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How Sweet It Isn't: Big Sugar's Power Politics and the Fate of the Florida Everglades

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HOW SWEET IT ISN'T: BIG SUGAR'S POWER POLITICS AND THE FATE OF THE FLORIDA EVERGLADES

*Katherine Mohr**

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I. INTRODUCTION

The area has been described as "the world's largest and grassiest puddle,"¹ a "liquid expanse of muted greens and browns,"² a strikingly calm lake that extends "in every direction, from shore to shore,"³ with "lilies and other aquatic flowers of every variety and hue,"⁴ and "studded with green teardrop-shaped islands of tangled

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1. MICHAEL GRUNWALD, *THE SWAMP: THE EVERGLADES, FLORIDA, AND THE POLITICS OF PARADISE* 9 (2006)

2. *Id.*

3. *Id.* at 59.

4. *Id.*

trees and scraggly scrubs.”⁵ Known to the Seminoles as Pa-Hay-Okee (“Grassy Water”), the Florida Everglades are probably best known as the “River of Grass,” a term coined by one of the most famous advocates of the Everglades, Marjory Stoneman Douglas.⁶

The spectacular intricacy and natural beauty of the original Everglades system cannot be overstated. As one commentator put it, “If the Grand Canyon was a breathtaking painting, the Everglades was a complex drama, and everything in it had a role.”⁷ In unaltered, historic Florida, the Everglades were a part of the larger Kissimmee-Okeechobee-Everglades (KOE) system that encompassed almost all of South Florida from current-day Orlando all the way south to the Florida Keys.⁸ The variety of flora and fauna was unsurpassed, with 1,100 species of trees and plants, 350 birds, dolphins, manatees, rabbits, eels, ghost orchids, raccoons, flamingos, bobcats, loggerhead turtles, white-tailed deer, 52 varieties of tree snails, “and countless other species that didn’t seem to belong on the same continent, much less the same ecosystem.”⁹ As if this menagerie were not impressive enough, the Everglades also boasted the only living reefs in North America; served as the only home to the Everglades Mink, the Okeechobee Gourd, and the Big Cypress Fox Squirrel; and was the only place on Earth where alligators and crocodiles shared the same stomping ground.¹⁰

The importance of this truly unique ecosystem is no longer seriously disputed: a significant portion of the Everglades was designated Everglades National Park (ENP) by President Harry Truman in December 1947; the area is internationally identified as a World Heritage Site, an International Biosphere Reserve, and a Ramsar Convention Wetland of International Importance.¹¹ In the past, however, the Everglades were generally seen as an impediment to progress, a barrier to civilization and an obstacle that needed to be overcome to ensure Florida’s economic success. Agricultural and industrial development interests, most specifically Big Sugar¹², have been proponents

5. *Id.* at 9.

6. *Id.* at 11.

7. *Id.* at 14.

8. *Id.* at 12.

9. *Id.* at 12, 13, 17.

10. *Id.* at 12, 13.

11. GAIL M. HOLLANDER, RAISING CANE IN THE GLADES: GLOBAL SUGAR TRADE AND THE TRANSFORMATION OF FLORIDA 2 (2008)

12. HOLLANDER, *supra* note 11, at 1 (asserts that in south Florida, the sugar industry and its owners have come to be known simply as “Big Sugar,” which is represented by the two largest producers of sugarcane in the U.S., Flo-Sun and United States Sugar Corporation (USSC).)

of draining and dredging in the region since the “close of the nineteenth century”.¹³

Today, the Everglades are dying. Despite continued and varying attempts to try and stop the degradation of the Everglades, it seems that no law has been successful; the destruction continues “almost unabated,” while Big Sugar and agriculture reap the benefits.¹⁴ The overall size of the Everglades has decreased by 50%; there has been a 90-95% reduction in wading bird populations; there are infestations of exotic and invasive species; and the Everglades receive less than one-third its natural water flow – and even that is contaminated by fertilizer.¹⁵ There is an old saying: “You don’t know what you’ve got until it’s gone.” This sentiment rings true in south Florida, where the last 130 years have been spent tampering with natural systems in a veritable war waged by Man against the Earth, and now a national treasure is in jeopardy.

