

**Sugar Barons and Stakeholders:**

**The Impact of the U.S. Sugar Deal on Everglades Restoration**

By Aquene Freechild, Candidate, Masters of Public Administration

For the John Brademas Center for the Study of Congress at New York University

September 10<sup>th</sup>, 2010

**Acknowledgements**

I would like to acknowledge the generous help of Donald Jodrey of the Department of the Interior, Nanciann Regulato of the Army Corps of Engineers - Jacksonville Office, Alisa Coe of Earthjustice, Gabe Margasak of the South Florida Water Management District, Tom Van Lent of the Everglades Foundation, and Gene Duncan of the Miccosukee Tribe for helping me obtain a clearer picture of the complex story of the current Everglades Restoration effort.

**Table of Contents**

**Page #**

A. Introduction	2
B. Background: History of Everglades Restoration	3
C. August 2010 U.S. Sugar Deal: Politics & Impact	16
D. Key Political Stakeholders	20
E. Policy Recommendations	25
Appendix: Maps of U.S. Sugar Deal Iterations	27

## **A. Introduction**

This paper evaluates the benefits and consequences of the August 2010 purchase agreement for 26,800 acres of United States Sugar Corporation lands by the South Florida Water Management District to assist in the restoration of the Everglades. I present a short history of the land deal in its different iterations and map out the various political players who continue to make this land purchase controversial, particularly in the state of Florida. Despite widespread criticism of the August purchase, the U.S. Sugar Corporation Deal with the State of Florida (“The Deal”) will send more clean water into the Everglades and nearby ecosystems. It will also take land out of agricultural production that is a major source of pollution in the Everglades. The land will be used to increase water treatment capacity to help the state comply with court orders to lower phosphorus loads in waters flowing to the Everglades.<sup>1</sup> The U.S. Sugar Deal is good policy for the benefit of the state’s Water Conservation Areas, Parks and Wildlife Management Areas, and for Everglades National Park.

There have been widespread concerns that the State of Florida is spending far too much on overvalued sugar land which will not contribute to Everglades restoration and will inhibit restoration projects already underway. The controversy about the implications of the Deal involving political parties, the Miccosukee Tribe, sugar companies, developers, several Federal agencies, and environmental groups grew out of frustrations and disputes about the speed and methods used in restoration efforts in Florida. A New York Times article on the Deal suggesting it was a bailout for U.S. Sugar, followed by an opinion editorial in support of the Deal, brought

---

<sup>1</sup> South Florida Water Management District. Factsheet. “*Reviving the River of Grass: Second Amended & Restated Agreement for Sale and Purchase.*” August 12, 2010

the controversy to the national spotlight. The Deal will inevitably cut down on funding available in the next couple years for other restoration projects. However, the land purchase was a rare opportunity that is unlikely to be repeated in the near future. As soon as the land is out of production, there will be small, but immediate and positive impact on water quality in the Everglades.<sup>2</sup>

While financing is tight and exact numbers to be put toward different projects are not available, the cost of the land is lower than some of the water *supply* projects deemed most urgent by many stakeholders. In particular, the Everglades Agricultural Area Reservoir (also known as the EAA/A1/Talisman Reservoir) is often cited as a colossal waste of taxpayer resources, because work was stopped on it mid-construction when Florida Governor Charlie Crist announced a possible deal with U.S. Sugar in 2008. The Reservoir is among the largest of dozens of projects undertaken by the State of Florida and the Federal government to control or clean the water in the Everglades area for public, private and restoration uses. However, ongoing litigation and questions about priorities, rather than the Sugar Deal, have provided the best reason to stop the project. In addition, the Reservoir may serve the interests of agriculture as much or more than it does the needs of the Everglades.

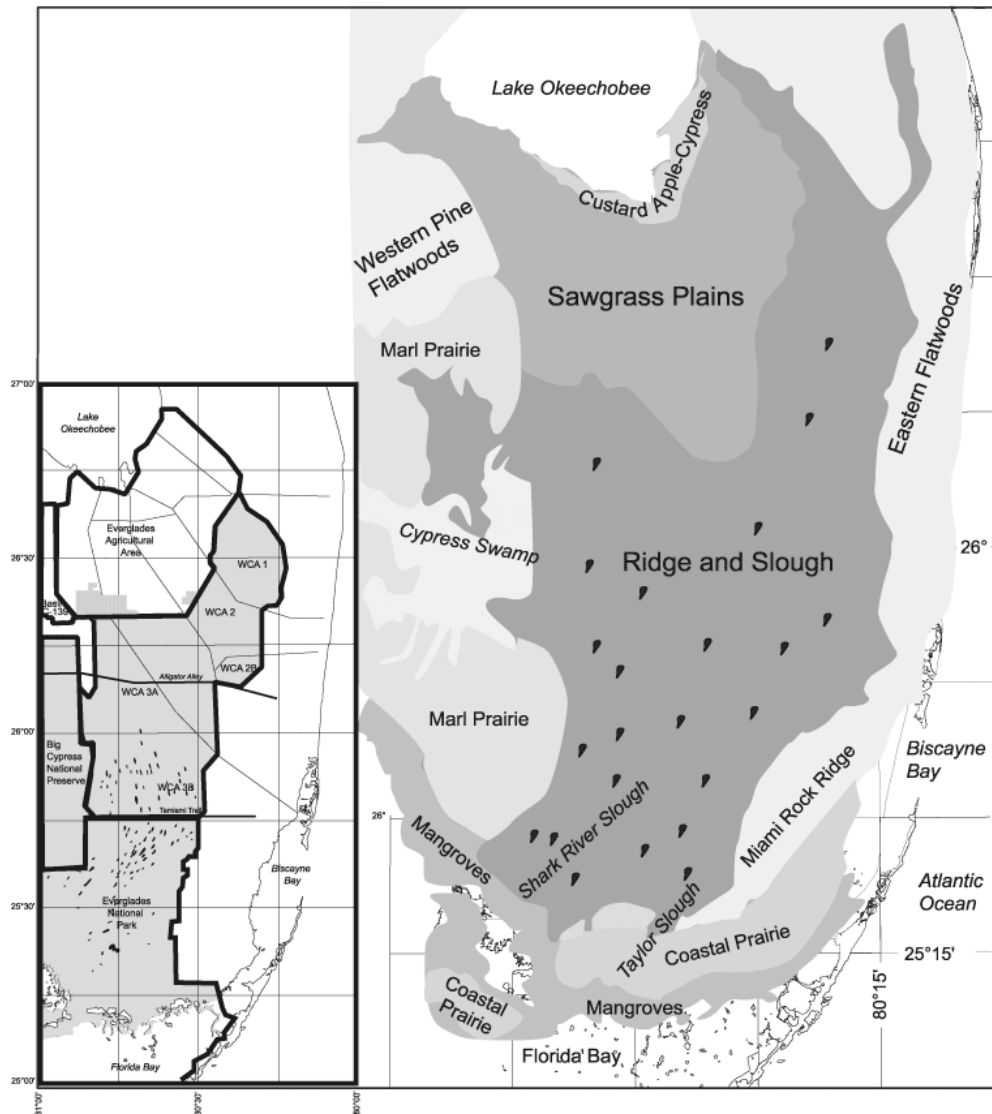
This author recommends that the current Sugar Deal be completed without further political or legal interference. Funds for additional lands purchases should be set aside at the federal and state level as soon as possible to prevent permanent conversion of sugar lands into residential development. The groundwork should be laid to protect the gains stakeholders working towards

---

<sup>2</sup> “Tea Party Protests U.S. Sugar Land Purchase.” WPBF. <http://www.wpbf.com/news/24254075/detail.html>. July 14 2010

Everglades restoration has made thus far from political backlash and neglect. Congress should authorize multiple CERP projects and their composite steps to avoid contributing to further delays in restoration. The Army Corps of Engineers and other agencies implementing Everglades restoration policies should jointly organize and advocate lessening the bureaucratic aspects of the process while retaining the thoughtful and adaptive components of current implementation processes. Congress should acknowledge and reward Florida's strong commitment to Everglades restoration work. All stakeholders should recognize the value of the ecosystem as a whole and not simply privilege the areas of the Everglades over which they exercise express control. This paper seeks to explain and justify the circumstances which led to these recommendations.

