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Tell Public Why Regulators Criticized US Sugar Price

02/08/2009

Palm Beach Post

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Gov. Crist's administration has a tougher job to sell the public, and perhaps the Legislature, on the U.S. Sugar deal.

A story by Paul Quinlan in last Monday's Post shows that members of the Crist administration used a legal maneuver to silence concerns over the \$1.34 billion price. This newspaper has noted the conflict of Gov. Crist's Department of Environmental Protection secretary, Michael Sole, leading negotiations with U.S. Sugar even though the South Florida Water Management District is paying for the land. Now we know that DEP officials at the top dismissed concerns of DEP officials at the bottom.

As Mr. Quinlan reported, after reviewing thousands of internal e-mails, DEP appraisers would not sign off on water district appraisals two weeks before the district board's Dec. 16 vote to approve the contract. Rather than delay the vote, or let those concerns be aired, negotiators led by Mr. Sole deleted a clause in the sales contract that required the DEP appraisers to sign off.

The district may pay for that mistake in Tallahassee, where legislators seem far too eager to oppose a land buy that not only could save the Everglades but bolster South Florida's water supply. Unfortunately, the attacks on the U.S. Sugar deal appear to be motivated less by concern over spending than by lobbyists looking to disrupt the sale.

Lining up against the deal are: a rival grower, Florida Crystals; a competing bidder, The Lawrence Group; and the Miccosukee Tribe, which fears that the deal will stop ongoing projects that benefit the tribe. If Gov. Crist wanted to thwart the lobbyists, he could remove DEP's role entirely. But if he insists on DEP continuing, the agency needs to explain what its appraisers found. District board members left themselves an out on the deal. If the price would be too much of a financial strain, the district can back out before closing in September. If that happened, would U.S. Sugar accept less money to save the deal?

Eric Buermann, chairman of the water district governing board, acknowledges the high price but says that it's worth paying. A grower buying farmland in a business deal, Mr. Buermann says, can look elsewhere - out of state, for instance. But the district can't go somewhere else to find the huge amount of land it needs to store water to keep the Everglades wet during dry times.

Decades from now, Mr. Buermann says, the cost will be forgotten. Failure to act, he says, would prove more costly, through lost water supply and habitat. "If we don't do something to take this initial step, in the next 50 years you're going to have some real problems. What are people going to say, looking back on us: 'We didn't do anything? ... Maybe it's not the best price but the issue is, Are you taking this first step?'"

He's right about the potential. He's wrong on the logic, which leads to the conclusion that the district would pay anything. That's hardly a strong negotiating posture, and now there is new support - from Mr. Quinlan's story- for the idea that the price is too high.

Gov. Crist could dismiss the Legislature's complaints, many of which reveal an ignorance of the issue and the Everglades, as well as influence by lobbyists. But the governor would do better to undo the damage caused by the silencing of DEP's appraisers. Otherwise, the Legislature could respond by restricting the use of the bonds with which the water district intends to finance the sale. A not-done deal still could be done in.

DJ Florida Rock Suit Interferes With US Sugar Corp Sale NewsText By Susan Buchanan Of DOW JONES NE

02/07/2009

AgricultureOnline

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By Susan Buchanan
Of DOW JONES NEWSWIRES

Litigation between Jacksonville-based Florida Rock Industries and U.S. Sugar Corp. in Clewiston complicates a plan by Florida officials to buy the cane grower's land to help restore the Everglades.

The South Florida Water Management District last month approved the land sale, which is slated to close by September if the water district can get enough financing. Officials want to connect Lake Okeechobee outflows to the Everglades.

But first, U.S. Sugar has to terminate a lease with Florida Rock to mine 7,500 acres of limestone south of Lake Okeechobee and within the 700,000-acre Everglades Agricultural Area. Florida Rock is a subsidiary of Birmingham, Alabama.-based Vulcan Materials Company, a top U.S. construction-rock and gravel producer.