Regardless of what steps are taken in the Everglades from this point forward, it is inconceivable that the Everglades will ever be restored to its historical, pristine condition. In 1947, Marjory Stoneman Douglas, in her famed book, *The Everglades: River of Grass*, stated: “There are no other Everglades in the world.”¹⁶ It is now sixty-two years later and the condition of the Everglades ecosystem has further deteriorated. Despite restoration efforts, the Everglades as they originally existed are, in fact, gone. This article is written in the hopes that from this loss we are able to appreciate, understand, and respect Nature, rather than spending 130 years and exorbitant amounts of capital trying to tame Her.

II. FROM THE BEGINNING: TRANSFORMING THE EVERGLADES TO UNCOVER THE “AGRICULTURAL DIAMOND IN THE ROUGH”

A. *The Original Everglades System*

Geologically speaking, the Florida peninsula has remained very stable for the last 200 million years, having experienced no seismic up-

13. HOLLANDER, *supra* note 11, at 16.

14. CYNTHIA BARNETT, MIRAGE: FLORIDA AND THE VANISHING WATER OF THE EASTERN U.S. 53 (2007)

15. John J. Fumero & Keith W. Rizzardi, *The Everglades Ecosystem: From Engineering to Litigation to Consensus-Based Restoration*, 13 ST. THOMAS L. REV. 671-72 (2001); Clay J. Landry, *Who Drained the Everglades?*, 20 PERC REPORTS, no. 5, March 2002 at 3, available at <http://www.perc.org/articles/article259.php>.

16. MARJORY STONEMAN DOUGLAS, *THE EVERGLADES: RIVER OF GRASS* (1997)

heavals to alter its topography.¹⁷ For approximately 150 million of those 200 million years, the landmass was completely submerged; during this time it was “slowly building its limestone backbone from the shells and skeletons of dead marine species and from microscopic pearls of calcium dissolved in the sea itself.”¹⁸ Once the Florida landmass emerged from underwater it remained very wet. The “limestone backbone,” which provides the state with its extremely flat and porous base, coupled with the wet ground and wet climate are the characteristics that make Florida like no other place on Earth.¹⁹ South Florida, specifically, is a one of a kind environment. If one were to traverse the globe at the approximate latitude of the Everglades, no other wetlands would be encountered.²⁰ This is because Florida lies in what is known as the “Desert Belt,” meaning that the Everglades is on the same latitude as deserts, such as the Sahara and Arabian.²¹ Unlike other residents of the desert belt, the Everglades is an “agricultural diamond in the rough,” encompassing the essentials: rainfall, sunlight, and soil.²²

B. Early Drainage Attempts

Politically speaking, the Everglades is much more volatile. The southern half of Florida has been wrought with political struggles and fiercely competing interests since the state’s earliest days. As the state was developing, the one of a kind environment of south Florida was seen as valuable, but not in its natural state. Early assessments concluded that the region was “utterly worthless” without first being drained.²³ From the middle of the nineteenth century through the middle of the twentieth century, several individuals made attempts to drain the Everglades. The task proved so daunting that many commentators of the time became skeptical of drainage as a possibility. A newspaper expressing this sentiment teased that some people “believe the Everglades should be drained, while others urge annexation of the moon.”²⁴

17. GRUNWALD, *supra* note 1, at 15.

18. *Id.*

19. *Id.* at 15-18.

20. Cynthia A. Drew, *Storm Water and the Consent Decree: The Life or Death of the Everglades*, 21 SPG. NAT. RESOURCES & ENV'T. 30, 30 (2007).

21. GRUNWALD, *supra* note 1, at 16.

22. *Id.* at 55.

23. *Id.* at 59. (Thomas Buckingham Smith, in 1848, was appointed by the federal government to investigate the Everglades and possibilities of reclaiming it for agriculture.)

24. *Id.* at 110.