## B. Background: History of Everglades Restoration



Large map shows the original spread of the different pieces of the Everglades ecosystem, inset shows the area where current restoration efforts are taking place. Map by U.S. Geographical Survey, March 10, 2005.

**The need for land.** The Everglades ecosystem is dying for lack of clean water to mimic the slow slough which once stretched south from Lake Okeechobee in a widening cone to the ocean. The water supply has been diverted and flushed into the sea by U.S. Army Corps of Engineers projects to protect Florida residents from flooding. The Central and Southern Florida (CS&F) project, authorized in 1948, drained 1.7 billion gallons of water from the watershed a day

through 2000. The complex system of levees and canals built to control water flow and make dry land for Westernized agricultural and urban uses, has reduced the Everglades to less than half of its original size.<sup>3</sup> Agriculture and manicured lawns continually raise the levels of phosphorus in drinking water supplies and in economically-important aquatic ecosystems. The increase in phosphorus in the watershed has resulted in a radical and ongoing transformation of the Everglades habitat. Large portions of the Everglades now shelter wholly different species of plants and animals than they did in the past.

The State of Florida recognized the Everglades were dying and legislated to address the problem decades ago. It passed various initiatives in the 1970s and 80s to try to reserve water flow for the ‘River of Grass’ and restore the Everglades ecosystem to its 1900s state. In 1987, the Florida Surface Water Improvement and Management Act set up five water management districts charged with cleaning up and preserving the state’s water bodies. In 1989, the Modified Waters Deliveries Act (Mod Waters) was passed to address more specific blockages of water flow into Everglades National Park, where the worst disruptions were taking place. The implementation of the Act has proved challenging.<sup>4</sup> By the late 1990s, there was widespread concern that State actions were neither swift nor successful enough to save the Everglades on their own. In the Everglades Forever Act, the State of Florida pledged to deliver water with no more than 10ppb phosphorus to the Everglades National Park by 2006, but this commitment proved difficult to meet. The Florida legislature amended the law in 2003 under Governor Jeb Bush to weaken it

---

<sup>3</sup> Doyle, Mary and Jodrey, Donald. “Everglades Restoration: Forging New Law in Allocating Water for the Environment.” *The Environmental Lawyer*. Section of Environment, Energy, and Resources of the American Bar Association. The George Washington Law School. Vol. 8. No. 2 February 2002.

<sup>4</sup> Anonymous. Interview. Department of Interior. August 3, 2010.

and extend the water quality deadline for phosphorus until at least 2016.<sup>5 6</sup> The 2004 Energy and Water, and Interior Appropriations Acts, gave Congress the option in the future to make some Comprehensive Everglades Restoration Plan (CERP) funding contingent upon achievement of the target level by 2006, as designated by the original Florida state law.

Congress passed the Comprehensive Everglades Restoration Plan (CERP/the Plan), authorized in the Water Resources Development Act of 2000, to bring in more resources and agencies to speed the restoration process. There was significant concern in Florida that the federal government was overstepping its bounds with CERP. However, widespread commitment to the Everglades at both the national and state level led to eventual agreement on key elements. Most political actors in the state of Florida do not openly question the value of water management and Everglades Restoration, but rather how it should be done.

The CERP entails 68 projects – including the removal of more than 240 existing canals and internal levees to mimic a more natural quantity and quality of water flow into the Everglades ecosystem. Massive water storage, treatment and pumping stations were to be installed and land acquired to house them.<sup>7</sup> Reservoirs were to be built to store and control water levels in certain areas. Stormwater Treatment Areas (STAs) have been built, with more in the works, to help filter out the high levels of phosphorus pouring into the River of Grass from the Everglades Agricultural Area and from agricultural and urban areas to the north.

---

<sup>5</sup> Sheikh, Pervaze & Johnson, Barbara. "Phosphorus Mitigation in the Everglades." CRS Report for Congress. January 13, 2004. <http://ncseonline.org/NLE/CRSreports/04jan/RL32131.pdf>

<sup>6</sup> National Research Council of the National Academies. Progress Towards Restoring the Everglades: The Second Biennial Review – 2008. National Academies Press: Washington, DC. p26-27.

<sup>7</sup> Ibid. Doyle. 2002

CERP was originally slated to take 30 years to complete and cost \$7.8 billion.<sup>8</sup> The plan was to make available 1.2 million acre-feet of fresh water which had previously been pumped into the ocean. The water was to be 80% for restorative use and 20% for consumptive agricultural and urban use to be distributed by the South Florida Water Management District. The effort to acquire parcels of land necessary to execute the CERP and associated projects has been a source of great political struggle and delay. The difficulty in purchasing land for water treatment and storage is the major reason why many politicians and environmental groups applaud the effort to buy land from U.S. Sugar. The struggle to acquire land, though politically and financially difficult, has been commendably pursued by the state of Florida.<sup>9</sup> The State coordinating agency, the South Florida Water Management District (SFWMD), reports, "Through June 30, 2010, 60 percent — or approximately 234,853 acres — of the estimated lands needed to implement CERP have been acquired."<sup>10</sup>

CERP included a provision to allow citizens to sue the SFWMD and other implementing agencies to enforce its implementation.<sup>11</sup> This has resulted in several drawn-out suits, as different stakeholders have sought to prioritize some projects over others based on conflicting assessments of relative project value. This has unfortunately caused setbacks in selecting project sites, completing the design process, and obtaining permits for the first round of projects. The workplan and priority level of the different CERP and CERP-related projects has changed significantly over time. However, the process has not had strong enough political and logistical

---

<sup>8</sup> Associated Press. "Florida to sign massive sugar, Everglades deal." June 24, 2008. <http://www.msnbc.msn.com/id/25352380/>

<sup>9</sup> Ibid. National Research Council of the National Academies. 2008.

<sup>10</sup> Margasak, Gabe. Email Communication. Media Relations Representative – Specialist. South Florida Water Management District. August 31, 2010.

<sup>11</sup> Ibid. Doyle, Mary and Jodrey, Donald.



leadership to produce clearly prioritized plans of execution.<sup>12</sup> Most projects are still in the ‘agreement of parties’, permitting, or design stage.

The cost of CERP has nearly doubled to approximately \$12 billion by recent estimates for a couple of central reasons.<sup>13</sup> First, project priorities have changed due to the principle of adaptive management incorporated into CERP. Adaptive management requires that plans should be adjusted to accommodate scientific learning about the watershed and about ecosystem management as restoration projects are selected. Second, the state of Florida has not been able to meet the water quality standards needed to successfully restore the nutrient poor ecosystem of the Everglades. Sugarcane, citrus, livestock agriculture, and rapid urban development have heavily polluted the watershed and raised nutrient levels well above the ideal range for the Everglades sawgrass slough ecosystem. The graph below illustrates the escalating phosphorus load in Lake Okeechobee, the main feeder of the Everglades ecosystem. The legal load limit for water entering the Everglades is 10 parts per billion phosphorus.