Last April, Palm Beach County commissioners approved the mine project on cane fields that U.S. Sugar has since promised to sell to the South Florida Water Management District. Water managers plan to build a chain of Everglades-friendly reservoirs and marshes on land where Florida Rock intends

to open a mine - called Lake Harbor Quarry - that would blast the 7,500-acre site.

Florida Rock disputes U.S. Sugar's assertion that a lease agreement expired in late 2008, and on Dec. 31 sued the sugar producer in Palm Beach County Circuit Court, trying to preserve its lease. So far no court date has been assigned.

U.S. Sugar, meanwhile, has asked for additional time to respond to Florida Rock's suit.

'We sought a 20-day extension on Friday, Jan. 23, as the original 20-day response period ends Jan. 27,' said Judy Sanchez, spokeswoman for U.S. Sugar. 'We will publicly announce our response once it is formed.'

The state has agreed to pay U.S. Sugar \$1.34 billion for about 180,000 acres to be used for Everglades restoration. The 7,500-acre mining tract has a much higher value than comparable sugar acres, however, indicating that the deal could cost taxpayers an extra \$142 million, according to industry estimates.

Outside appraisers hired by the water district estimated that the value of most of U.S. Sugar's cane fields run from \$4,500 to \$7,500 per acre. The more than 12,000 acres of U.S. Sugar land approved for mining, however, are valued at a sizable \$20,000 to \$27,500 per acre, according to the appraisers.

The mining company said it suffered losses lining up government permits for the proposed quarry near Clewiston. For its part, U.S. Sugar maintains that a contract to develop the quarry was terminated because Florida Rock had not procured needed permits by December's end.

Robert Coker, senior vice president at U.S. Sugar Corp., said 'the terms of our contract were clear and there were mutually-negotiated, specific deadlines for obtaining permitting-approval that were not met. The deadline has passed and Florida Rock has not obtained all the required permits, so the contract automatically terminates.'

Florida Rock's lawsuit seeks an 18-month extension to procure remaining environmental permits.

-By Susan Buchanan, Dow Jones Newswires; 504-371-5461;
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(END) Dow Jones Newswires

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PLAN TO BUY U.S. SUGAR IS STALLED IN COURT FIGHT

02/07/2009

Sun Sentinel

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With the clock ticking on the largest public land buy in state history, opponents Friday succeeded in delaying court approval needed to help seal the \$1.34 billion deal.

Gov. Charlie Crist proposes buying more than 180,000 acres from U.S. Sugar Corp. and using the land to reconnect Lake Okeechobee water flows to what remains of the Everglades.

But on Friday, rival sugar growers, the Miccosukee Tribe and Glades business leaders worried about losing farmland to restoration went to court to try to cut off the financing for the deal.

The deal is a "sham" and a "rip off" that risks leaving the South Florida Water Management District unable to afford to use the land it proposes buying to build reservoirs and water treatment areas, Joe Klock, attorney for Florida Crystals, argued to Palm Beach County Circuit Judge Donald Hafele.

The district needs the court to approve its plan to borrow the money. Property tax in the district's 16-county region from Orlando to the Keys would be used pay off a 30-year debt. With interest, it is expected to reach \$3 billion.

After more than four hours of testimony Friday, Hafele delayed the rest of the hearing until March 16.

Delay is part of the opposition's goal, district bond attorney Chris Lamia said.

The district is trying to get its financing approved by July 10 to meet a September closing deadline.

But even if Hafele approves the district's financing plan, opponents can appeal to the Florida Supreme Court - another potential delay that threatens those summer deadlines.

"We are just spinning our wheels here," Lamia said, in a hearing bogged down by numerous legal objections.

Supporters contend the deal offers a historic opportunity to use sugar cane fields and other farmland that was once part of the Everglades to restore the "missing link" in the famed River of Grass.

