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Decision Will Help Cleanse Florida's Everglades

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10/11/2010
EARTHJUSTICE
11 October 2010, 3:15 AM
David Guest
Decision Will Help Cleanse Florida's Everglades
Earthjustice convinces court to let state abandon reservoir project

Earthjustice won a key victory at summer's end in our long-running fight to restore the Florida Everglades. A court-appointed Special Master recommended that the state be allowed to abandon a $700 million reservoir project in the southern Everglades Agricultural Area.

Why is this good news? The reservoir was once an important part of Everglades restoration, but the giant public works project was mothballed—and rightly so—when Florida negotiated a deal to buy large swaths of Everglades land from the U.S. Sugar Company. The U.S. Sugar land holdings are a better alternative to store and filter polluted runoff as it runs down the peninsula into Everglades National Park and Florida Bay.

Back when the reservoir was first planned, there was no possibility that Florida could get more Everglades land into public ownership. So the plan was to engineer around the vast sugar company holdings. The reservoir project then became, essentially, a giant water supply project for Big Agriculture—and the ag interests weren't ready to let it go.

One of U.S. Sugar's competitors, along with the Miccosukee Tribe, filed a motion earlier this year to keep the reservoir project alive. They waged a fierce legal and lobbying war to derail the U.S. Sugar land deal altogether.

The legal case has had its ups and downs. Initially, U.S. District Court Judge Frederico Moreno granted our opponents' motion to force the South Florida Water Management District to build the $700 million reservoir. Then, he appointed a Special Master to review the case.

Special Master John Barkett came down on our side when he released his report August 30. He recommended that the reservoir project be abandoned now that the state has struck its land deal with U.S. Sugar.

Under the land deal (pared down from its initial scope due to the recession,) the South Florida Water Management District will acquire 26,790 acres from U.S. Sugar for $197 million.

The Special Master's conclusion is a good decision for Florida. Chances are, we'll end up with a better restoration plan in the long run—and maybe one day our grandkids won't have to worry about dirty water from industrial agriculture trashing Everglades National Park—one of the most unique places on the planet.

Getting U.S. Sugar land ready for Glades restoration would cost millions

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10/11/2010
Sun Sentinel
Reid, Andy

A more than two-year odyssey of legal fights and political battles over buying U.S. Sugar farmland for Everglades restoration may ultimately prove easier than actually putting the land to use.

The South Florida Water Management District on Tuesday is finally set to close the deal with U.S. Sugar for 26,800 acres that will cost South Florida property taxpayers $197 million.

But even after the last page of the deal is signed, significant hurdles remain — and more costs are in store — before the district can start using the land to help restore clean water flows to the Everglades.

Pesticides and other pollutants embedded in the soil after decades of farming must be cleaned up, with the district and South Florida taxpayers picking up more than half of the estimated $7 million tab.

U.S. Sugar rail lines may have to be removed and rebuilt at taxpayers' expense, potentially costing another $2 million.

In addition, American Indians remains and historic sites are suspected to dot the U.S. Sugar land, requiring the district to work with the Miccosukee and Seminole tribes to minimize potential disturbances and document any finds.

Then there are the costs of building the stormwater treatment and storage areas envisioned to get more clean water flowing to what remains of the Everglades.

The U.S. Environmental Protection Agency in September called for a revised Everglades cleanup effort that the district estimates would include construction projects and other costs that could reach $1.5 billion to implement, a price the district now can't afford.

"The real missing element is money, money, money," said Eric Buermann, chairman of the district board. "It's just a question of where you get the money."

Despite the hurdles, Buermann estimates that the district can get the initial stormwater treatment areas built on the U. S. Sugar land within two to five years.

The history of Everglades restoration, however, doesn't necessarily support such an optimistic timeline.

The district during the past two years has broken ground on several restoration projects, but dozens of projects announced in 2000 have yet to be completed. That includes a massive reservoir left unfinished in southwestern Palm Beach County that already cost South Florida taxpayers nearly $280 million.