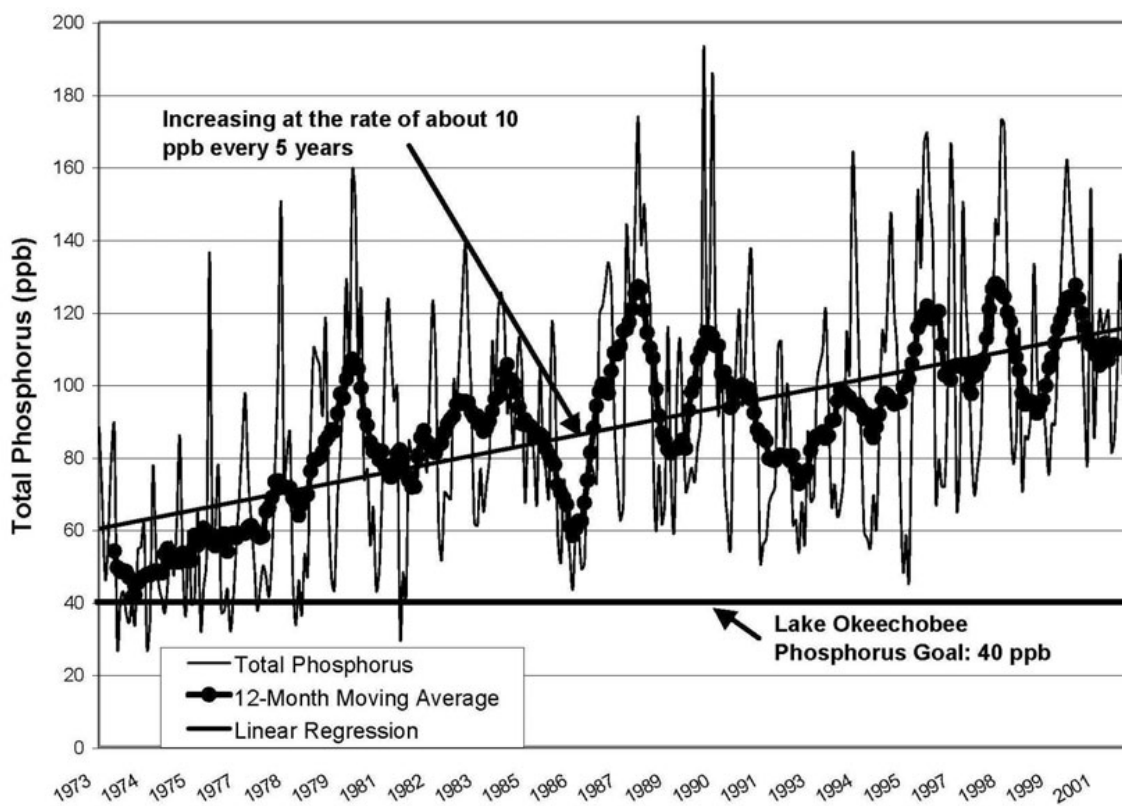
---

<sup>12</sup> Ibid. National Research Council of the National Academies. 2008.

<sup>13</sup> Caperton Morton, Mary.

"Land Deal Likely to Improve Everglades, Ecologists Say." Inside Science News Service. May 20, 2010

### Phosphorus levels in Lake Okeechobee 1973-2001<sup>14</sup>



\*In the early 1980's Florida became the largest sugar producing state in the United States.<sup>15</sup>

Several major lawsuits have been brought using the citizen suit provision of CERP, which have resulted in significant delays, but which have also served to force the SFWMD to prioritize important projects. Unfortunately, the cost of litigation has surely played a role in the escalating costs of the CERP endeavor. The lawsuits brought by the Department of the Interior, environmental groups, and the Miccosukee Tribe are too numerous to be summarized here.<sup>16</sup>

<sup>14</sup> Lodge, Thomas E. Ph.D. "Lake Okeechobee: The Pre-drainage Ecosystem."  
<http://www.ces.fau.edu/dmf/pdf/RoleoftheLake.pdf>

<sup>15</sup> U.S. Sugar Corporation. <http://www.ussugar.com/company/history.html>. Accessed September 5, 2010.

<sup>16</sup> Summary of Miccosukee Tribe's Federal Water Quality Cases." 2007.  
[http://www.peer.org/docs/fl/08\\_14\\_8\\_epa\\_losing\\_water\\_quality\\_cases.pdf](http://www.peer.org/docs/fl/08_14_8_epa_losing_water_quality_cases.pdf)

Many of the suits are or were brought with the intent to force the SFWMD to meet water quality standards, orient a given polluted or clean water quantity in a particular direction, or to prioritize the projects preferred by certain stakeholders.

The two cases most relevant to the U.S. Sugar land deal are here referred to as the Gold case and the Moreno case, after the judges overseeing them. The case overseen by Miami U.S. District Judge Alan Gold concerns the phosphorus water pollution standard. The suit was originally brought in 2003 by the Friends of the Everglades and the Miccosukee Tribe to challenge the weakening of water quality standards in state law.

The case being overseen by Judge Frederick Moreno was brought by a U.S. Federal Attorney in Florida, backed by a number of environmental groups, in 1988.<sup>17</sup> It was originally filed to force the state to follow its own environmental codes with regard to water quality flowing into federal lands in the Everglades. The case resulted in a settlement requiring the state of Florida to aggressively treat water flowing to federal lands using extensive Stormwater Treatment Areas (STAs).

The ruling that the state was in violation of the water quality standard spawned a web of suits and countersuits which continue today. The suits are currently presided over by Judge Moreno, after the original judge on the case was removed in 2003 for expressing a bias against legislation

---

<sup>17</sup> Environmental New Service. "Everglades Judge Will Appoint Expert on Cleanup Compliance." October 30, 2003. <http://www.ens-newswire.com/ens/oct2003/2003-10-30-09.html>

weakening state water quality compliance requirements.<sup>18 19</sup> In a spinoff lawsuit, Moreno ordered the state to resume construction of the EAA reservoir and appointed a Special Master to help coordinate the state efforts with the Sugar Deal.<sup>20</sup> The Special Master in the case published a report in August 2010 suggesting that the SFWMD should indeed halt work on the EAA Reservoir, originally designed to store and regulate water flows as part of CERP.<sup>21 22</sup> The court is expected to rule in October that the SFWMD must prioritize water quality and land acquisition projects to address the continued high phosphorus levels in water directed into the Everglades. Without lands for expansion of Stormwater Treatment Areas (STAs) water quality improvements will be difficult to attain. If the ruling comes down as expected, this will help the SFWMD prioritize certain CERP and non-CERP projects and re-affirm the value of the U.S. Sugar land acquisition.<sup>23</sup> The Florida Supreme Court is also expected to weigh in on the Sugar Deal, set to close October 11<sup>th</sup>, 2010.<sup>24 25</sup>

Although CERP projects are to be funded fifty-fifty between the State of Florida and the participating federal agencies, it is widely reported that federal contributions to the Everglades

---

<sup>18</sup>Weisskoff, Richard. The economics of Everglades restoration: missing pieces in the future of South Florida. Edward Elgar Publishing. 2005

<sup>19</sup> "Judge in Glades case removed." St. Petersburg Times. Sept 24, 2003.

