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Judge denies tribe's motion on Glades reservoir

08/14/2008
Miami Herald - Online
CURTIS MORGAN

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Calling the possibility to "buy out the polluters" the most logical solution to cleaning up Everglades pollution, a federal judge won't force work to resume on a stalled reservoir state water managers say could jeopardize financing of the U.S. Sugar buyout.

Chief U.S. District Judge Federico Moreno late Wednesday denied a motion filed by the Miccosukee Tribe asking him to order work to continue on a partially completed \$700 million basin once considered a key Everglades restoration project.

But the judge, who heard arguments from the tribe, water managers and environmental groups in his Miami courtroom on Monday, also warned that if the land acquisition didn't happen in a "reasonable amount of time," he would immediately revisit the tribe's request.

"The court has reservations about again choosing the easy path of inactivity in this case," Moreno wrote in a three-page ruling. "If the prime movers responsible for environmental remediation could simply suspend or cancel projects that they have committed to construct every time they were offered a 'better deal' with more potential for long-term improvement, the environment would likely be doomed."

The South Florida Water Management District first halted the massive 25-square-mile reservoir in western Palm Beach County in May, citing the uncertainty posed by a pending lawsuit by environmental groups.

In Monday's hearing, lawyers for the district, state and some of the state's largest environmental groups urged the judge not to step in. They argued that the proposal to buy 187,000 acres of sugar fields, announced in June, could be the key to resolving many of the Everglades' chronic pollution and water supply problems and could make the reservoir, at least in its current location, obsolete.

More critically, they argued, spending another \$300 million on the reservoir's next phase could threaten the district's ability to secure bonds to finance the proposed \$1.75 billion purchase of the nation's largest sugar grower.

Dexter Lehtinen, the tribe's attorney, had called the land buy the latest state "excuse" to delay deadlines for cleaning up pollution damaging the Everglades. He argued the deal could push back the reservoir and other projects to restore the flow of clean water back 15 years or more.

The court has already allowed the deadline to be pushed back several times at the request of the state. Though the state has spent nearly \$2 billion to improve water quality, its network of treatment marshes have yet to meet the super-low levels considered critical for restoring the Everglades.

Moreno, who oversees cleanup efforts under a 20-year-old lawsuit that forced Florida to reduce pollution flowing in the Everglades, expressed "sympathy" for the tribe's views. But he noted the tribe's motion was supported by only one environmental group, Friends of the Everglades, and opposed by six others.

Moreno wrote that he wanted to wait to see the outcome of the U.

S. Sugar negotiations and the previous reservoir lawsuit before reconsidering the tribe's motion.

"The court cannot ignore the potential for monumental environmental improvement that the land acquisition would offer, even if actual returns are not realized until many years down the road," Moreno wrote. "Delay may indeed be the enemy of the Everglades, but paradoxically, there is no quick fix for its problems."

Big sugar, Everglades deal in jeopardy?

08/13/2008

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MIAMI (AP) - State attorneys say Florida's proposed purchase of thousands of acres of farmland from U.S. Sugar Corp. to restore the Everglades would be jeopardized if a federal judge forces the state to resume construction on a huge reservoir. The Miccosukee Indian Tribe considers the Everglades its ancestral home. The Tribe wants U.S. District Judge Federico Moreno to order work to continue on a planned 25-square-mile reservoir considered a key to cleaner water in the vast wetlands. But the Florida state attorneys say the estimated \$300 million cost of the next phase of the massive reservoir work in western Palm Beach County might make it difficult for the state to finance the planned \$1.75 billion, 187,000-acre sugar land buy.

Judge won't force resumption of Palm Beach County reservoir work

08/14/2008

South Florida Sun-Sentinel - West Palm Beach

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A federal judge has refused to force water managers to resume construction on a massive Palm Beach County reservoir intended for Everglades restoration.

Judge Federico Moreno issued his ruling Wednesday.

"Delay may indeed be the enemy of the Everglades, but paradoxically, there is no quick fix for its problems," Moreno said in the ruling.

The South Florida Water Management District in June stopped construction on the 16,700-acre reservoir, citing another lingering lawsuit over how the water could be used.

