided with the Tribe's claim that state and federal agencies failed to enforce nutrient limits in waters flowing into the Everglades and had deliberately delayed cleanup efforts.

One judge ordered the District to resume construction of an \$800 million, city-size reservoir in the cane fields south of Lake Okeechobee, despite the District's decision to cancel the project to free up money to buy U.S. Sugar land for the restoration.

The other judge wrote a scathing order demanding Lisa Jackson, the administrator of the Environmental Protection Agency, and Mike Sole, the secretary of the Florida Department of Environmental Protection, personally appear in his Miami courtroom in October to explain why the agencies have failed to enforce the Clean Water Act.

Both the District and DEP will challenge those rulings in court. Those challenges, coupled with the steep learning curve for the Tribe's new attorney, Sonia O'Donnell - a former law partner of Lehtinen - will likely delay the litigation - and the restoration.

"I really thing that it can't help but slow down the process," said David Guest, attorney for EarthJustice, an organization involved in the Everglades lawsuits. "You have to remember, we the people who are trying to restore the Everglades will never give up."

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Swartz: Dead oysters in St. Lucie River, water managers have no answers

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05/15/2010

Palm Beach Post

Swartz, Sally

Last Wednesday was a bad public relations day for South Florida Water Management District board members, who met in Stuart instead of West Palm Beach.

They made residents wait to speak. They laughed through a wonky computer game their staff created to prove that deciding where to dump dirty Lake Okeechobee water isn't easy. After 44 days of dumping, Treasure Coast residents find no humor in brown water, dead oysters and "hazardous bacteria" signs warning people away from the St. Lucie River.

Things improved Thursday. Board member Kevin Powers, a Martin County native, asked for public comments earlier. Chairman Eric Buermann apologized for the inappropriate laughter. He even applauded some of the residents who yelled at the board, and many in the crowd of 150 at Blake Library chose to yell.

Martin County Commission Chairman Doug Smith showed stunning aerial photos of dark brown water creeping onto an offshore reef and Hobe Sound beaches. St. Lucie County Commission Charles Grande urged the board to enforce clean water rules on factory dairy farms north of the lake and use dead citrus farms as water holding areas.

Col. Alfred Pantano, the U.S. Army Corps of Engineers' latest Florida chief, turned to face residents, saying, "I want to look you in the eye." His bad news: After all the dumping this spring, the lake is nearly at 15 feet, almost 3 feet higher

than it should be going into hurricane season. Water must drop so the leaky, 80-year-old dike won't break. More dumping lies ahead, and the St. Lucie River will get hit again.

Residents cheered Commissioner Sarah Heard, who urged board members to stand on the St. Lucie lock and watch dirty water pour into the river: "If you haven't done that, this is just an intellectual exercise for you. It's devastating." Snook Nook owner Henry Caimotto, who in 1998 got 30,000 signatures on petitions demanding river cleanup, ran out of time before he finished briefing the board on local river protest history. The crowd shouted, "Let him talk!"

Dr. Grant Gilmore, former Harbor Branch Oceanographic Institution scientist, said the St. Lucie estuary is spawning ground for grouper, tarpon, bonefish, snook and other fish that travel on to the Chesapeake Bay, and to the Florida Keys and the west coast. Dumping, he said, has disrupted the spawning season.

Board member Shannon Estenoz is "astounded at the level of expertise" residents have. She pledged that the board will continue to support the purchase of U.S. Sugar land south of the lake to store and clean water, which would relieve pressure on the rivers. "Don't view us as the enemy," Mr. Buermann said. "We're trying to get things done. Powerful forces in the state are not happy with us."

These board members were the first to show up in person when dumping has fouled the river. But Treasure Coast residents face a summer of more dirty water, sick fish, disappearing birds and departing tourists. And, once again, no one could answer Mr. Caimotto's question: "When are we going to see some action?"

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MICCOSUKEE TRIBE Tribe drops Glades legal warrior

05/15/2010

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The Miccosukee Tribe brings a surprising end to attorney Dexter Lehtinen's two-decade career of blasting bureaucrats over delays in cleaning up Everglades pollution.

Dexter Lehtinen , at the forefront of Everglades legal battles for more than two decades, was coming off two big federal court victories in the last two months.

That made the latest legal move by the longtime attorney for the Miccosukee Tribe all the more shocking. Lehtinen filed notice late Thursday that he was withdrawing from both cases -- a surprising end to his high-profile role as one of the most influential, combative and litigious forces driving efforts to clean up Everglades pollution.

Lehtinen, citing client confidentiality, would not go into details behind the tribe's decision to sever relations but stressed `` it was for matters unrelated to Everglades matters."

He said he expected the tribe, which will now be represented by Miami attorney Sonia O'Donnell , not to change its positions or aggressive legal posture.

He didn't expect to return to court on Glades issues himself, though he would not rule out some future role with other groups.

`` I don't intend to disappear from the Everglades," said Lehtinen, who grew up in Miami hunting and fishing in a wilderness that was once much larger and healthier.