[http://www.sptimes.com/2003/09/24/State/Judge\\_in\\_Glades\\_case\\_.shtml](http://www.sptimes.com/2003/09/24/State/Judge_in_Glades_case_.shtml)

<sup>20</sup> Valdes, Ana M. Palm Beach Post. "Special Master's recommendation buoys supporters of Everglades land buy." August 31, 2010. <http://riverofgrasscoalition.com/article.php?id=special-masters-recommendation-buoys-supporters-of-everglades-land-buy-2010-09-01>

<sup>21</sup> Everglades Foundation. "News Release: Everglades Foundation Statement on Special Master Recommendations in Judge Moreno Everglades Case." August 31, 2010. <http://www.evergladesfoundation.org/news/entry/everglades-foundation-statement-on-special-master-recommendations-in-judge-/>

<sup>22</sup> SFWMD. "Statement Re: Special Master's report to the Court." August 31, 2010.

[http://www.sfwmd.gov/portal/page/portal/xrepository/sfwmd\\_repository\\_pdf/statement\\_2010\\_0831\\_special\\_master.pdf](http://www.sfwmd.gov/portal/page/portal/xrepository/sfwmd_repository_pdf/statement_2010_0831_special_master.pdf)

<sup>23</sup> Hiaasen, Scott and Benn, Evan. "Judge says EPA ignored law, failed to protect Everglades." Miami Herald. July 30, 2008. <http://www.mcclatchydc.com/2008/07/30/45924/judge-says-epa-ignored-law-failed.html>

<sup>24</sup> Reid, Andy. South Florida Sun-Sentinel. "Federal Judge Rejects Tribe's Request to Stop Everglades Land Deal With U.S. Sugar." August 24, 2010. [http://southeast.construction.com/yb/se/article.aspx?story\\_id=148983535](http://southeast.construction.com/yb/se/article.aspx?story_id=148983535)

<sup>25</sup> Associated Press. "Injunction denied for Everglades/US Sugar deal." Miami Herald. August 23, 2010. <http://www.miamiherald.com/2010/08/23/1788530/injunction-denied-for-evergladesus.html>

restoration fall short. One journalist reported in 2005 that the federal agencies had only spent \$230,000 compared to the state's \$1 billion since CERP was authorized.<sup>26</sup> This assessment runs contrary to the Federal Appropriation of more than \$206 million to the Department of the Interior and the Army Corps of Engineers for Everglades restoration in FY 2004 alone.<sup>27</sup> Between fiscal year 2000 and fiscal year 2007, \$0.37 billion in federal funds and \$1.63 billion in state funds went toward CERP projects according to the Congressional Research Service.<sup>28</sup>

The State of Florida has undertaken an enormous amount of work related to Everglades restoration which is not part of CERP.<sup>29 30</sup> The Congressional Research Service reports that \$2.44 billion in federal funds and \$3.85 billion in state funds had been spent on non-CERP Everglades restoration projects as of FY 2007.<sup>31</sup> There is some debate about which state projects are truly beneficial for federal lands in the Everglades – for example, whether water storage that benefits agricultural and urban areas should be placed as high on the priority list. This confusion further complicates the question of how much funding the federal government should be contributing to the suite of restoration projects as a whole. A thorough analysis of federal versus state funding of Everglades restoration is beyond the scope of this paper.

---

<sup>26</sup> Pittman, Craig. St. Petersburg Times. "Everglades project hits federal snag: Five years into a restoration project, a U.S. Army Corps of Engineers memo details federal inaction and little monetary help." March 19, 2005.

[http://www.sptimes.com/2005/03/19/State/Everglades\\_project\\_hi.shtml](http://www.sptimes.com/2005/03/19/State/Everglades_project_hi.shtml)

<sup>27</sup> Sheikh, Pervaze A. & Carter, Nicole T. Congressional Research Service. "Everglades Restoration: The Federal Role in Funding" p 4. <http://ncseonline.org/nle/crsreports/06feb/RS22048.pdf>

<sup>28</sup> Sheikh, Pervaze & Carter, Nicole. Congressional Research Service. "South Florida Ecosystem Restoration and the Comprehensive Everglades Restoration Plan." January 3, 2008.

<sup>29</sup> Ibid. SFWMD. August 31, 2010.

<sup>30</sup> Ibid. Margasak, Gabe. August 31, 2010.

<sup>31</sup> Ibid. Sheikh, Pervaze & Carter, Nicole. January 3, 2008. <http://ncseonline.org/NLE/CRSreports/08Feb/RS20702.pdf>

**The lead up to the Sugar Deal.** U.S. Sugar is the largest sugar producer in the U.S. and one of the two largest producers in the Everglades Agricultural Area (EAA).<sup>32 33</sup> Its lands cover a large swath south of Lake Okeechobee, originally a key part of the Everglades' slough. Acquiring these lands was out of the question until Charlie Crist announced state negotiations to buy out U.S. Sugar in June of 2008.<sup>34</sup> Reservoirs and projects that had been started were halted, allegedly due to environmental group lawsuits seeking a guarantee that water supply from the EAA Reservoir would be for the Everglades rather than for agriculture.<sup>35</sup> Environmental groups protested that they did not wish to see EAA Reservoir construction halted and sued to re-start the project, although environmental groups have been less enthusiastic about the reservoir recently.<sup>36</sup> Shortly thereafter, Governor Crist announced negotiations were to commence to buy as many as 187,000 acres of land. Several reporters suggested that the SFWMD used the EAA suit as a red herring to deflect blame for the misuse of funds for the Sugar Deal. The following December, Crist announced an unprecedented deal to buy out the entire company and to spend \$1.75 billion to acquire 180,000 acres for water treatment to speed the restoration of the Everglades, pending financing.<sup>37 38</sup>

After announcement of the Deal there was widespread applause from environmental groups; however, concerns among taxpayers and political watchdogs quickly arose when the Deal was

---

<sup>32</sup> U.S. Sugar Corporation. "A Family of Agribusinesses." <http://www.ussugar.com/company/agribusiness.html>

<sup>33</sup> Burnham, Michael. Energy and Environment News. "Energy by the Acre." Accessed on Sept 3, 2010. [http://www.eenews.net/special\\_reports/everglades/energy\\_by\\_the\\_acre/](http://www.eenews.net/special_reports/everglades/energy_by_the_acre/)

<sup>34</sup> Office of Governor Charlie Crist. "Governor Crist unveils momentous strategy to save America's Everglades, Preserve National Treasure." June 24, 2008. <http://www.flgov.com/release/10065>

<sup>35</sup> Duncan, Gene. Interview. Legal Counsel. Miccosukee Tribe. August 16th, 2010.

<sup>36</sup> Quinlan, Paul. Palm Beach Post. "Delays, price hikes make a muck of \$800 million Everglades project." July 10, 2009. <http://www.evergladeshub.com/projectsMAP.htm>

<sup>37</sup> South Florida Water Management District. "Governor Crist unveils Historic plan to revive the River of Grass." [https://my.sfwmd.gov/portal/page/portal/pg\\_grp\\_sfwmd\\_koe/pg\\_sfwmd\\_koe\\_riverofgrass](https://my.sfwmd.gov/portal/page/portal/pg_grp_sfwmd_koe/pg_sfwmd_koe_riverofgrass). Accessed on August 25, 2010.

<sup>38</sup> Ibid. South Florida Water Management District. August 12, 2010

scrutinized. The *New York Times* reported that more than a dozen Everglades restoration projects (in which \$1.3 billion had already been invested) had been stopped as of March 2010 following the announcement of the Sugar Deal.<sup>39</sup> This article, which raised the Deal to the level of a national controversy, was followed by a *New York Times* editorial in support of the Deal.<sup>40</sup> While projects halted before the announcement of the Deal have reportedly not been restarted, other high value projects for Everglades restoration have since started or continued.<sup>41</sup> Which projects the SFWMD would prioritize going forward was not available at the time of writing.