Water district proposes marshes on failed Scripps site The future of the reservoir now remains in doubt because of the state's proposed \$1.75-billion buyout of U.S. Sugar to use the company's 187,000 acres for Everglades restoration.

That calls into question whether the reservoir is needed with all the storage possibilities the farmland offers.

Taxpayers already invested \$250 million in the reservoir and are paying contractors \$1.9 million a month to standby while water managers decide how to proceed.

The Miccosukee Tribe filed suit, arguing that the U.S. Sugar deal was derailing the long-promised reservoir, violating an agreement to corral and clean up polluted water headed to the Everglades.

Moreno expressed sympathy for the Tribe, but decided that the potential long-term benefits of the U.S. Sugar deal were worth delaying the reservoir.

The judge said he was also swayed by a coalition of environmental groups supporting the reservoir delay in light of the U.S. Sugar proposal.

The groups included the Sierra Club, Audubon Society, and the National Wildlife Federation.

"Logically speaking, the most successful long-term solution to Everglades pollution may be to buy out the polluters, and currently that option appears to be viable," Moreno said in his ruling. "Perhaps only action of that magnitude will give the Everglades a chance at returning to the ideal of environmental sustainability."

The district and U.S. Sugar are still negotiating the proposed buyout, with a goal of closing by Nov. 30.

Moreno did say that if the U.S. Sugar deal fizzles, then he will "immediately entertain the renewal of the Tribe's motion."

Tribe attorney Dexter Lehtinen said in a statement released today: "Although the Tribe hoped for an immediate resolution of the (Everglades Agricultural Area) Reservoir issue, we are pleased that the judge leaves the question open for review over the next few months as new facts develop."

Andy Reid can be reached at abreid@sun-sentinel.com or 561-228-5504

Water officials offer no port talk

08/14/2008

Palm Beach Post - Online

PAUL QUINLAN

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Water managers remained silent Wednesday on a proposal to develop an industrial complex on up to 9,000 acres in western - smack in a potential pathway of their own Everglades restoration efforts.

The South Florida Water Management District says it first must finish negotiating its \$1.75 billion buyout of U.S. Sugar Corp., a deal aimed at making the restoration possible.

Water Managers Call for More Public Disclosure to Avoid Conflicts of Interest

08/13/2008

South Florida Sun-Sentinel - West Palm Beach

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Water managers call for more public disclosure to avoid conflicts of interest

By Andy Reid | South Florida Sun-Sentinel

12:36 PM EDT, August 13, 2008

To avoid conflict of interest concerns that clouded past land deals, South Florida water managers on Wednesday called for more public disclosure about who profits from taxpayer-funded projects.

The tougher disclosure requirements come as the South Florida Water Management District continues to negotiate a \$1.75 billion buyout of U.S. Sugar. That would allow the state to use the company's 187,000 acres for Everglades restoration.

The new disclosure rules require all landowners and others benefiting from deals with the district to be listed on forms identifying the parties involved. The past requirement limited the disclosure to those with at least a 5 percent interest in the deal.

The new requirements also call for identifying all consultants, attorneys, engineers and other representatives involved in the deal and what they are getting paid to help win the district's approval.

"We want all of our money going to the land acquisition," said Ruth Clements, who directs the district's land buying. "We don't want to be paying someone ? just to get something through the district."

The disclosure rules spring from concerns raised about the district's \$217 million deal with Palm Beach Aggregates to convert old rock mines west of Royal Palm Beach into reservoirs.

After approving the deal, the district learned that an engineering consultant advising the agency, Daniel Shalloway, also was working for the mining company and had a commitment for a \$2.4 million "secret success fee" if the project was approved.

That transaction was part of a corruption scandal that drove Warren Newell, Shalloway's former business partner, from the Palm Beach County Commission.

Palm Beach Aggregates last year agreed to reimburse taxpayers for the \$2.4 million.

Newell last year pleaded guilty to conspiracy to commit "honest services fraud."

Prosecutors said that Shalloway, Newell's partner at SFRN Inc., determined that water could be stored in huge holes that the Aggregates mined for rock used in construction. Shalloway and at least one \$50,000 study that Newell voted for convinced commissioners that the holes could be used as reservoirs.

Andy Reid can be reached at abreid@sun-sentinel.com or 561-228-5504.