Drainage was the big issue with the original KOE system because Lake Okeechobee, the “great liquid heart of Florida,” which is north of the Everglades and provides water to it, did not have a traditional outlet.²⁵ Instead of excess water leaving the Okeechobee via a normal outlet, such as a river, Lake Okeechobee would retain all its water until summer storms, at which time it “swelled until it spilled over its lower lip in a tremendous sheet.”²⁶ This “tremendous sheet” of water from the Okeechobee then became the River of Grass, which would eventually meander south and exit into the Gulf of Mexico, Florida Bay, Biscayne Bay or other coastal estuaries via one of many open-water sloughs.²⁷

Early drainage attempts involved three key players: Hamilton Disston, Henry Flagler and Napoleon Bonaparte Broward. Disston, the first man to try, had the goal of draining water by creating exits to Lake Okeechobee on the south, east and west sides.²⁸ Disston’s attempts were unsuccessful, although he did draw settlers to Florida from the North, and he was the first developer to promote South Florida in the global real estate market.²⁹ Perhaps most significantly, Disston’s failed attempt at drainage marked the introduction of the dredge into South Florida, which is hailed by most as “the single most important thing” to ever happen to the region.³⁰ After Disston, Flagler also tried to drain the Everglades.³¹ Flagler believed the Everglades could be transformed into a “Garden of Eden,” and a profitable “sugar bowl for the nation.”³² Political changes in Florida around the turn of the century would forestall Flagler from pursuing plans to drain the Everglades, but his aggressive southward expansion paved the way for Napoleon Bonaparte Broward – except, instead of asphalt, Flagler laid down tracks.³³ Broward was elected governor of Florida in 1904 on a platform that promised Everglades drainage and was described as a “crusader for progress.”³⁴ His main contribution to early drainage ef-

25. *Id.* at 19; HOLLANDER, *supra* note 11, at 72.

26. GRUNWALD, *supra* note 1, at 19.

27. *Id.*

28. *Id.* at 95.

29. *Id.* at 89.

30. *Id.* at 91.

31. *Id.* at 100-101. (Flagler had previously worked in the oil industry and during that time had developed close ties to John Rockefeller.)

32. *Id.* at 111. In 1898, two of Flagler’s employees formed the East Coast Drainage and Sugar Company, which was the brainchild of Flagler.

33. *Id.* 99-109. (Flagler was the first man to lay railroad in Florida. Commonly referred to as the “Father of South Florida”, Flagler’s railroad expansion into south Florida opened up the region to allow development.)

34. GRUNWALD, *supra* note 1, at 129.

forts was involving the federal government.³⁵ He pursued federal involvement to help garner funds for drainage.³⁶ Broward had big dreams for the Everglades; he commissioned several studies, made several trips to the area, and concluded that – once drained – the Everglades would be a prime area for sugarcane cultivation, an activity that “would be of untold value to the state.”³⁷

C. *The Early Sugar Boosters*

The national attention the Everglades received as a result of drainage attempts had permanently launched it into the political arena.³⁸ Early drainage efforts in Florida were founded on the prevailing notions of the era – that the Everglades was a useless swampland and an obstacle to improvement and growth of the state that could only be overcome by drainage of the entire area. In the long run, however, the Everglades was transformed not for residential development, but rather for agricultural-industrial interests. This sea-change was based almost entirely on the political efforts of one group – Florida’s sugar producers and refiners, widely known as the Sugar Boosters.

Sugar has a long, complicated history. Sugar is one of the single most important commodities in the international market; it has been speculated that this importance has existed since as early as the year 700 B.C.E.³⁹ It has been said that “no other food product enters so largely into the domain of state and international politics;”⁴⁰ with sugar “entangled with politics from the time of the first Napoleon.”⁴¹ It was one of the first non-luxury commodities to be widely consumed but not locally produced.⁴² In other words, sugar was one of the first everyday items to be widely traded in the global market.

35. *Id.* at 143.

36. See GRUNWALD, *supra* note 1, 143-145. Broward’s efforts paid off. The federal government appointed James Wright to investigate drainage possibilities for the Everglades and Wright acted as a booster for the reclamation program. Wright’s 1909 report promoted the Everglades, promising that reclamation of the land was “perfectly feasible” and predicting that the Everglades would produce “America’s most prolific crops without a pound of fertilizer.” Wright’s report was nothing but a scandal. As will be discussed in section IV, *infra.*, runoff from fertilizer that is required to grow sugarcane is one of the biggest causes of environmental harms to the Everglades.