**Original June 2008 Sugar Deal controversy.** U.S. Sugar was about \$500 million in debt at the time the Deal was negotiated. The original Deal would have bought U.S. Sugar land at the 2006 market price including railroads, processing units, heavily contaminated land, and other lands unsuitable for restoration. The State planned to resell some of the less useful parcels in the interest of obtaining all the lands or swapping for lands more valuable for restoration. Whether or not the state would have been able to recover its costs on these assets is unknown.<sup>42</sup>

Stakeholders widely report that land acquisition for restoration is threatened by urban development as the population of Florida continues to increase.<sup>43</sup>

U.S. Sugar's main competitor, Florida Crystals, and the Miccosukee Tribe, sued the SFWMD to try to stop the Deal – claiming that it was a colossal waste of taxpayer resources and would

---

<sup>39</sup> Van Natta Jr. Don & Cave, Damien. "Deal to Save Everglades May Help Sugar Firm." *New York Times*. March 8th, 2010. <http://www.nytimes.com/2010/03/08/us/08everglades.html>

<sup>40</sup> *New York Times*. "Editorial: A Good Deal for the Everglades." March 17, 2010. <http://www.nytimes.com/2010/03/17/opinion/17wed2.html>

<sup>41</sup> Ibid. Margasak, Gabe. Phone Interview. South Florida Water Management District. August 31, 2010.

<sup>42</sup> Florida Fish and Wildlife Conservation Commission. "Everglades & Francis S. Taylor WMA." [http://myfwc.com/recreation/WMASites\\_Everglades\\_history.htm](http://myfwc.com/recreation/WMASites_Everglades_history.htm). Accessed on August 25th, 2010.

<sup>43</sup> Ibid. Sheikh, Pervaze & Carter, Nicole. 2008.

compel the abandonment of other CERP projects already commenced.<sup>44</sup> The Special Master appointed by the Moreno court reported that, “Some might argue that such an attitude from a farm interest is not consistent with genuine interest in Everglades restoration.”<sup>45</sup> Florida Crystals may have been able to buy U.S. Sugar resources at highly discounted prices if the company had gone bankrupt. Other types of development besides sugar cane would have made restoration fraught with difficulty, if not impossible. The sugar companies are a powerful political force within Florida state politics, and the alignment of certain sugar companies with various political players has also played a role in the controversy.

The *New York Times* reported that 49,000 acres of the 252,600 acre land Deal was heavily contaminated.<sup>46</sup> The Deal requires U.S. Sugar to spend \$25 million to clean up polluted lands under the terms of the sale, but there are some legal limitations to how much actionable clean up will be required of the Corporation.<sup>47 48</sup> The land was appraised before the real estate market crashed in 2007-2008 and thus was almost certainly overpriced, although perhaps not as much as some groups imply. One likely alternative to the Sugar Deal, urbanized development, would raise the value of the land precipitously and preclude restoration efforts in those areas. U.S.

---

44 James, Paul. "Commentary: Crist can't sell sugar land deal anymore." Palm Beach Post. Aug. 11, 2010. <http://www.palmbeachpost.com/opinion/commentary/commentary-crist-cant-sell-sugar-land-deal-anymore-854573.html>

45 Morgan, Curtis. "Report may aid Everglades land buy." Miami Herald. Sept. 1, 2010. <http://www.miamiherald.com/2010/09/01/1801656/report-may-aid-glades-land-buy.html>

46 Ibid. NY Times. March 2010.

47 "Everglades restoration: U.S. Sugar buyout/Ethanol plant proposal." Ecocritique. Nov 14, 2009.

<http://ecocritique.com/enviornment/everglades-restoration-u-s-sugar-buyoutethanol-plant-proposal/>

48 SFWMD. Section 21. "Second Amended and Restated Agreement for Sale and Purchase." (between U.S. Sugar and the South Florida Water Management District) August, 12, 2010. [http://www.sfwmd.gov/portal/page/portal/xrepository/sfwmd\\_repository\\_pdf/rog\\_0\\_amended\\_restated\\_agt\\_for\\_sale\\_and\\_purchase.pdf](http://www.sfwmd.gov/portal/page/portal/xrepository/sfwmd_repository_pdf/rog_0_amended_restated_agt_for_sale_and_purchase.pdf)



Sugar negotiated to farm much of the land included in the Deal through 2016, since the state will not have been able to commence projects on most of the land purchased before then.<sup>49</sup>

Critics of the Deal complained that many of the parcels are not connected and are not suitable for Everglades restoration. U.S. Sugar does not own land that connects Lake Okeechobee all the way down to the Everglades. The original 2008 proposal suggested that once bought, U.S. Sugar land might be swapped with other sugar lands to try to restore a direct slough between Lake Okeechobee and Water Conservation Areas to the south. However that prospect is many decades off because water from Lake Okeechobee is too polluted to be directed untreated into an Everglades type slough.

Close examination of the CERP and the land configuration in the area suggests that what is needed is land for water treatment via Stormwater Treatment Areas (STAs). The land Deal was not organized to turn the parcels back into Everglades habitat – but rather to store and treat polluted water coming from ongoing agricultural operations and urban sources. The water storage and treatment facilities will help provide badly needed clean water to the Everglades, for consumptive and for urban uses, and to help recharge some aquifers that are subject to saltwater incursion closer to the coast.<sup>50</sup> Although the patchwork-style land acquisition is not ideal, the system of levees and canals north of the Everglades Wildlife Conservation Areas and the Everglades National Park will continue to be used to guide treated water into the ecosystem for

---

<sup>49</sup> Ibid. Ecocritique. Nov 14, 2010.

<sup>50</sup> Sonenshein, Roy S. Water-Resources Investigations Report 96-4285. U.S. Department of Interior. U.S. Geological Survey. “Delineation of Saltwater Intrusion in the Biscayne Aquifer, Eastern Dade County, Florida, 1995.” [http://fl.water.usgs.gov/Miami/online\\_reports/wri964285/](http://fl.water.usgs.gov/Miami/online_reports/wri964285/)

many years to come. Despite this fact, many opposing the Deal continue to use misperceptions about the goals of the Deal to discredit it.<sup>51</sup>

### **U.S. Sugar Deal – First Amendment**

Because of the ongoing recession and market crash, the state quickly acknowledged it was no longer able to financially complete the Deal announced in 2008. Further, it appears that U.S. Sugar was able to find the financing to keep its operations open. A second iteration of the Deal was announced in May of 2009 involving the purchase of nearly 73,000 acres for \$536 million.<sup>52</sup> This Deal was also dependent on an assessment of the state's resources. In light of a \$150 million decline in revenues for the South Florida Water Management District between 2008 and 2010, the 2009 Deal too was delayed and then scuttled.

### **C. August 2010 U.S. Sugar Deal: Politics & Impact**

#### **Sugar Deal – Second and Most Recent Amendment**

On August 12, 2010, the South Florida Water Management District Governing Board (the Water Board) voted to buy 26,800 acres from U.S. Sugar with an option to buy an additional 153,000 acres.<sup>53</sup> The Deal, set to close this coming October, uses cash on hand to avoid financing measures, which could have put further stress on the state budget and taxpayers. The Deal costs the state approximately \$4.7 million per square mile or \$7,350 per acre.