Board will tell all -- but later

08/14/2008

Miami Herald - Online

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Water managers pledged Wednesday to keep the public fully informed about negotiations to buy out U.S. Sugar -- just not quite yet.

Defending the cloak of secrecy surrounding ongoing talks with the nation's largest sugar grower, the governing board of the South Florida Water Management District passed a resolution promising to reveal all the details. But only when, and if, a deal is struck.

Neither side is technically under a gag order to talk about progress, problems or adjustments in the tentative \$1.75 billion target tag. However, district general counsel Sheryl Wood said confidentiality agreements forbid the district from releasing appraisals or other documents until a deal is presented for board consideration as early as September.

Keeping the wraps on the sensitive, complex negotiations, Wood said, was "in the best interests of the taxpayers."

Eric Buermann, a Miami attorney who chairs the board, also

bristled at allegations raised in a lawsuit filed by Dexter Lehtinen, an attorney for the Miccosukee Tribe, that he and other board members may have engaged in backroom talks in violation of Florida's open-government laws. The resolution included denials that any board members had played any role in brokering a deal that water managers insist remains far from done.

"People who don't have the facts tend to fill them in," said Buermann, who added the resolution was intended to "stop some of the silly speculation that people, quite frankly, hallucinate about."

Nevertheless, concerns continued to mount about a proposed buyout that Gov. Charlie Crist touted as the "missing link" to Everglades restoration when he announced the proposal in June to buy U.S. Sugar.

Leaders of surrounding rural counties and towns are demanding new development to replace the loss of U.S. Sugar jobs and dollars, topped by a sprawling 9,000-acre "land port" that has the critical support of another key player in the state Everglades restoration plan.

The leading site for the facility, envisioned as a warehouse and distribution center where South Florida's space-squeezed seaports could send cargo by truck or rail, is owned by Florida Crystals, the region's other major grower. It also holds the company's most expensive asset -- a sprawling Okeelanta facility that includes a refinery, mill, railroad and power plant that runs on cane waste.

All of that is smack in the massive swath of land between Lake Okeechobee and the Everglades that water managers and environmentalists had hoped to acquire through a land swap.

Though the port idea has been floated for years, the prospect of U.S. Sugar jobs disappearing has ignited more serious interest, said Gaston Cantens, a Florida Crystals vice president.

"This is really the only solution that has been discussed," Cantens said. "It's not something we created."

So far, he said, the company has had only a few preliminary meetings with the district and not discussed potential land swaps in detail or the potential impact of the proposed port. "Rightly so," Cantens said. "I think their priority is to get the U.S. Sugar contract done first."

Environmentalists urged holding off on approving new economic development plans -- at least until the district draws up a plan and map for the land.

"We are very sympathetic to what is going to happen in this area," said Sara Fain, Everglades coordinator for the National Parks Conservation Association. "We've made lots of mistakes in the past. Let's make sure whatever we decide to do is compatible with Everglades restoration."

Carol Ann Wehle, the district's executive director, said it was "premature" for the district to comment on the port plan until it had formalized the deal with U.S. Sugar.

Tribe Asks Judge to Restart Everglades Reservoir Project

08/13/2008

Water Environment Federation

Vanessa Blum

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Aug. 13--The Miccosukee Tribe asked a federal judge Tuesday to order South Florida water managers to resume construction of a reservoir in western Palm Beach County intended for Everglades restoration.

The tribe wants the project restarted even as state officials negotiate a \$1.75 billion deal to purchase 187,000 acres from U. S. Sugar Corp.-- a move environmental groups say could significantly advance efforts to clean up the Everglades.

With the deal pending, water managers contend spending \$300 million on the next phase of the reservoir construction would be a waste of money and jeopardize financing for the land acquisition.

U.S. District Judge Federico Moreno, based in Miami, did not rule on the tribe's request.

If the land purchase goes through, the 16,700-acre reservoir likely would be relocated north of its current location along U.S. 27, said attorney Kirk Burns, who represents the South Florida Water Management District.

The district halted the project in June, citing a pending federal lawsuit over how the water would be used. That leaves taxpayers paying contractors \$1.9 million a month to stand by until a final decision is made.

The reservoir is needed to hold excess water that otherwise overwhelms stormwater treatment areas designed to clean water headed to the Everglades.