Under questioning by Klock, Deputy Executive Director Ken Ammon, the district official who leads restoration, repeatedly acknowledged the agency was pushing for the deal without a finalized plan for how to use the land and without knowing how much the reservoirs and treatment areas envisioned would cost.

"There is a lot of unknowns, but there is a lot of opportunity," Ammon said.

Andy Reid can be reached at abreid@SunSentinel.com or 561-228-5504.

INFORMATIONAL BOX:

Why it's in court

The water district needs the court to approve its plan to borrow money to pay U.S. Sugar.

What happens next

The hearing will resume March 16. The district is trying to get its financing approved by July 10 to meet a September closing deadline.

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Opponents of U.S. Sugar deal help delay court approval

02/07/2009

Jupiter Courier

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EVERGLADES U.S. Sugar deal hits legal delay

02/07/2009

Miami Herald

Morgan, Curtis

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Critics of the state's \$1.34 billion land deal with the U.S. Sugar Corp. won a victory of sorts on Friday in a Palm Beach County courtroom -- a delay.

The South Florida Water Management District, working under tight deadlines to close the complex and controversial Everglades restoration deal, went to court seeking speedy judicial approval for plans to borrow up to \$2.2 billion to bankroll the purchase.

Instead, after a four-hour slog thick with protocol, Circuit Judge Donald Hafele granted opponents, rival grower Florida Crystals Corp. and the Miccosukee Tribe, more time to make their case. He set three days of hearings beginning March 16.

"This case does have significant consequences," said Hafele. "While I understand my role may be relatively limited, I think it's important that I give everyone due consideration."

For water managers, already worried about meeting deadlines, the 38-day postponement will add to the pressure of securing

financing through certificates of participation, similar to bonds, and wrapping up the largest conservation land buy in state history by September. They already expected any decision to be appealed to the Florida Supreme Court.

"It scrunches the calendar," said Carol Wehle, the district's executive director.

Robert Coker, a U.S. Sugar vice president, said the company would not relax its deadlines over legal delays. "The contract is the contract," he said.

Dexter Lehtinen, an attorney for the Miccosukee Tribe, rejected suggestions that delay was part of the strategy. "The victory was in getting that hearing," he said.

The tribe and Florida Crystal contend the deal violates district restrictions on financing, arguing the deal would use tax revenues to benefit a private corporation more than serve the public interest.

Joseph Klock, a Miami attorney for two companies controlled by Florida Crystals, called the deal a "sham" and "rip-off" and argued that the district had no detailed plans for the 187,000 acres, no cost estimates for future projects and no money to do restoration work, possibly for decades.

Chris Lamia, a Tallahassee attorney representing the district, dismissed the attacks as "collateral issues" in a bond-validation case, telling the judge that case law clearly gave him "very limited scope" and that he needed to show "great deference" to the agency's decision.

"Look at what they did and decide if it was clearly erroneous or patently wrong," she said.

The hearing was starkly different than the last time water managers sought bonding for eight Everglades restoration projects in 2006. No one objected and court approval was a formality.

Environmentalists call the purchase critical to restoring the Everglades. They say it is the only way to secure the massive acreage needed to store and clean polluted water that fouls the Everglades and flows from Lake Okeechobee into sensitive river estuaries on both coasts.

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Palm Beach County metro report

02/06/2009

Palm Beach Post

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WEST PALM BEACH - The state's deal to buy 180,000 acres from U.S. Sugar Corp. will push its September closing deadline because of legal delays in financing the \$1.34 billion purchase. A Palm Beach County Circuit Court hearing Friday over whether the South Florida Water Management District can borrow up to \$2.2 billion to finance the deal was continued until March 16.

Opponents of U.S. Sugar deal help delay court approval

02/06/2009

Naples Daily News

Andy Reid, Sun-Sentinel

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But on Friday, rival sugar growers, the Miccosukee Tribe and Glades business leaders worried about losing farmland to restoration went to court to try to cut off the financing for the deal. The deal is a 'sham' and a 'rip off' that risks leaving the South Florida Water Management District unable to afford to use the land it proposes buying to build reservoirs and water treatment areas, Joe Klock, attorney for Florida Crystals, argued to Palm Beach County Circuit Judge Donald Hafele.