---

<sup>51</sup> Dockery, Paula. "To best restore Everglades, re-do U.S. Sugar deal." Tampa Bay Tribune. March 15th, 2010. <http://www2.tbo.com/content/2010/mar/15/na-to-best-restore-everglades-re-do-us-sugar-deal/>

<sup>52</sup> Ibid. South Florida Water Management District. August 12, 2010.

<sup>53</sup> Bergeron, Kayla. South Florida Water Management District. "News Release: SFWMD Board Approves Affordable Plan for River of Grass Acquisition." [http://www.sfwmd.gov/portal/page/portal/xrepository/sfwmd\\_repository\\_pdf/nr\\_2010\\_0812\\_rog\\_ammended\\_final.pdf](http://www.sfwmd.gov/portal/page/portal/xrepository/sfwmd_repository_pdf/nr_2010_0812_rog_ammended_final.pdf)

The District has the option within a three year period to buy the remaining 153,000 acres, or a preselected 46,800 acres for \$7,400 an acre. After the three year option period ends, the District can purchase just the 46,800 acres at fair market value, but other buyers may buy the property if the District is not able to purchase it at that time (first right of refusal). The two parcels to be purchased are a 17,900 acre citrus parcel and an 8,900 acre sugarcane parcel; both of which U.S. Sugar may farm until the District requires the land. U.S. Sugar will pay \$150 an acre in rent and continue to pay property taxes.

**Fair Play.** Some Tea party groups was pushing for the SFWMD to back out of the Sugar Deal, although there was a \$10 million penalty for doing so.<sup>54</sup> Opponents of the Deal cite the fact that the lands are not suitable for Everglades sawgrass slough restoration, ignoring that the area is a wholly engineered environment in which canals and levees direct water where it is needed. It was not the near term intention of the South Florida Water Management District to re-create Everglades sawgrass slough on the purchased lands. Rather, as mentioned earlier, the land is to be used as STAs where polluted water is treated by wetlands vegetation, which unlike sawgrass slough, thrives in a more nutrient rich environment. These treatment areas are creating wildlife habitat adjacent to existing conservation areas and preserves, while also providing cleaner water with which to restore the Everglades.<sup>55 56</sup>

---

<sup>54</sup> Reid, Andy. "Tea Party willing to sacrifice \$10 million of taxpayer money to sink Crist's U.S. Sugar land deal." Sun Sentinel. August 19, 2010.  
[http://weblogs.sun.com/news/politics/palm/blog/2010/08/tea\\_party\\_willing\\_to\\_sacrifice\\_10\\_million\\_of\\_taxpayer\\_money\\_to\\_sink\\_crist\\_us\\_sugar\\_land\\_deal.html](http://weblogs.sun.com/news/politics/palm/blog/2010/08/tea_party_willing_to_sacrifice_10_million_of_taxpayer_money_to_sink_crist_us_sugar_land_deal.html)

<sup>55</sup> Ibid. Anonymous. August 3, 2010

<sup>56</sup> Coe, Alisa. Earthjustice. Phone Interview. August 19, 2010.

## Financial Impact of the August 2010 Sugar Deal

A primary executing agency of CERP, the South Florida Water Management District, submitted a 2010-2011 budget that was 13.2% (\$60.9 million) lower than the past year's budget. The District supports its work with property taxes, which are declining with the shrinking economy. SFWMD views flood protection as a primary responsibility, above Everglades restoration. Critics are correct in stating that some projects will not receive funding due to the Sugar Deal. However, a fairly large number of restoration projects, including new land purchases, are planned in the coming years. Despite reduced funding, the SFWMD was able to pursue or start a number of key projects in the past year with funds from the American Recovery and Reinvestment Act (ARRA). SFWMD heralds two major projects started with Recovery Act funds: Picayune Strand (construction ongoing)<sup>57</sup> <sup>58</sup> and the Indian River Lagoon South Phase 1 (construction slated to begin in early 2011).<sup>59</sup>

The District's ability to pay will determine if it can take advantage of limited time options to buy further U.S. Sugar lands in future years. Thus the controversy over land purchases is likely to continue over the next decade. The fiscal year 2011 budget submitted by the SFWMD cuts projects across the board, but keeps about \$340 million in reserve;<sup>60</sup> funds which may be useful for further incremental land purchases. It is very difficult to gauge the ecological impact of the

---

<sup>57</sup> EvergladesPlan.org. "CERP Project: Picayune Strand Restoration."

[http://www.evergladesplan.org/pm/projects/proj\\_30\\_sgge.aspx](http://www.evergladesplan.org/pm/projects/proj_30_sgge.aspx). Accessed on Sept. 5, 2010.

<sup>58</sup> SFWMD. "Picayune Strand (Southern Golden Gate Estates) Restoration." Accessed Sept 5, 2010.

[https://my.sfwmd.gov/portal/page/portal/pg\\_grp\\_acceler8\\_v2/pg\\_acceler8\\_projects\\_picstr?navpage=prjsgge](https://my.sfwmd.gov/portal/page/portal/pg_grp_acceler8_v2/pg_acceler8_projects_picstr?navpage=prjsgge)

<sup>59</sup> US Army Corps of Engineers. "Press Release: SFWMD approves key agreement for Indian River Lagoon." August 16, 2010.

<http://www.evergladesfoundation.org/news/entry/SFWMD-approves-key-agreement-for-Indian-River-Lagoon/>

<sup>60</sup> SFWMD. "FY2011 Tentative Budget."

[http://www.sfwmd.gov/portal/page/portal/xrepository/sfwmd\\_repository\\_pdf/fy2011\\_budget\\_submission.pdf](http://www.sfwmd.gov/portal/page/portal/xrepository/sfwmd_repository_pdf/fy2011_budget_submission.pdf)

Sugar Deal with so many projects in process, ranging from minimally relevant to extremely critical for Everglades restoration. The Sugar Deal may limit the progress that can be made on one large restoration project or several smaller projects this year, but the long-term benefits remain compelling.

The SFWMD is awaiting the October ruling of Judge Moreno regarding Florida's failure to meet the 10ppb phosphorus water quality standard for water flowing into the Everglades National Park. While the Sugar Deal does limit the availability of some funds, the ruling could further direct the SFWMD to prioritize water quality projects over other types of projects. Should Moreno rule that water quality projects are the top priority until the water quality standards are met, some projects which are focused on water quantity or other management issues will likely be further delayed. The EAA Reservoir (Talisman/A1), a project which agricultural stakeholders and the Miccosukee prefer, to better control seasonal access to water, could be further delayed or turned in to a STA. There is some question as to how much the water quantity projects will benefit restoration efforts versus agricultural and urban water supply needs. Some of this uncertainty results from vague wording in the CERP legislation, although much ambiguity has been resolved in the subsequent rulemaking process. A Congressional Research Service Report noted, "Some groups and federal agencies have noted that CERP does not explicitly give natural systems precedence in water allocation, and that it is focused first on water supply rather than on ecological restoration. To address this point, the Corps [CERP rulemaking authority] revised the project implementation sequencing to include restoration activities in earlier phases."

## **D. Key players**

### **Pro-U.S. Sugar Deal Stakeholders**

Florida-based and national environmental groups heavily favor the Sugar Deal, and are actively supporting it, including the Sierra Club, Natural Resources Defense Council, Audubon of Florida, Everglades Foundation, and Friends of Florida. Sugar growing in Florida has heavily altered the phosphorus levels in the water in the region and has been one of the major causes of the slow death of the Everglades. Taking land out of production, while it is delayed on many of the U.S Sugar lands until 2016, is itself a benefit to area ecosystems. If U.S. Sugar land is sold to another agricultural corporation such as Florida Crystals for continued long term production or made into residential subdivisions, a critical opportunity will be lost.