37. HOLLANDER, *supra* note 11, at 66.

38. *Id.* at 74.

39. *Id.* at 16.

40. *Id.* at 20 (*quoting* CRAMPTON, CHARLES A., SUGAR AND THE NEW COLONIES 283 (1901)).

41. *Id.* at 48 (*quoting* CRAMPTON, CHARLES A., SUGAR AND THE NEW COLONIES 282 (1901)).

42. *Id.* at 14.

Sugar production and trade has been a political battle for centuries, and Florida has been a battleground since the first settlers arrived.⁴³ In Florida, sugar interests have affected the transformation and development of the Everglades since the Second Seminole War.⁴⁴ Thomas Buckingham Smith's 1848 report, the first official government publication about the Everglades, is a good example of early sugar interest in Florida. In detailing the possibilities for the area after drainage, he focused his predictions on the capacity of the region for sugar production.⁴⁵ This confirms, as one commentator put it, "from their first reconnaissance, the Florida Everglades elicited visions of sugar."⁴⁶

Florida sugar boosters promote their product by focusing on the economic benefits of sugar production. Boosters also sell sugar production as good for national security. The competitive relationship between Floridian and Cuban sugar producers was integral to the development of Florida's sugar industry and the decision to establish agricultural-industrial operations in the Everglades during the late nineteenth century. Very early on, that relationship allowed Florida's boosters to focus on the national security value of sugar.⁴⁷ Florida sugar boosters publicly announced that Florida, as a sugar-producing region, could free the United States from dependence on foreign sugar and stimulate the United States economy.⁴⁸ During this era, "the sugar question [was] the economic question,"⁴⁹ and it was a question of phenomenal importance to the undeveloped frontier of Florida.⁵⁰ By 1929, the Everglades' role as a sugar producing region was undeniable – with headlines announcing "Everglades Permanence Now Assured," with the official opening of the "Nation's Sugar Bowl" in "America's Sweetest Town," Clewiston, Florida.⁵¹ By 1947, "large corporate interests" – namely, sugar – would be "firmly established" in the Everglades.⁵²

43. *Id.* at 17 (Hollander points out that, "once established, the "Nation's Sugar Bowl" . . . became a locus of power in the political struggles over domestic and international sugar policy.").

44. *Id.* at 20.

45. *Id.* at 32.

46. *Id.* at 33.

47. *Id.* at 38.

48. *Id.* at 30; GRUNWALD, *supra* note 1, at 137-38.

49. HOLLANDER, *supra* note 11, at 48 (quoting MEYER, HERMANN, SELECT LIST OF REFERENCES ON SUGAR, CHIEFLY IN ITS ECONOMIC ASPECTS I (1910)).

50. *Id.* at 20.

51. GRUNWALD, *supra* note 1, at 199-200; HOLLANDER, *supra* note 8, at 98.

52. HOLLANDER, *supra* note 11, at 243.

D. *The Beginning of Federal Involvement: The Central and South Florida Flood Project and The Creation of the Everglades Agricultural Area*

In 1929, a hurricane struck south Florida and killed 2,500 people; the cause of death for most: drowning.⁵³ This made 1929 a pivotal year for the Everglades; it marked the beginning of the era of federal involvement and it changed the focus from drainage to flood control.⁵⁴ Over the next ten years, the Army Corps of Engineers ("the Corps") spent \$20 million building a dike and the Everglades would never be the same.⁵⁵ From 1928 until present day, the Corps has continued to build and maintain a complicated system of ditches, levees and pumps throughout the Everglades. The story of federal involvement in the Everglades "epitomizes government programs gone awry."⁵⁶

The first phase of Everglades tampering focused on drainage and had limited success. This phase of Everglades transformation focused on drainage, which began "haphazardly in the nineteenth century, and organized successfully in the twentieth."⁵⁷ The second phase of Everglades transformation and tampering, which focused on flood control, is embodied by the 1948 Central and South Florida Flood Project ("the C&SF Project"). It is this phase that created the "second nature" of the Everglades - a complex system of canals, pumps, and drainage systems - and led to the development of the "premier sugar-producing region" in the continental United States.⁵⁸

The "premier sugar-producing region" created by the C&SF Project is known as the Everglades Agricultural Area (EAA).⁵⁹ The EAA is the 700,000-acre home of Florida's sugar growers that lies on the south/southeast shore of Lake Okeechobee - "occupying a significant portion of the historic headwaters of the River of Grass."⁶⁰ Today, the canals and pumps operating in and around the EAA transport agricultural runoff south, directly into the Water Conservation Areas (WCAs) residing below the EAA.⁶¹ Critics accuse the C&SF Project of

53. GRUNWALD, *supra* note 1, at 193.

54. *Id.* at 196.

