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Total Clips: 2

Headline	Date	Outlet	Reporter
<a href="#">Polluted policy</a>	08/19/2009	St. Petersburg Times	
<a href="#">Letter: Purchase of U.S. Sugar irresponsible</a>	08/19/2009	Scripps Treasure Coast Newspapers	Michael Collins

### Polluted policy

08/19/2009

St. Petersburg Times

In Print: Thursday, August 20, 2009

[Return to Top](#)

Taxpayers in Florida and across the nation are spending billions of dollars to restore the Everglades. At the same time, the state and federal governments are spending additional time and money to legalize pollution there. This is crazy public policy and the Obama administration needs to put an end to it.

The latest damage came in June from the 11th U.S. Circuit Court of Appeals. A three-judge panel reversed a Miami district court ruling in 2006 that found South Florida water managers had violated the Clean Water Act by failing to obtain the federal permits to pump polluted water into Lake Okeechobee.

For decades, the South Florida Water Management District has pumped water from canals along sugar-farming areas near the shoreline into Lake Okeechobee, both to prevent flooding and to boost levels in a lake that feeds South Florida's drinking water supply. Environmentalists sued the district in 2002. They allege the pumping amounts to the "discharge of a pollutant" that under the Clean Water Act requires a federal permit.

The appeals court decided in the district's favor, but the ruling itself is a damning indictment of a practice that harms both the lake and the larger Everglades cleanup plan. Writing for the court, Circuit Judge Ed Carnes noted that "nearly all water flow in South Florida is controlled by a complex system of gates, dikes, canals and pump stations." That is important to establish for the record. Introducing polluted water into the lake impacts the entire basin. The court also noted that the canals collect rainwater runoff not only from farms but from the surrounding industrial and residential areas. The runoff contains what Carnes called "a loathsome concoction of chemical contaminants" that includes nitrogen, phosphorous, un-ionized ammonia and various solids.

The appeals court also found the pertinent point: The polluted water from the lower levels of the canals would not flow upstream into the lake "if the (district's) pumps did not move it there."

The court ruled in the district's favor on a narrow issue: Whether the Clean Water Act was ambiguous enough to allow the district to back-pump without a permit. And the court's hands were tied by the Bush administration, which in its waning months, as the case was under appeal, changed the rules to clarify that the practice did not require a permit. There is the context to the court victory: The very district that is spending hundreds of millions of taxpayer dollars to restore the Everglades can continue contaminating the watershed thanks to the Bush administration's parting break to environmental polluters.

This ruinous practice helps nobody. It certainly makes no environmental or economic sense. At full bore, the pumps can move 400,000 gallons of dirty water per minute into a 9-foot-deep lake where excessive nutrients from agriculture and other development have already harmed water quality, aquatic plants and fish and wildlife. (The district says the pumps operate only during heavy rains and at nowhere near capacity.)

The Obama administration should change the Bush-era EPA rule and require federal permits to pump. The district

should work with environmentalists to resolve the lawsuit. Both sides can craft a reasonable solution for reducing contaminants in the canals and for filtering what flows into the watershed. The state's purchase of U.S. Sugar lands for Everglades restoration could absorb some of the loads now being pumped into the lake. The district is confident that it can curb pumping further. That needs to be the goal.

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## **Letter: Purchase of U.S. Sugar irresponsible**

08/19/2009

Scripps Treasure Coast Newspapers

Michael Collins

[Return to Top](#)

My colleague, Eric Buermann, recently pointed out in a letter to your newspaper that many environmentalists have called the purchase of U.S. Sugar's land "fresh hope" for the Everglades.

I find it extremely sad that hope is all we have after all the years of hard work to produce actual benefits to the Everglades and estuaries. This past week the South Florida Water Management District requested court approval for massive public debt to fill a bottomless environmental "hope" chest with no reasonable expectation of ever realizing any meaningful public benefit from it.

It is likely, as the state attorney has opined, that the \$2.2 billion requested cannot be authorized under state law. That means the district will not have the money for existing authorized projects. Those of us who oppose the structure of this deal do not oppose Everglades restoration.

Quite the opposite is true. There is no denying the urgent need for storage and treatment. There also is no denying the district's admission in court that much of this land will be unavailable for 20 years and that other projects already authorized, funded and designed on land we already own will not go forward as a consequence of this purchase.

This point is critical and often missed in the debate. Twenty years is a long time.

What's more. it is entirely likely that the A-1 Reservoir, already authorized, funded, under construction and now out of court, could be finished in three years. It also is likely it would hold more water than any project built on the U.S. Sugar land.

Proponents of the deal constantly refer to their "vision." Visions are cheap, projects are expensive, and delaying restoration for obscure, undefined and illusive visions is irresponsible.

Michael Collins

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Collins is a member of the South Florida Water Management District Governing Board.