Under the U.S. Sugar deal, the earliest the district can take possession of the largest piece of the property, almost 18,000 acres of citrus in Hendry County, is June 2012. The district can't use the remaining nearly 9,000 acres of sugar cane land in Palm Beach County until May 2013.

Beyond that, the district must give one-year notice to start using the citrus land it plans to buy and two years notice to use the sugar cane land that are part of the deal.

Even after the sale is completed, U.S. Sugar can use the citrus land rent-free, while continuing to pay property taxes,

until the district is ready to take possession. As for the sugar cane land, U.S. Sugar pays $150 per acre per year to lease that property and the deal allows U.S. Sugar to keep leasing the property for up to 20 years.

"They are going out to spend $200 million on land they don't know what they are going to do with," said Gaston Cantens, a vice president of U.S. Sugar competitor Florida Crystals, which opposed the land deal. "We have wasted two and a half years on what? ... What has this accomplished for the Everglades?"
stulz.comEnvironmental groups contend that getting the U.S. Sugar land is worth the investment.

Sugar growers have long opposed giving up farmland that was once part of the Everglades. This deal, which includes the chance to buy more land beyond the 26,800 acres, will be a boost for Everglades restoration, said Eric Draper of Audubon of Florida.

"If we can't get the water cleaned up, it's going to be difficult to proceed with the rest of Everglades restoration," Draper said. "This gives a clear and achievable plan to get some [water] treatment in place."

In June 2008, Gov. Charlie Crist first announced a $1.75 billion plan to buy all of U.S. Sugar's more than 180,000 acres plus the company's sugar mill, rail line and other facilities to make way for Everglades restoration.

The deal was billed as a chance to replace the "missing link" in Everglades restoration by using the land to build reservoirs and stormwater treatment areas that could re-create the water flows that once naturally reached from Lake Okeechobee to Florida Bay.

The nation's economic decline ultimately resulted in Crist's U.S. Sugar deal getting downsized three times to the current 26,800-acre version. The latest incarnation includes a 10-year option for the district to buy the remainder of U. S. Sugar's more than 153,000 acres
The deal comes after about $1.6 billion was already spent to acquire more than 233,000 acres for Everglades restoration.

The Miccosukee Tribe and Florida Crystals have waged a legal fight against the deal, arguing it costs taxpayers too much, takes money away from overdue Everglades projects and unfairly enriches U.S. Sugar at taxpayers' expense.

Legal challenges to the deal reached all the way to the Florida Supreme Court but failed to stop the purchase. The new version of the deal doesn't require the district to borrow money for the purchase, which limited the potential impacts of the Supreme Court ruling against the deal. As of Friday, the Supreme Court still hadn't issued a ruling awaited since April.

The district's board, appointed by Crist, met Friday for a last-minute session just in case the agency decided to back out of the deal. Short of a court injunction, scrapping the deal before closing would have cost the district $10 million. The board Friday reiterated its support for the deal and now, barring a court injunction, the transaction is expected to go through Tuesday.
The land buy comes after two federal judges issuing blistering critiques of the slow pace of Everglades restoration and Florida's efforts to clean up water pollution. The district sees the potential use of the U.S. Sugar land as vital to both of those efforts.

"If we pass it by, there's no telling when that land or similar land will be available," Buermann said. "To do more [water] storage and treatment, you need more land."

Opponents of the deal scoff at the notion of the district and the state ever being able to afford to buy the remaining 153,000 acres, but supporters say the economy is bound to improve.

In the meantime, the scaled-down version of the deal delivers a chance to use 26,800 acres once off limits to restoration.

"It helps," said Albert Slap, general counsel for the environmental group The Friends of the Everglades. "It's not transformational [but] it's like a foot in the door."

All of the hurdles facing building on the 26,800 acres are issues the district has dealt with before during past construction and should not be a "project killer," Buermann said.

Everglades restoration land deal with U.S. Sugar moves forward

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10/09/2010
Sun Sentinel
Reid, Andy

South Florida water managers on Friday opted not to use what was likely their last chance to back out of a $197 million Everglades restoration land deal with U.S. Sugar Corp.