55. *Id.* at 199.

56. Landry, *supra* note 15, at 3.

57. HOLLANDER, *supra* note 11, at 6.

58. *Id.* at 6-7.

59. *Id.*

60. *Id.*

61. M.J. Chimney & G. Goforth, *Environmental Impacts to the Everglades Ecosystem: A Historical Perspective and Restoration Strategies*, J. OF WATER SCIENCE & TECH., Vol. 44 No. 11-12, 2001, pages 93-100 at 94.

establishing a complex system of federally approved environmental degradation that essentially charges taxpayers to pay Big Sugar to destroy the Everglades.⁶²

The C&SF Project “was a plan to make [S]outh Florida safe for explosive immigration and development.”⁶³ Very basically, the plan was to transform the Everglades with 2,000 miles of canals, levees, and pumps designed to permanently change the natural hydrologic cycle.⁶⁴ The C&SF Project was very friendly to agricultural interests⁶⁵; if it weren't for the project, the area now known as the EAA would still be underwater.⁶⁶ Of all the agricultural interests to benefit, Big Sugar is at the top of the list. The C&SF Project engineered conditions highly favorable to sugar cane production – irrigating the EAA during the dry season and draining it during the wet, summer months.⁶⁷ To add insult to injury, Big Sugar received – and continues to receive – these benefits while paying very low taxes and receiving federal assistance with water supply, soil conservation, and pest control.⁶⁸ The C&SF project has successfully diverted approximately 70% of the water flow out of the Everglades to benefit agriculture.⁶⁹

The favoritism to agriculture harms the Everglades ecosystem⁷⁰ – the diversion of water to the EAA during the dry season leaves Everglades National Park with insufficient water to sustain itself.⁷¹ The Project has had several unintended negative consequences that have been particularly damaging to the Everglades ecosystem.⁷² In addition to contributing to environmental problems in the Everglades, the C&SF Project and the EAA have also sustained the growth and dominance of dirty politics in South Florida. This dominance is no secret;

62. HOLLANDER, *supra* note 11, at 2.

63. GRUNWALD, *supra* note 1, at 215.

64. HOLLANDER, *supra* note 11, at 7; GRUNWALD, *supra* note 1, at 217.

65. GRUNWALD, *supra* note 1, at 281 (States that “Agribusinesses controlled more than half the EAA’s 450,000 acres of sugarcane fields and raked in more than \$100 million a year from Uncle Sam.”).

66. John J. Fumero & Keith W. Rizzardi, *The Everglades Ecosystem: From Engineering to Litigation to Consensus-Based Restoration*, 13 ST. THOMAS L. REV. 667, 671 (2001).

67. See GRUNWALD, *supra* note 1, at 281.

68. *Id.*

69. HOLLANDER, *supra* note 11, at 149.

70. GRUNWALD, *supra* note 1, at 282-83 (Citing Big Sugar’s water demands and production methods as impacting water quality, water quantity and water flow within the Everglades.).

71. Alfred R. Light, *Ecosystem Management in the Everglades*, 14 NAT. RESOURCES & ENV'T. 166, 167 (2000).

72. Fumero & Rizzardi, *supra* note 65, at 671.

Big Sugar jokingly refers to itself as “the second Evil Empire.”⁷³ And Big Sugar purposefully obtained this position, with one commentator describing the “development of Florida’s agro-industrial region for sugar production” “the outcome of battles that reached the highest political offices in the United States and in countries around the world.”⁷⁴