The federal agencies involved in Everglades restoration are strongly in favor of the land deal. The U.S. Department of Interior's National Parks Service and Fish and Wildlife Service have a strong interest in rapid and effective implementation of the CERP and the many non-CERP restoration projects. The Army Corps of Engineers is charged with ensuring high quality restoration projects as an executing agency under CERP. Most stakeholder groups had few political comments on the work of the Corps – simply acknowledging that it carries out the projects mandated by Congress. Corps responsibilities are constantly reshaped by adaptive management practices and in learning from how the ecosystem responds to interventions. The complexity of land purchases and the many permitting processes and lawsuits slow progress on most Everglades restoration projects. Stakeholders point out that the Army structure of the Corps

forces the District Engineer to rotate every three years as part of the Army seniority system. This means that much time is lost every three years educating the new District Engineer about both the ecosystem and political complexities.

The political preferences of U.S. Sugar and its opposing competitor, Florida Crystals, are reflected in the positions of major state politicians. Political actors strongly in favor of the Sugar Deal include Governor Charlie Crist and Michael W. Sole, Secretary of the Florida Department of Environmental Protection. Crist appointee and one time lawyer for U.S. Sugar, Sen. George LeMieux, is presumed to be a supporter of U.S. Sugar and thus the Deal, but has publicly remained silent. Candidates favored by U.S. Sugar, both Republican and Democrat, lost in the recent U.S. Senate primaries.<sup>61</sup> Democratic gubernatorial candidate Alex Sink is the only recent Florida primary victor in favor of the Deal. The divisions in politics around the Sugar Deal might endanger future efforts to purchase more land if opponents of the Deal are elected this November.

The Florida Congressional delegation tends to favor of Everglades restoration. Representative Debbie Wasserman Schultz, who chairs the Legislative Affairs Subcommittee on the House Appropriations Committee, is in favor of the Deal.<sup>62</sup> Earmarks have historically been important in funding Everglades restoration, however the Florida Congressional delegation has been better positioned in the past to affect Everglades restoration policy. Florida Republican C.W. Bill Young chaired the House Appropriations Committee from 1999-2005. Congressman Young

---

<sup>61</sup> Eye on Miami Blog. "Kendrick Meek's sweet tooth could doom his political campaign for U.S. Senate." <http://eyeonmiami.blogspot.com/2010/03/kendrick-meeks-sweet-tooth-could-doom.html>

<sup>62</sup> Office of Debbie Wasserman-Schultz. "Speech: Everglades Restoration and the Role of the Federal Government." January 10, 2009. <http://wassermanschultz.house.gov/2010/03/everglades-restoration-and-the-role-of-the-federal-government-everglades-coalition-annual-conference.shtml>

helped direct federal funding towards Everglades projects and raised objections when then Governor Jeb Bush acted to weaken state water quality standards.

### **Opposition to U.S. Sugar Deal**

The Miccosukee Tribe opposes the Sugar Deal because they believe the partly completed EAA Reservoir (A1/Talisman) will be stopped for years because of the lack of resources to pursue both the Deal and the Reservoir.<sup>63</sup> Environmental groups and Department of Interior representatives believe that the Reservoir, if constructed as currently planned, would lower water levels in Water Conservation Area 3 (WCA 3), where the Miccosukee have hunting grounds.<sup>64</sup> Higher water levels in WCA 3 have led to fewer tree islands and have negatively impacted fish and wildlife populations.<sup>65</sup> Proponents of the Everglades National Park strongly support the Deal because of the need for greater flows of clean water further south. Some stakeholders suggest that federal interests may believe sacrificing the ecology of WCA-3 may be considered a necessary evil to supplying enough water to the Everglades National Park in the long term. Many argue that the EAA Reservoir would primarily benefit agriculture for irrigation use, providing incentives for further water pollution. The reservoir would not treat the water flowing into it; however the same plot of land could be used as a Stormwater Treatment Area (STA) and thereby contribute to improved water quality. The Moreno ruling in the fall may compel the SFWMD to turn the Everglades Agricultural Area reservoir into a Stormwater Treatment Area.

---

<sup>63</sup> SFWMD. "Everglades Agricultural Area (EAA) Reservoir, Phase A-1." Accessed on Sept. 5, 2010. [https://my.sfwmd.gov/portal/page/portal/pg\\_grp\\_acceler8\\_v2/pg\\_acceler8\\_projects\\_eaares](https://my.sfwmd.gov/portal/page/portal/pg_grp_acceler8_v2/pg_acceler8_projects_eaares)

<sup>64</sup> SFWMD. "Water Conservation Areas 2 & 3." Accessed on Sept. 5 2010. [https://my.sfwmd.gov/portal/page/portal/pg\\_grp\\_sfwmd\\_landresources/pg\\_sfwmd\\_landresources\\_recopps\\_se\\_wca2\\_3](https://my.sfwmd.gov/portal/page/portal/pg_grp_sfwmd_landresources/pg_sfwmd_landresources_recopps_se_wca2_3)

<sup>65</sup> Coe, Alisa. Ibid. 2010



Florida Crystals is the other major sugar grower in the Everglades Agricultural Area (EAA) and is owned by the Fanjul family, owners of Domino Sugar and nearly a half million acres in the U.S. and the Dominican Republic. The Fanjuls, a Cuban exile family, strongly oppose the U.S. Sugar Deal. The Fanjuls are extremely powerful in Florida, and influential in national politics. Both the Fanjuls and U.S. Sugar have allegedly engaged in patronage politics.<sup>66</sup> The Fanjuls donated more than a hundred million in soft and hard campaign contributions since the 1970s.<sup>67</sup><sup>68</sup> <sup>69</sup> They reportedly made \$125 million annually in the first half of the decade from U.S. Sugar subsidies and were instrumental in negotiating a preferential trade agreement for Dominican sugar exports to the U.S.<sup>70</sup> The family is among the five major sugar producers allegedly trafficking and enslaving Haitians for the annual Dominican sugar harvest.<sup>71</sup> <sup>72</sup> Some political commentators and stakeholders attribute much of the controversy about the Sugar Deal to the Fanjul's desire to purchase U.S. Sugar or to maintain high prices for the land they control around the EAA and the state.<sup>73</sup> <sup>74</sup> The U.S. Sugar land could have been used to expand the Fanjul empire via agricultural production or urban development.

---

<sup>66</sup> Laurence, Charles. "Alfy Fanjul, the sugar daddy." <http://www.thefirstpost.co.uk/45387,news-comment,news-politics,alfonso-fanjul-jr-whose-family-enjoys-a-monopoly-on-sugar-in-the-us>. Accessed Friday, October 8, 2010.

<sup>67</sup> James, Paul. "Commentary: Crist can't sell sugar land deal anymore." Palm Beach Post.

<http://www.palmbeachpost.com/opinion/commentary/commentary-crist-cant-sell-sugar-land-deal-anymore-854573.html>

<sup>68</sup> Grunwald, Michael. "When in Doubt, Blame Big Sugar: Once the Everglades' Chief Ecological Villain, Industry has Plenty of Company." Washington Post. June 25, 2002

<sup>69</sup> New York Times. Ibid. March 10, 2010.

<sup>70</sup> Dean, Adam H. "Artificially Sweetened: An Analysis of the United States Sugar Program." University of Pennsylvania. CUREJ - College Undergraduate Research Electronic Journal. 2006.

<http://repository.upenn.edu/cgi/viewcontent.cgi?article=1028&context=curej>

<sup>71</sup> Deibert, Michael. "Film on Plantations Spurs Backlash." IPS New York.