Lehtinen's legacy in Everglades restoration dates to 1988 when, as a U.S. Attorney freshly appointed by Ronald Reagan , he hauled the state of Florida into federal court for allowing sugar farms to pollute the Everglades with fertilizer runoff.

Three years later, the state settled after then Gov. Lawton Chiles shocked his legal team by announcing he wanted to surrender `` his sword."

PROGRESS

The landmark case launched a \$1 billion-plus network of pollution treatment marshes that have dramatically reduced pollution flows but remain short of the pristine standards required for the Everglades.

Lehtinen, who also served as a state senator, later became the counsel to the Miccosukee, whose members live in the Glades. With the backing of then-chairman Billy Cypress , Lehtinen made the tribe a force in restoration debates.

He policed the cleanup with at least two dozen lawsuits over pumping stations pouring polluted water to the Everglades and Lake Okeechobee, state efforts to weaken water quality standard and push back cleanup deadlines and other issues.

Water managers and federal agencies, the target of Lehtinen's often blistering attacks, declined comment.

Environmentalists had a love-hate relationship with the often bombastic attorney, happy when his suits won pledges of more projects or money but angry when others delayed what they wanted -- from the overhaul of the Tamiami Trail to Gov. Charlie Crist's controversial deal to pay the U.S. Sugar Corp \$536 million for 72,800 acres of citrus groves and sugar fields.

Lehtinen became a leading critic of the land buy, calling it a corporate bailout that could delay Everglades restoration for decades.

Kirk Fordham , executive director of the Everglades Foundation , a major backer of the U.S. Sugar deal, said it was too early to tell how Lehtinen's exit might alter the Glades legal landscape. ``I don't think we know anything about what this means yet, good or bad," he said.

Tribe leadership changed earlier this year, with a new chairman, Colley Billie, replacing longtime chair Billy Cypress , who was ousted in an election. Neither Billie nor tribe attorneys returned calls.

Lehtinen refused to discuss whether tribal politics played a role in his ouster, saying only ``I hold no hostility toward the Miccosukee."

The tribe was his firm's primary client, however, and the move cost several attorneys their jobs.

Lehtinen praised the selection of O'Donnell, who worked with him previously in the U.S. Attorney's Office and in private practice, and is now a partner with the firm Jordan Burt . O'Donnell, who has previously represented the tribe in water quality lawsuits, did not respond to a call and e-mail.

FAVORABLE RULINGS

In the last two months, two Miami federal judges sided with the tribe in rulings that found state and federal agencies had delayed cleanup efforts and watered down pollution standards.

The back-to-back orders could produce significant ripple effects -- from potentially derailing Crist's controversial sugar land buy to hitting farmers with tougher fertilizer rules to forcing the state to again expand its pollution treatment marshes.

Lehtinen said he was proud of his work setting the agenda of Glades restoration -- and not all that upset it was ending.

At 65, he said, he'd like a break to spend more time with his wife, U.S. Rep. Ileana Ros-Lehtinen , a Miami Republican, and family. And he is going out with two wins to savor.

``This is a good time," he said.

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Army Corps Col. faces angry Stuart audience

05/14/2010

WPTV-TV

Brian Garner

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STUART, FL -- The locks opened in late March, sending millions of gallons of water rushing out of Lake Okeechobee and into the St. Lucie Estuary, upsetting its delicate salt water balance and polluting it with fertilizers and other runoff.

Residents of Martin County say they're disgusted at the results.

"And now the water is toxic," said Martin County commissioner Sarah Heard during the public comment portion of the South Florida Water Management meeting in Stuart Thursday.

"You dump on us what no one else wanted and what no one else would take," said Stuart resident Bob Ernst. "Shame, shame, shame..."

In the past year, taxpayers invested \$4 million placing oyster beds in the St. Lucie Estuary, a federal stimulus project aimed at cleaning the river.

Biologists say the flood of lake water has effectively killed most of the new oysters that tried to grow there.

The releases have also added dangerous bacteria to the river and resulted in the health department warning residents to stay out of the water.

"I'm responsible. You want to put a face to what happened in the estuary. I'm responsible," said Colonel Al Pantano of the U.S. Army Corps of Engineers.

Col. Pantano heads up the Army Corps in Florida. Thursday, at the local water management meeting in Stuart, he became a target for an angry crowd.

"I've seen it. I've seen the brown soupy water and I know what it's doing," he said.

He said the region has received nearly twice the average rainfall in April, the lake level is higher than it should be, and with an active hurricane season predicted, he has no choice but to release water to prevent future flooding around the lake.

"I want you to understand how difficult it is to get water out of the lake. It comes in 6 times faster than we can discharge it," he said.

But the biologists, fishermen and environmentalists in the audience have heard the same story for decades. They say until the government gets serious about sending lake water south into the Everglades and sugar farms, the St. Lucie Estuary will continue to suffer.

"Our expectations are extremely simple. We want you to stop killing our fish, stop killing our oysters and making conditions on the river making the health department put up signs on the river saying our kids can't go in," said Martin Co. resident Jay Hanan.