III. TAX LAWS HAVE PROTECTED DOMESTIC SUGAR SINCE 1789

A. *Big Sugar’s Sweet Deal in the Form of a Complex System of Quotas, Tariffs and Non-Recourse Loans*

“Sugar is one of the most politically influential businesses in America.”⁷⁵ It has been said that “Some people win the lottery; other people grow sugar.”⁷⁶ Sugar has been a protected crop since 1789, when the first sugar tariff was enacted as a revenue-boosting program.⁷⁷ “Since that time, the U.S. sugar market has been free from import duties during only a few brief periods between 1890 and 1894.”⁷⁸ The pattern of protection is staggering. In 1983, President Reagan even created limits on the import of sugar-containing products.⁷⁹ The system of import tariffs is highly criticized by other nations.⁸⁰ In addition to import tariffs and quotas to protect domestic sugar producers, there is a complex loan system that essentially guarantees a high domestic sugar price.⁸¹ The U.S. Sugar program is not administered via one comprehensive statute; rather, it is comprised of several authorities and agencies acting in concert under the authority of various acts of Congress and numerous Presidential Proclama-

73. GRUNWALD, *supra* note 1, at 282.

74. HOLLANDER, *supra* note 11, at 10.

75. Joshua Zumbrun, *Sugar’s Sweet Deal*, FORBES MAGAZINE (2008), available at http://www.forbes.com/2008/06/27/florida-sugar-crist-biz-beltway-cx_jz_0630sugar.html

76. Jeff LeBlanc, *A Sweet Deal for Sugar*, 15 Mo. Env’tl. L. & Pol’y. Rev. 67, at 67 (2007) (quoting James Bovard).

77. Katherine Monahan, *U.S. Sugar Policy: Domestic and International Repercussions of Sour Law*, 15 HASTINGS INT’L. & COMP. L. REV. 325, 327 (1992).

78. *Id.*

79. *Id.* at 333-334. (This includes such things as sweetened cocoa, iced-tea mixes and pancake mixes. These items cannot be imported unless they contain less than ten percent cane or beet sugar by dry weight.)

80. *Id.* at 345-359. (These nations include Australia, Uruguay and the European Community.)

81. *Id.* at 329-330. (“the USDA ensures that the domestic sugar price is maintained at a level high enough to guarantee sugar processors an adequate incentive to pay off their federal loans. This goal is achieved by limiting the supply of imported sugar in the domestic market.”)

tions.⁸² This complicated system has what appears to be the limited objective of guaranteeing “an enhanced income for domestic producers and processors”⁸³ of sugar, while significantly increasing the cost of sugar to the U.S. consumer (when compared to the global market.)⁸⁴

B. This Complex System Benefits a Few “Elite” Farmers and Costs Taxpayers \$2 Billion Annually

Sugar growers have “had a great run at the expense of just about everyone else – refineries, candy manufacturers, other food companies,” and other farmers.⁸⁵ There are claims that sugarcane and sugar beet producers’ profits are as high as ten times the average profits of corn, soybean and wheat farmers.⁸⁶ These claimants feel that sugar farmers are a special, “elite,” class.⁸⁷ In 2006-2007, sugarcane and sugar beet receipts totaled a mere 1% of cash receipts for U.S. farmers.⁸⁸ Within the elite class of sugar farmers, there is an even cushier group. The Cato Institute, a well-known research and public policy think tank, concluded in 2007 that about 42% of all sugar program benefits go to 1% of sugar growers.⁸⁹ Of this 1%, there is one family that stands out: The Fanjul Family. They have been referred to as “The First Family of Corporate Welfare,” and have been in the sugar business in Florida since being exiled from Cuba after the revolution.⁹⁰

The Fanjul brothers are the “reigning sugar barons” in Florida.⁹¹ They profit from the fixed price system for domestic sugar. Further, they also directly benefit from import restrictions. The Dominican Republic is the largest quota-holder of import permits in America; the Fanjuls own a large plantation there as well.⁹² The Fanjuls own Flo-Sun, a company routinely identified as “Big Sugar.” They own and operate a large sugar plantation and refinery in the heart of the Everglades. They are very politically active – one brother

82. *Id.* at 328.

