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 Water managers admit they violated agreement to keep polluted water out of Everglades	12/03/2009	Sun Sentinel - Online	Curtis Morgan
 EVERGLADES: State admits violations, seeks more Everglades cleanup time	12/02/2009	Miami Herald, The	Morgan, Curtis

Water managers admit they violated agreement to keep polluted water out of Everglades

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12/03/2009
Sun Sentinel - Online
Curtis Morgan

They tell a federal judge they need more time to reduce phosphorus levels in water flowing off farms and pastures

Water managers and environmental regulators have acknowledged the state is in violation of a landmark legal agreement requiring Florida to halt the flow of polluted water into the Everglades. At the same time, however, they're urging a federal judge overseeing the progress not to declare them in violation or, in fact, do anything at all.

Admitting to the violation reflected a notable change of tone and tactic for state agencies that have long resisted federal oversight and insisted that efforts to reduce levels of phosphorus — a fertilizer ingredient that flows off sugar farms, cattle pastures and suburban lawns — were working and on track.

But despite two recent "exceedences" of the damaging nutrient in eight months in a national wildlife refuge in Palm Beach County, attorneys for the South Florida Water Management District and Florida Department of Environmental Protection delivered much the same argument they have in previous hearings over the past six years before Chief U.S. District Judge Federico Moreno:

"Trust us — we've got a plan and we're getting there."

But the judge said he had heard it all before. Moreno likened the legal wrangling over the ongoing, 21-year-old settlement to a soap opera.

"No matter how long ago it was you watched it, within a few minutes you see it's the same things they're still talking about," he said.

In a Tuesday hearing in Moreno's Miami courtroom, water district attorney Kirk Burns said the state was close to completing \$1.1 billion in projects and is pursuing a \$536 million purchase of 73,000 acres of sugar farms and citrus groves that could greatly expand cleanup efforts. The state also is in the midst of negotiations with federal agencies that could potentially produce tougher pollution restrictions.

"We are making substantial progress," Burns said. "We would appreciate the opportunity to be able to finish our hundreds of millions in remedies before being asked to add to it."

Burns asked Moreno to give the state and federal agencies until Feb. 1, 2010, to report back on the results of their negotiations.

But the Miccosukee Tribe urged the judge to act now, saying the state has repeatedly broken promises to meet water quality standards. The delays have spread pollution deeper into the Everglades and threatens tribal lands.

The tribe, which has filed multiple lawsuits opposing the \$536 million land deal with the U.S. Sugar Corp., asked Moreno to order water managers to immediately restart work on a massive reservoir the district halted in May 2008, which could scuttle the sugar deal.

Dexter Lehtinen, the tribe's attorney, argued the revenue-strapped district couldn't afford to build anything on the sugar land for decades and that pollution problems were far worse than the two high phosphorus readings the state acknowledged. They were recorded in the Arthur R. Marshall Loxahatchee National Wildlife Refuge in November 2008 and June 2009.

Repeated delays and bureaucratic red tape are poisoning the Miccosukee's homeland, Lehtinen charged.

"Process has destroyed the Indians," he said. "They don't need more process, they need performance."

EVERGLADES: State admits violations, seeks more Everglades cleanup time

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12/02/2009

Miami Herald, The
Morgan, Curtis

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Burns asked Moreno to give the state and federal agencies until Feb. 1, 2010, to report back on the results of their negotiations -- a request endorsed by Edward Gelderman, an attorney for the U.S. Justice Department, representing the Interior Department and other federal agencies.

But the Miccosukee Tribe urged the judge to act now, saying the state has repeatedly blown deadlines and broken promises to meet water quality standards -- delays that have spread pollution deeper into the Everglades and threatens tribal lands there.

The tribe, which has filed multiple lawsuits opposing the \$536 million land deal with the U.S. Sugar Corp., asked Moreno to order water managers to immediately restart work on a massive reservoir the district halted in May 2008 -- an order that could scuttle the sugar deal.

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The district halted work on the \$800 million reservoir, first citing a separate lawsuit by environmental groups, then Gov. Charlie Crist's controversial sugar land deal. Moreno, who in 2003 assumed oversight of the 21-year-old settlement that forced Florida to reduce pollution flowing into the Everglades, rejected a similar tribe motion 16 months ago, saying he didn't want to threaten what was then a total buyout of U.S. Sugar.

Charles DeMonaco, an attorney for the DEP, argued that aside from the reservoir and improvements to an associated canal, the state is adhering to its plan to expand pollution treatment marshes and cut farming pollution. He urged the judge to reject the tribe's motion to build the reservoir, saying the sugar land promises an opportunity for even greater benefits for the Everglades and tribal land in the long run.

``The tribe would have you believe we're doing absolutely nothing," he said. ``We did what we promised."

DeMonaco also argued that under the consent decree, Moreno's authority was largely limited to monitoring progress -- particularly since the state was admitting the violation. The consent decree allows the state and federal agencies to address the problems, DeMonaco said, without any need for the judge to step in.

Moreno said he would rulesoon but noted that ``the tribe has a right, based on history, to be cynical."

The case, he said, made him feel ``like a gerbil. We keep going around and around . . . Nothing gets done except talk."

