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Everglades land deal mired in legal issues

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10/05/2010

UPI.com

TALLAHASSEE, Fla., Oct. 5 (UPI) -- Legal battles in Florida may derail a \$197 million Everglades restoration project two years in the making, a water district director said.

South Florida Water Management District Director Carol Wehle, in a letter to U.S District Judge Alan Gold, said pressing for tighter environmental controls, those backed by the Friends of the Everglades group, were "regrettably, not achievable."

The potential \$1.5 billion price tag for the controls would be a burden to taxpayers "who alone are expected to carry the heavy financial load to meet the Court's mandates," the letter said, The South Florida Sun-Sentinel reported Tuesday.

The deal, originally proposed by Gov. Charlie Crist, has shrunk considerably from its conception two years ago -- a \$1.75 billion offer to buy 180,000 acres from U.S. Sugar for Everglade protection pared down to a \$197 million deal for 26,800 acres.

The smaller deal is expected to close Oct. 12, but the water district, which would manage the project, has scheduled a meeting for Friday to discuss walking away from the deal if the legal mandates become too costly.

In addition, Gold has rescheduled a hearing for Nov. 3 on the EPA's clean water goals for the project, which the environmental group says is too lax.

The environmental group's attorney Albert Slap said the EPA's plan was flawed. "It has no enforcement deadlines and no money to back it up," he said.

At issue is goals for removing phosphorus from storm water that seeps into the Everglades from nearby farmland, the newspaper said.

Environmental group seeks tougher pollution protections for Everglades restoration

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10/05/2010

Sun Sentinel

Reid, Andy

With one legal showdown delayed, another is brewing in the fight over slow-moving Everglades restoration and the future of a land deal with U.S. Sugar Corp. that would cost South Florida taxpayers \$197 million.

On Friday, U.S. District Judge Alan Gold delayed a Thursday hearing where he had called for U.S. Environmental Protection Agency Administrator Lisa Jackson to answer for her agency's enforcement of the Clean Water Act when it comes to polluted storm water discharges to the Everglades.

On Monday, the environmental group Friends of the Everglades, filed a measure calling for Gold to reject the EPA's newly revamped plan to start enforcing water quality requirements.

The group also called for the judge to bring the South Florida Water Management District into the legal fight. Friends of the Everglades called for the EPA to take action against the water management district "to stop poisoning the Everglades."

This additional legal wrangling over restoration comes as the water management district gets ready on Oct. 12 to close on a \$197 million land deal to use U.S. Sugar farmland to store and treat more storm water bound for the Everglades. Lingering legal cases could still scrap the deal.

The water management district needs to store and clean up more of the phosphorus-laden storm water washing into the Everglades from sugar cane fields and other South Florida farmland, according to the Friends of the Everglades.

A new EPA plan announced in September to start enforcing already overdue standards for the levels of polluting phosphorus allowed in storm water headed to the Everglades needs tighter deadlines and punishments, according to Friends of the Everglades. More goals and new timelines in the EPA's latest plan still leave changes at least a decade away, according to Friends of the Everglades.

"It has no enforcement deadlines and no money to back it up," said Albert Slap, general councils for the Friends of the Everglades. "It's an aspirational plan that will sit on the shelf."

The environmental group wants the water management district to be brought into the case before Gold because it is the state agency that issues the permits for agricultural drainage and water use.

The group also targets the district because it is the district's drainage canals that end up sending phosphorus-rich water to the Everglades, where it fuels the growth of cattails that crowd out sawgrass and other vital habitat.

But while critics say the EPA's new plan doesn't go far enough, the water management district warns that the actions called for in the plan come with a potential \$1.5 billion price tag that would make other Everglades efforts unaffordable.

That cost would be "regrettably, not achievable," according to a Sept. 30 letter from District Executive Director Carol Wehle to Gold. The district wants Gold and other courts reviewing the U.S. Sugar deal to allow the land purchase to move forward.

"It is South Florida's taxpayers who alone are expected to carry the heavy financial load to meet the Court's mandates," Wehle wrote to Gold.

The U.S. Sugar land deal, pushed by Gov. Charlie Crist, has been in the works for more than two years.

Friends of the Everglades considers the U.S. Sugar deal a good first step, but the Everglades still needs the EPA to play a greater role in improving water quality, Slap said.

According to the EPA plan released in September, Florida should create another 42,000 acres of storm water treatment areas. That would add to the about 50,000 acres of manmade filter marshes using aquatic plants to absorb phosphorus and other pollutants.

A combination of the U.S. Sugar land and property already owned by the state could be used to add the needed treatment areas, according to the EPA.

The EPA's proposal was prompted by Gold in April scolding the state and the federal government for "glacial slowness" in meeting water pollution standards considered vital to Everglades restoration.

Gold called for Jackson and other top officials to be in his courtroom on Thursday, but the EPA in recent weeks called for sending a lower-ranking official, citing conflicts with Jackson's travel plans.

Gold on Friday agreed to delay the hearing until Nov. 3.

With the Gold case still lingering, the district continues to await word from the Florida Supreme Court about an appeal by opponents to the U.S. Sugar deal.

The water management district board, appointed by the governor, has tentatively scheduled an emergency meeting for Friday, just in case the agency decides to scrap the deal.

Water District: we can't afford EPA's plan to cut Everglades pollution

10/05/2010

Palm Beach Post

Stapleton, Christine

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The South Florida Water Management District has conceded to an angry federal judge that it will not be able to comply with proposed deadlines and standards the judge ordered to lower phosphorus levels in the Everglades.

In a six-page, single-spaced letter to U.S. District Judge Alan Gold dated Sept. 30, the district's Executive Director, Carol Wehle, said the \$1.5 billion price tag and 2020 deadline are "regrettably, not achievable within our existing revenue streams."

In April, the judge issued a scathing 48-page order in which he accused the U.S. Environmental Protection Agency and the Florida Department of Environmental Protection of failing to enforce the water quality law standards in the Everglades for over 20 years. The judge ordered the EPA to draft a plan to reduce phosphorus levels.

The EPA's proposal, issued in early September, gives the district until 2020 to build over 40,000 acres of water treatment areas to clean water headed to the Everglades.

Although the district is not a party to the lawsuit, it will be the most affected. The district issues water use permits to farms and developments -- the biggest phosphorus polluters in South Florida. The district also oversees construction of water treatment areas and oversees the Everglades restoration.

Declining property tax revenue, coupled with the length of time it takes to build a water treatment area -- about 12 years -- mean "implementing these far-reaching solutions" could come at the expense of other restoration projects, including the Everglades, Kissimmee River and Lake Okeechobee projects, Wehle wrote.

Still, the district intends to go ahead with the purchase of nearly 27,000 acres of land from U.S. Sugar to build more treatment areas. The \$197 million deal is scheduled to close on Oct. 12.

Wehle's letter comes just four weeks before the judge will decide whether to bring the district into the lawsuit as a defendant, along with the EPA and DEP.

"They should be in the lawsuit because they are the polluter and permittee," said Albert Slap, attorney for the Friends of the Everglades, which has petitioned the court to include the district in the lawsuit. "They control the water and they control what others put in the water."

The Friends of the Everglades filed its response to the EPA's proposal on Monday, claiming the agency's proposed plan "is like a stool with one leg" because "enforceability and financing are entirely absent."

Attached to the group's response is a 21-page technical review of the EPA's proposal. In it, scientists estimated that as much as 15 percent of the phosphorus going into the water could be eliminated through tighter controls on the sources -- urban development, cattle ranches and farming