Jun 4, 2007. <http://ipsnews.net/news.asp?idnews=38029>

<sup>72</sup> "Big Sugar: Sweet, White & Deadly" documentary. Canadian Broadcasting Company. Nov 29, 2006

<sup>73</sup> Everglades Foundation Blog. "Charlie Crist wins, Fanjuls lose." August 03, 2010.

<http://www.evergladesfoundation.org/news/entry/EYE-ON-MIAMI/>

<sup>74</sup> Grunwald, Michael. Ibid

Elected opponents of the Sugar Deal are often recipients of Fanjul political contributions. Former Governor Jeb Bush, who signed the original agreement with President George W. Bush to allow CERP to move forward, has spoken out against the Sugar Deal.<sup>75</sup> Republican Gubernatorial Candidate Rick Scott is opposed to the Deal, because of the cost to taxpayers that has been a Tea Party rallying point. Senator Bill Nelson, Representative Alcee Hastings, and Republican candidate for Senator, Marco Rubio are also opposed to the Deal.<sup>76</sup>

The prominent Tea Party groups in Florida see the U.S. Sugar Deal as a corporate bailout. In line with the *New York Times* article on the issue, they claim the land was overvalued by appraisers in 2006 and has not been revalued since to reflect the crash in the real estate market. South Florida Tea Party leader Everett Wilkinson and Tea Party in Action chair Marianne Moran have been widely quoted in opposition to the Deal. However, the Tea Party does not have a concrete proposal for proactive Everglades restoration. The “Florida Tea Party” is pushing hard to force the SFWMD to renege on the Deal, but this is unlikely because SFWMD signed a contract with a \$10 million penalty for backing out of the Deal. Public divisions amongst the two main Tea Party groups in Florida over how to approach the U.S. Sugar Deal may discredit them on this issue.<sup>77</sup>

Major roadblocks for the U.S. Sugar Deal include a ruling by the Florida Supreme Court blocking the Deal. Judge Moreno declined to halt the Deal at the request of the Miccosukee Tribe on the grounds that the Deal would negatively impact other key restoration projects.

---

<sup>75</sup> Ibid. New York Times. March 7, 2010

<sup>76</sup> Marco Rubio for U.S. Senate. “Rubio Comments on Crist’s So-Called Everglades Plan.” March 8, 2010. <http://www.marcorubio.com/rubio-comments-on-crist-s-so-called-everglades-plan/>

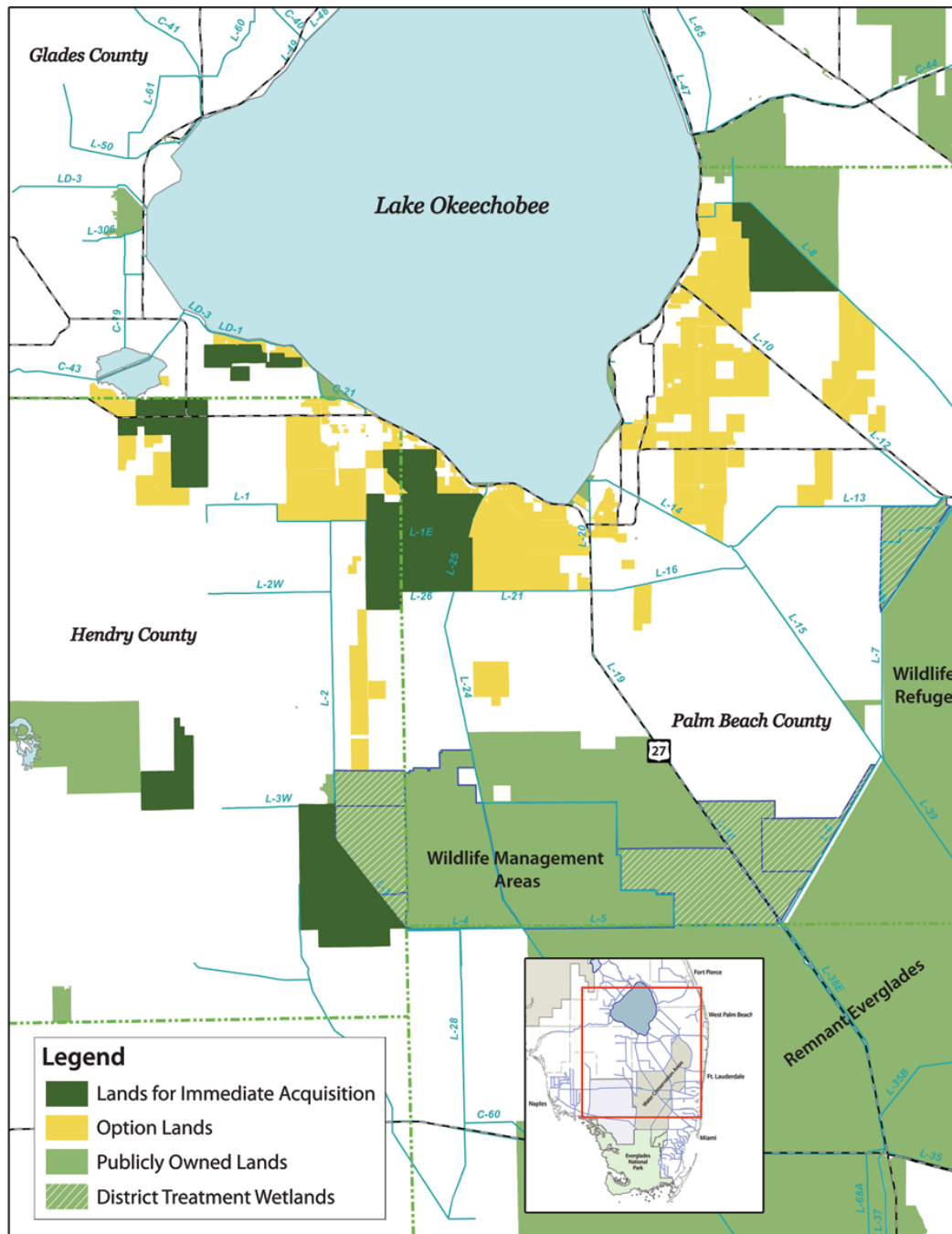
<sup>77</sup> Bennett, George. Palm Beach Post. “Tea Party leader questions Scott role in protest by other tea party group.” August 12th, 2010. <http://www.postonpolitics.com/tag/everett-wilkinson/>

## **E. Policy Recommendations**

- 1) The U.S. Sugar Deal of August 12, 2010 should be completed and executed on time without further legal or political interference.
- 2) SFWMD should use the future land purchase options, as long as they are executed simultaneously with water quality modifications as mandated by the courts. It appears the SFWMD is preparing some reserves already for this purpose. These reserves should not be used for non-Everglades restoration purposes or be used as a justification for cutting federal government funding.
- 3) Measures should be taken to limit the amount of bureaucracy Everglades projects require – by grouping approvals of multiple projects and by fast-tracking projects which will have the most immediate impact on the ecosystem.
- 4) Congress should continue to fund the Everglades restoration, recognizing the high level of state commitment and the value of non-CERP projects in achieving the ultimate goal of a healthy and revived Everglades National Park and adjacent areas.
- 5) Congress should include as many project authorizations as possible in the next WRDA to avoid adding another layer of delay to the complex process set forth in CERP.

**Appendix:** All Maps courtesy of the South Florida Water Management District.

Map of U.S. Sugar Deal 2009 proposal



Map of U.S. Sugar Deal agreed to August 12<sup>th</sup>, 2010