83. *Id.*

84. See Monahan *supra* note 77 and LeBlanc *supra* note 76.

85. *America’s Sugar Daddies*, N.Y. TIMES (2003), available at <http://www.nytimes.com/2003/11/29/opinion/america-s-sugar-daddies.html?pagewanted=all&src=pm>

86. Monahan, *supra* note 75, at 341.

87. *Id.*

88. Zumbrun, *supra* note 73.

89. Chris Edwards. Cato Institute, Tax & Budget Bulletin No. 46 June, 2007, *The Sugar Racket* (2007), available at http://www.cato.org/pubs/tbb/tbb_0607_46.pdf

90. See N.Y. TIMES, *supra* note 81.

91. See N.Y. TIMES, *supra* note 81.

92. See N.Y. TIMES, *supra* note 81.

backs democrats, the other brother backs republicans.⁹³ A fundamental aspect of the Fanjuls' business is lobbying against the liberalization of the sugar trade and also against plans to restore the Everglades.⁹⁴

The complex United States sugar protection system costs taxpayers \$2 billion annually, by fixing the price of domestically produced sugar at a rate that is three times higher than the global rate.⁹⁵ While depriving the taxpayers, this system nets the Fanjuls tens of millions of dollars annually.⁹⁶ Why do the "super elites" like the Fanjuls profit so greatly in a system that seems so unfair? As *The New York Times* points out, "the less defensible a policy is on its merits, the greater the likelihood that it generates (or originates from) a great deal of cash in Washington, in the form of campaign contributions."⁹⁷ The Fanjul ties to the highest levels of our government are no secret. During President Bill Clinton's Lewinsky debacle, the eldest Fanjul brother, Alfie, was noted in the transcripts; Ms. Lewinsky mentioned that Mr. Fanjul had called the President.⁹⁸

IV. BIG SUGAR'S EFFECT ON THE EVERGLADES ECOSYSTEM

While Big Sugar was one of the most powerful political forces in Florida by the 1980's, this power came with a price. By this time, the general public had been made aware of the environmental problems the industry had caused in the Everglades, and "the environment became [B]ig [S]ugar's. . . 'Achilles Heel'"⁹⁹ The problems in the Everglades were now visible to the naked eye. The sawgrass that had once been the signature of the historic Everglades had been replaced by a veritable sea of cattails, which are an invasive exotic plant.¹⁰⁰ The agricultural runoff from the EAA had drastically increased the phosphorus levels in the Everglades and in Everglades National Park.¹⁰¹ Cattails had crowded out the sawgrass and "unhinged the native food web, making the marsh smell like rotten eggs."¹⁰² The water quality of

93. See N.Y. TIMES, *supra* note 81.

94. *Id.*

95. *Id.*

96. *Id.*

97. *Id.*

98. *Id.*

99. HOLLANDER, *supra* note 11, at 235.

100. GRUNWALD, *supra* note 1, at 280.

101. GRUNWALD, *supra* note 1, at 280 - 83.

102. GRUNWALD, *supra* note 1, at 280.

the Everglades had become seriously deteriorated and phosphorus levels were the culprit.¹⁰³

In 1983, the “Save Our Everglades” campaign launched in Florida.¹⁰⁴ The campaign had lofty goals that would end up falling to the wayside, but it was a significant event because then Governor of Florida, Bob Graham, “publicly renounced a century of draining and diking,” while pushing for the restoration of the Everglades to make it “look and function more like it did in 1900.”¹⁰⁵ In 1986, an algae bloom on Lake Okeechobee was so bad that it prompted the Florida Legislature to pass the Surface Water Improvement and Management (SWIM) Act of 1987, which attempted to set targets for phosphorus in and around the Everglades.¹⁰⁶ The SWIM Act would not be of any effect, because once the state’s water management districts tried to set phosphorus levels, Big Sugar and other agricultural interests filed lawsuits that would halt the progress of the Act.¹⁰⁷ Big Sugar argued that since phosphorus was naturally occurring, it could not “pollute” the waters of the Everglades.¹⁰⁸ They were so desperate to convince the general public of this that sugar producers would drink their runoff at public events to prove it was harmless.¹⁰⁹

Perhaps one of the most pivotal years in modern Everglades history is 1988. Dexter Lehtinen, a newly appointed U.S. Attorney in Miami, filed suit against both the State of Florida and the South Florida Water Management District (SFWMD), the entity responsible for water allocation and water quality in the Everglades.¹¹⁰ To Lehtinen, the issue was simple: the SFWMD and the State of Florida had passed laws to improve water quality in the Everglades, but they had yet to follow through – it was a “clear-cut case about dirty water.”¹¹¹ What Lehtinen thought was a “slam-dunk” would result in years of costly, multi-party, multi-suit litigation with numerous interferences by both the state legislature and the federal government.