After more than two years of legal fights and financial problems, the South Florida Water Management District on Tuesday is set to close on a deal to buy 26,800 acres of farmland to be used to help restore water flows to the Everglades.

The district envisions building stormwater storage and treatment areas to hold, clean and deliver water needed to replenish what remains of the Everglades.

The cost of the deal and disputes about whether to move forward have slowed the land-buying effort first announced by Gov. Charlie Crist in June 2008.

On Friday, the district's Land Acquisition Director Ruth Clements jokingly wore red boxing gloves as she discussed the final details about Tuesday's closing with the agency's board of directors.

"The final round is about to begin," Clements said, with boxing gloves raised. "The bell has rung and the district is prepared."

The land deal initially pushed by Crist first called for spending nearly $2 billion to buy all of U.S. Sugar's more than 180,000 acres, sugar mill and other facilities.

The sinking economy and plummeting property tax revenues led to the deal being downsized three times, resulting in the 26,800-acre version. The deal includes a 10-year option for the district to buy U.S. Sugar's remaining land.

Deal opponents, led by the Miccosukee Tribe and U.S. Sugar competitor Florida Crystals, waged a legal fight against the purchase arguing that it cost taxpayers too much, took money away from other overdue Everglades projects and unfairly enriched U.S. Sugar at taxpayers' expense.

"They don't have any money to do any [Everglades] projects," Florida Crystals Vice President Gaston Cantens said about the district. "This whole thing has been an absolute joke."

Environmental groups largely supported the land deal, even as it shrunk in size. They argued it was a historic opportunity to acquire strategically located land that sugar companies had kept out of the reach of Everglades restoration.

"We are very excited about this deal," said Jane Graham, Everglades policy associate for Audubon of Florida. "It's been a long time coming."

After the sale is complete, U.S. Sugar plans to keep farming much of the land while the district designs the stormwater storage and treatment structures planned for the property, and raises the money to build them.

U.S. Sugar can use the citrus land that is part of the deal — almost 18,000 acres in Hendry County — rent free, while continuing to pay the taxes on the property. The company must pay $150 per acre each year to lease back the sugarcane land in the deal, which includes almost 9,000 acres in northern Palm Beach County.

Barring a last-minute intervention by the courts, the $197 million transaction for the U.S. Sugar deal is set to go through on Tuesday.

After that comes years of planning, permitting and construction to put the restoration in motion. The district may also try to trade some of the U.S. Sugar property for other agricultural land targeted for restoration.

"I really can't overstate how difficult this process was, but well, well worth it," district Board Member Shannon Estenoz said.

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Massive Everglades restoration land buy set for completion Tuesday

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10/09/2010
Palm Beach Post
Stapleton, Christine

After 2 1/2 years of legal, financial, environmental and political maneuvering, the South Florida Water Management District pledged Friday to forge ahead next week to complete an epic deal to buy thousands of acres of farmland to protect the Everglades.

"The final round is about to begin!" Ruth Clements, the district's director of real estate, said at a final public hearing that brought together an unusual alliance of environmentalists, agriculture and water managers.

Clements donned a pair of red boxing gloves and pumped her fists into the air as she began her brief presentation. "The district is ready," she said.

The closing is scheduled for Tuesday.

For $197 million, the district will get nearly 27,000 acres of U.S. Sugar Corp. land to the south and east of Lake Okeechobee, where it plans to create marshes that filter phosphorus from water coming from the lake. The district hopes to swap land east of the lake for other, better positioned land owned by Florida Crystals, for more storm water treatment.

The deal began in May 2008 when Governor Charlie Crist made a stunning announcement that the state had agreed with U.S. Sugar to purchase 197,000 acres of land for $1.7 billion. As the economy tanked, the deal shrank to $536 million for 73,000 acres and then to $197 million for 26,900 acres.

The current deal gives the district the option to buy 180,000 acres over 10 years. Although the district has admitted it does not have the money to build the treatment areas on the land it will purchase on Tuesday, water managers hope the deal proves to two federal judges that the district is serious about cleaning up the Everglades.