Taxpayers already have invested about \$250 million in the reservoir. Dexter Lehtinen, the tribe's attorney, said the promised reservoir should be completed. Potential environmental gains from the land deal won't materialize in time to save the Everglades, he said. 'The Everglades is gone 15 years from now. It's dead,' Lehtinen said. 'You don't come back from being poisoned.' Members of the Miccosukee tribe settled in the Everglades in the mid-1800s, and federal law recognizes their historical and cultural connection to the land. The tribe's two-decade push for Everglades restoration has been supported by environmental organizations.

However, on the reservoir issue, a coalition of environmental groups, including the Sierra Club, National Wildlife Federation and the Audubon Society of the Everglades, sided with state officials urging Moreno not to interfere.

The deal calls for U.S. Sugar's property to be transferred to the state over at least six years. Officials hope to have a final agreement by November, but Burns said Tuesday it could take

longer to complete, possibly six months.

The state has yet to meet the cleanup standards set in 1992, as a result of lawsuits filed by Lehtinen and the Miccosukees.

Moreno asked Lehtinen if he was worried about interfering with the land deal that environmental groups find so promising. To the contrary, Lehtinen said, the land acquisition likely would result in lawsuits, studies and more delay, which he called 'the enemy of the Everglades.' Vanessa Blum can be reached at vbblum@sun-sentinel.com or 954-356-4605.

Learn more Take a look at the history of the sugar cane industry in South Florida through an interactive photo gallery and video report at Sun-Sentinel.com/sugar. Also, take an interactive tour through the Everglades and gain insight into Florida's unique 'river of grass.'

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Presentan los mikosukees demanda por los Everglades

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Sobre la compra de U.S. Sugar Corp.

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El proceso para la restauración de los Everglades no es fácil y ahora se ha presentado una demanda judicial mientras se negocia la adquisición de los terrenos de U.S. Sugar Corp.

La tribu de indios Miccosukee pidió al juez federal Federico Moreno que ordene al Servicio de Administración de Aguas del Sur de Florida (SFWMA) que reanude la construcción de un embalse en el condado de Palm Beach, que fue planeada como parte el proyecto de restauración.

Esta demanda coincide con las negociaciones para que el estado compre 187.000 acres de U.S. Sugar Corporation, por \$1.750 millones (1.75 billions).

Grupos ecologistas han dicho que esa adquisición será un paso muy importante para las tareas de restauración.

Funcionarios del SFWMA han dicho que destinar \$300 millones para la próxima etapa de construcción del embalse, que cubriría 16.700 acres, sería un desperdicio de dinero y pondría en peligro la financiación de la adquisición proyectada.

Si se concreta la compra a U.S. Sugar es probable que el embalse sea construido al norte del sitio actual, a lo largo de la carretera U. S. 27, dijo al tribunal el abogado Kirk Burns, que representa al SFWMD.

El distrito detuvo la construcción en junio diciendo que la decisión fue tomada debido a una demanda en la justicia federal sobre como se usaría el agua.

En tanto los contribuyentes tienen que pagar a los contratistas \$1.900.000 por mes para no hacer nada hasta que la demanda se resuelva.

El embalse fue planeado para retener el exceso de agua que, de lo contrario, abrumaría las zonas de tratamiento de aguas de lluvias para que lleguen limpias a los Everglades,

Ya se han gastado \$250 millones en el embalse.

El abogado de la tribu, Lester Lehtinen, dijo que el embalse debe completarse ya que las ganancias potenciales por la compra de las tierras de U.S. Sugar no se lograrán a tiempo para salvar a los Everglades,

Lehtinen dijo que "los Everglades desaparecerán dentro de 15 años. Estarán muertos, Uno no se recupera de un envenenamiento".

El abogado dijo al juez Moreno que la compra de tierras dará lugar a demandas, más estudios y demoras, y esas demoras "son enemigas de los Everglades".

El estado aun no ha cumplido con las normas de limpieza establecidas en 1991, a raíz de una demanda de los Miccosukees.

El acuerdo proyecta que U.S. Sugar transfiera al estado sus tierras en un plazo de seis años y la meta era terminar las negociaciones para noviembre, pero ...