103. Although there are few water quality data for the Everglades before 1940, it is believed that the original Everglades system was oligotrophic, meaning very low in nutrients. This characteristic is part of what made the Everglades both unique and vulnerable. See Chimney & Goforth, *supra* note 60, at 94.

104. HOLLANDER, *supra* note 11, at 246.

105. GRUNWALD, *supra* note 1, at 274.

106. HOLLANDER, *supra* note 11, at 246.

107. Keith W. Rizzardi, *Alligators and Litigators: A Recent History of Everglades Regulation and Litigation*, FLORIDA BAR JOURNAL (March 2001).

108. GRUNWALD, *supra* note 1, at 283.

109. *Id.*

110. *U.S. v. South Florida Water Management District*, Case No. 88-1886 CIV-HOEVELER (S.D. Fla.)

111. GRUNWALD, *supra* note 1, at 287.

The most significant of these interferences is the Comprehensive Everglades Restoration Program (CERP), which was signed by President Clinton in 2000.¹¹² Clinton's signature represented the federal government's commitment to cough up four billion dollars (half the total cost) for the largest environmental restoration project in history.¹¹³ CERP outlined sixty projects that would span the course of forty years and a total projected cost of eight billion dollars, with the second half to be paid by the state of Florida.¹¹⁴ "Restoration" wasn't exactly the proper term, since a truly restored Everglades would displace several million people residing in South Florida.¹¹⁵ The true goal was to "get the water right," and create an "intensely managed, tightly controlled 'Disney Everglades.'"¹¹⁶ A project of this magnitude necessarily relies upon some degree of conjecture, but nearly half of CERP's projected costs were to be spent on "four technological gambles."¹¹⁷ Even the co-chair of CERP's science team was unsure of the feasibility of these gambles, having said that "a better acronym would be SWAG – Scientific Wild Ass Guess."¹¹⁸

Much of the general public, likely due to the attention the Everglades has received, thinks that the Everglades has already been saved.¹¹⁹ Water quality in the region has improved but it is not pristine; and, unfortunately, "it needs to be pristine, or else the marsh will continue to deteriorate."¹²⁰ And now, the Everglades are competing for land and water in south Florida not just with Big Sugar, but also with development interests. This is a problem because CERP – a governmental attempt at "restoring" the Everglades – "is designed to feed south Florida's growth addiction, not to cure it."¹²¹ CERP is still underway in Florida.¹²² Any small contribution CERP has made to the Everglades is likely outweighed by the constant lobbying of sugar interests, which have caused numerous delays and added costs.¹²³

112. HOLLANDER, *supra* note 11, at 263-4. See also www.evergladesproject.org

113. HOLLANDER, *supra* note 11, at 263-4.

114. *Id.* at 264. See also www.evergladesproject.org

115. GRUNWALD, *supra* note 1, at 317.

116. *Id.*

117. *Id.* at 319.

118. *Id.*

119. GRUNWALD, *supra* note 1, at 358.

120. *Id.*

121. GRUNWALD, *supra* note 1, at 366.

122. See www.evergladesplan.org for continuing information and to sign up for e-mail updates.

123. See GRUNWALD, *supra* note 1, 358-361.

V. CONCLUSION

Big Sugar has not yet been given an economic reason to care about the environment.¹²⁴ Quite the contrary, it seems that at every turn Big Sugar is encouraged by both the Florida state government and the federal government. Big Sugar carries so much weight in the state's capital that the Florida Legislature has often been referred to as "Big Sugar's Home Court," and lobbyists muse that the drinking fountains in Tallahassee spout sugarcane juice.¹²⁵ Until the campaign contributions stop and the economic protectionist policies are abandoned, the future of the Everglades is uncertain.

124. *Id.* at 283.

125. *Id.* at 300.