The district needs the court to approve its plan to borrow the money. Property taxpayers in the district's 16-county region from Orlando to the Keys would pay off a 30-year debt. With interest, it is expected to reach \$3 billion.

After more than four hours of testimony Friday, Hafele delayed the rest of the hearing until March 16.

Delay is part of the opposition's goal, district bond attorney Chris Lamia said.

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But even if Hafele approves the district's financing plan, opponents can appeal to the Florida Supreme Court - another potential delay that threatens those summer deadlines. 'We are just spinning our wheels here,' Lamia said, amid a hearing bogged down by numerous legal objections.

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Under questioning by Klock - Deputy Executive Director Ken Ammon, the district official who heads restoration - repeatedly acknowledged the agency was pushing for the deal without a finalized plan for how to use the land and without knowing how much the reservoirs and treatment areas envisioned would cost. 'There is a lot of unknowns, but there is a lot of opportunity,' Ammon said.

Bonds for Everglades called a 'folly'

02/06/2009

South Florida Business Journal - Online

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This is folly, judge, absolute folly, Crystals attorney Joseph Klock said, referring to the South Florida Water Management Districts plan to fund the purchase with certificates of participation.

Palm Beach County Circuit Judge Donald Hafele is reviewing the water districts issuance of the certifications, or bonds, to purchase about 180,000 acres for Everglades restoration. After four hours of testimony, Hafele continued Fridays hearing until March 16. The districts Governing Board approved the purchase in December. Florida Crystals filed a formal objection in the bond review process. The goal is to reconnect Lake Okeechobee and the southern Everglades with a system of reservoirs and stormwater treatment areas. Most of Fridays testimony came from Ken Ammon, the water districts deputy executive director for Everglades restoration.

Ammon testified that the purchase would have tremendous benefit to the Everglades the South Florida ecosystem. The sale agreement between the water district and U.S. Sugar includes September deadline as an outside closing date.

Court hears bond-issue case in Florida-U.S. Sugar deal

02/06/2009

Miami Herald

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Water managers go to court Friday seeking judicial approval to borrow money that is critical to closing a controversial \$1.34 billion land deal with U.S. Sugar Corp.

The bond-issue approval amounted to a legal formality the last time the South Florida Water Management District went to court to bankroll Everglades restoration.

It stands to be considerably more complicated this time, with rival grower Florida Crystals Corp. contesting the move. The company, second in size to U.S. Sugar, has filed legal objections, arguing the deal is not in the public interest and would illegally use tax revenues to bail out a private company.

Palm Beach County Circuit Judge Donald Hafele will hear the case.

District spokesman Randy Smith said water managers don't need a judge's approval to seek funding in the credit market, but the step is intended to resolve legal challenges before taking on the financial obligations.

It's unclear how long the case will run, but The Palm Beach Post reported that Carol Whele, district executive director, told lawmakers this week in Tallahassee that she expects the case to wind up in the Florida Supreme Court.

In 2004, the district also sought court approval for bonds after then-Gov. Jeb Bush proposed a \$1.5 billion program for the state to take over eight stalled restoration projects from the federal government. That bond issue, part of which will be diverted to the U.S. Sugar deal, was not opposed.

Florida Crystals, along with other smaller groupers, claims the deal brokered by Gov. Charlie Crist includes provisions that will give U.S. Sugar a competitive edge -- most notably a lease-back that will allow U.S. Sugar to continue farming its own land for seven years for payment of \$50 an acre.

The Crist administration, echoed by environmentalists, say the land purchase is critical to restoring the Everglades. They say it is the only way to secure the massive acreage needed to store and clean polluted water that fouls the Everglades and flows from Lake Okeechobee into sensitive river estuaries on both coasts.

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