Col. Pantano said the releases will have to continue at least another 40 days to reduce the lake level by one foot.

The solution that many of the locals in the audience favor - sending lake water south into the Everglades - is in the hands of the Florida Supreme Court, which will weigh in on the state's deal to purchase land from U.S. Sugar.

Storm season brings risk of increased flooding in South Florida

05/13/2010

Sun Sentinel

Reid, Andy

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After three years of irrigation cutbacks, amid on-again-off-again drought, South Florida heads into this rainy season bracing for too much water with too few places to put it.

What may be good news for lawns raises flood-control concerns reaching from Lake Okeechobee's suspect dike to South Florida neighborhoods built on what used to be the Everglades.

While still preaching conservation through new year-round watering rules, South Florida water managers now are draining more stormwater out to sea to get ready for the daily routine of summer showers, and forecasts are getting ready for a busier than average hurricane season.

South Florida typically gets 52 inches of rain a year, more than Seattle. A rainier than normal start to 2010 already generated an average of 16.09 inches from Orlando to the Keys. That's about 5 inches above normal, before the summer rainy season has even officially begun.

The South Florida Water Management District relies on a vast system of pumps, culverts and 2,600 miles of canals and levees to guard against flooding on farms and towns built on former wetlands.

But with such a steady soaking so early in the year, one big summer storm could put South Florida roads underwater and threaten homes with flooding, according to the district.

"We cannot match Mother Nature, no matter what we do," said Alex Damian, who helps lead flood-control response for the water management district.

Water management officials met in Stuart on Wednesday to discuss the state of South Florida's flood-control system and the implications of heavier than usual rainfall.

Early forecasts call for 15 named tropical storms this hurricane season, with eight becoming hurricanes. The water management district plans to hold a hurricane readiness drill on June 2, coordinating potential responses with emergency agencies across South Florida.

This year, the ecological implications of the growing oil spill in the Gulf of Mexico are adding to South Florida's storm season woes. Water management district representatives are coordinating with state and federal officials to brace for worst-case scenarios of the oil potentially heading to Florida.

"Going into the tropical season, it could change course [and] we have to be ready," said Doug Bass, district director of safety, security and emergency management.

The rainy start to 2010 already has South Florida canals and retention ponds brimming, with the once-parched ground growing saturated.

Lake Okeechobee, South Florida's key backup water supply, has been creeping closer to levels considered unsafe for the aging earthen dike relied on to protect lakeside communities from flooding.

As a result, the Army Corps of Engineers has been dumping Lake Okeechobee water out to sea — dumping it west through the Caloosahatchee River and east through the St. Lucie River.

Aside from wasting water that could be used when dry weather inevitably returns, dumping water from Lake Okeechobee in such large quantities hurts the environmental health of coastal estuaries. The lake discharges bring an influx of pollutants and throws off the delicate mix of salt and fresh water, killing off sea grass and oyster beds and damaging fishing grounds.

"We are trading something off for something else," said Shannon Estenoz, who represents Broward County on the water management district's appointed, nine-member governing board. "It's the ecosystem that takes it in the teeth."

The Army Corps of Engineers tries to keep Lake Okeechobee between 12.5 and 15.5 feet above sea level. That is intended to protect the environmental health of the lake, but also to ease the strain on the Herbert Hoover Dike, which is considered one of the six in the country most at risk of a breach.

On Wednesday, the lake measured 14.92 feet, a point typically expected midway through the summer rainy season, said Luis Alejandro, Lake Okeechobee basin manager for the Army Corps. With the dike still in the midst of a decades-long rehab, more lake discharges out to sea are expected.

"As the lake level rises, the concern about the Herbert Hoover Dike rises as well," Alejandro said.

District officials contend that the long-term solution to Lake Okeechobee discharges and South Florida's water supply needs is building more reservoirs and water treatment areas to hold onto, clean up and use stormwater.

The district is in the middle of trying to complete a \$536 million deal to buy 73,000 acres from U.S. Sugar Corp. that would be used to build reservoirs and treatment areas for Everglades restoration.

Yet, in the push to try land the U.S. Sugar deal, the district stopped construction on a massive reservoir in western Palm Beach County that already cost taxpayers almost \$280 million and was scheduled for completion this year until getting shelved.

More waiting for water supply solutions infuriates Vivian Smith, who lives along the water in Jensen Beach, where Lake Okeechobee discharges are fouling her fishing grounds.

Smith, 54, said South Florida officials have been having the same water supply debates for decades and it's time for them to stop "whining" and take action.

She sat through most of Wednesday's daylong meeting in Stuart, waiting for her chance to tell officials about how the clear waterways she remembers fishing as a teenager now can't be trusted because of polluting discharges from Lake Okeechobee.

But the district's board didn't take comments from the public until about 4 p.m., and that was about two hours after Smith stormed out in frustration.

"The same excuses over and over again," Smith said in the parking lot. "They don't care."

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