Earlier this year U.S. District Judge Alan Gold accused the Environmental Protection Agency, the Florida Dept. of Environmental Protection and the South Florida Water Management District of failing to enforce clean water standards in the Everglades for more than two decades. Although the district is not a defendant in the lawsuit, it is responsible for issuing water permits and constructing water treatment areas in the Everglades Protection Area.

U.S. Sugar officials have already signed sale documents and the district is scheduled to transfer money to the company on Tuesday to complete the purchase.

Asked if there would be a ceremony to celebrate the deal, district Chairman Eric Buerman assured the staff, environmentalists and public in attendance Friday that there would be cake.

Sugar land deal finally a lock

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10/09/2010
Miami Herald, The
Morgan, Curtis

If Charlie Crist were a car salesman, the $1.75 billion buyout of a sprawling sugar empire he pitched as the salvation of the Everglades more than two years ago might be likened to a Ferrari Enzo. Expensive, flashy but ridiculously impractical.

One economic meltdown and three downsizings later, water managers are poised to drive off with what amounts to a Honda Civic of an Everglades restoration land purchase. Not nearly all they wanted but all they can afford.

After a last uneventful review of the controversial deal on Friday, the South Florida Water Management District moved within a single step of buying 26,800 acres of citrus groves and cane fields between the Glades and Lake Okeechobee from the U.S. Sugar Corp.

All that remains for Tuesday's scheduled closing is to electronically transfer $194,234,087.08 of district money into the accounts of the state's largest sugar grower.

For water managers, it's been a long, difficult road.

``Right now, there is nothing on the horizon and there has been no saber rattling we can detect,'' said district governing board chairman Eric Buermann, a Miami attorney.

The deal's critics, led by rival Florida Crystals and the Miccosukee Tribe, finally appear out of options after a bitter battle to kill the deal outright. Gaston Cantens, a Crystals vice president, wouldn't rule out last-minute legal maneuvers but sounded resigned.

``The governor wants to get his little political piñata before the election,'' Cantens said. ``What else can we do?''

The tribe and Crystals have already done a lot, taking a lobbying and legal battle all the way to Florida's Supreme Court. The opposition campaign, combined with plummeting property tax revenues, whittled down a deal that Crist, now fighting an uphill battle for a U.S. Senate seat, hoped would burnish his green image.

The purchase -- 17,900 acres of citrus groves in Hendry County and 8,900 acres of sugar fields in the massive Everglades farming area -- is roughly a seventh of the original 300-square-mile swath. It won't provide enough land to restore an adequate supply of clean water for the Everglades -- but does preserve a 10-year option to acquire the rest.

Still, water managers and many environmental groups call it a critical acquisition for a state under increasing pressure from federal judges and the U.S. Environmental Protection Agency to reduce the flow of pollution into the Glades from farms, ranches and suburbs.

``It's short of the governor's vision but at least to me the governor's vision is not lost,'' said board member Shannon Estenoz, a longtime environmentalist activist from Plantation. ``We have bitten off the biggest chunk we can bite off right now.''

When and if the district can begin building reservoirs and phosphorus-absorbing marshes envisioned for the land remains a major unanswered question. Clearly, unless state or federal agencies chip in, most of the land won't be used for years.

Carol Ann Wehle, the district's executive director, spelled out the state cash crunch in a Sept. 30 letter to Miami federal Judge Alan Gold, who in an April ruling ripped the ``glacial'' delay in cleanup efforts by the state and the lax federal oversight. In response, the EPA filed a plan calling for a 42,000-acre, $1.5 billion expansion of the state's existing network of reservoirs and pollution treatment marshes by 2020.

NOT AFFORDABLE

Wehle, citing district property tax revenues that have fallen by a third to $400 million since 2008 and state contributions to restoration projects that have fallen by more than three-quarters to $224 million, said the district simply couldn't afford the EPA's proposal.

``The projects and schedules put forward by the EPA are, regrettably, not achievable without our existing revenue streams,'' she wrote.

That acknowledgement echoes what critics have long argued. They've painted the purchase as a sweetheart deal for U. S. Sugar, a major Crist campaign donor, and contended the state has purchased poorly located land at the cost of delaying on-going Everglades restoration projects, perhaps by decades.

``Everything has stalled,' said Barbara Miedema, vice president of the Belle Glade-based Sugar Cane Growers Cooperative, a coalition of smaller growers that have sided with Florida Crystals in fighting a land buy and lease-back deal they contend will give U.S. Sugar a competitive edge.

Environmentalists had sued the EPA over the state cleanup plan in part because it pushed back what had been a 2006 deadline for reducing damaging levels of phosphorus, a fertilizer ingredient that flows off farms and yards, to 2016.

But now, she said, the EPA plan would give the state until 2020 to get the job done. The state would have been ``better off'' to have built a previously planned suite of projects, Miedema said.

Advocates of the deal argue the old plan didn't set aside enough land to solve pollution problems, pointing out that both the EPA document and a report from an advisor to U.S. District Judge Federico Moreno, who is overseeing another Everglades cleanup case, support the U.S. Sugar land buy.

Estenoz said she agreed with the EPA that the cleanup effort needed to be expanded but argued that courts should consider economic and construction realities. Building projects and meeting tough pollution standards is going to take far more time than environmentalists and scientists once believed, she said.

``You can't build a 16,000 acre facility in three years. You can't even get it permitted,'' Estenoz said. ``We're not Harry Potter. We don't just wave a magic wand and make it happen.

The Florida Supreme Court has yet to rule on suits filed by the tribe and rival growers challenging an earlier effort by the district to use bonds to bankroll a previous version of the deal that would have paid $536 million to U.S. Sugar for 73,000 acres.

A CASH DEAL

Because the new deal is for cash, the court's ruling shouldn't affect it, but it could potentially limit the district's options for purchasing more land from U.S. Sugar in the future.

Kirk Fordham, chief executive officer of the Everglades Foundation, said it's clear the state needs to begin pursuing new sources to help pick up the increasingly expensive tab for restoring the Everglades -- namely, growers, ranchers and other polluters.

``The burden continues to fall on the taxpayer,'' he said. ``It's our hope that through this process there will be a shift in attention to those that have been creating the problem.''

Everglades Fight Prepares for Next Round

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10/08/2010
Sunshine State News
Wright, Lane

After 2 1/2 years of political battle, Gov. Charlie Crist's deal to purchase tens of thousands of acres of land from U.S. Sugar Corp. for Everglades restoration is just days away from closing.

"It's been a real fight," said the South Florida Water Management District's director of real estate, Ruth Clements. "But we're ready for the final round."

She wore a pair of bright-red boxing gloves to help her make the point.

Friday, the SFWMD's board of governors, appointed by Gov. Crist, met with the district's attorneys behind closed doors to discuss the final settlement negotiations and strategize against potential future court rulings.

In the final deal, which is scheduled to close Oct. 12, taxpayers will pay U.S. Sugar Corp. $197,398,372.08 for 26,791 acres of citrus and sugar-cane land.

Opponents, including Florida Crystals Corp., the Miccosukee Tribe of Indians and the Sugar Cane Growers Cooperative of Florida, say the land makes no sense for Everglades restoration. Political and taxpayer activist groups contend it amounts to a corporate bailout for U.S. Sugar Corp.

"It defies logic," said Barbara Miedema, vice president of the Sugar Cane Growers Co-op. "It's ridiculous."

Only a small portion of the nearly 27,000 acres can actually be used for Everglades restoration, according to critics. Supporters of the deal have acknowledged that it's not enough of the right land to make a difference now, and the district would have to acquire even more land in the future to have an impact in restoring the Everglades.

But while the money will be wire-transferred on Tuesday, the fight isn't over yet. Two separate federal legal wranglings between the United States EPA, the Florida DEP and the SFWMD could still affect the final outcome.