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ENVIRONMENT

Big Sugar might argue both sides of case

For the sugar industry, a threatened lawsuit is about fairness; environmentalists dismiss it as a 'looney' ploy.

By Curtis Morgan

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The sugar industry, long a lightning rod for environmental lawsuits, is threatening to go to court itself in a move that could result in growers arguing both sides of a complicated federal pollution case.

Growers, along with the South Florida Water Management District, already are appealing a federal court ruling ordering water managers to obtain federal permits for the controversial practice of pumping polluted farm runoff into Lake Okeechobee to boost water supplies.

But in a filing Thursday, the Florida Sugar Cane League warned that if the appeal fails, growers intend to turn around and sue their current legal partners. The goal: Forcing the district to pull federal permits not just for the three huge lake pumps but for every water-control structure -- hundreds of gates and pumps in 16 counties.

'IT'S ONLY FAIR'

Barbara Miedema, vice president of the Sugar Cane Growers Cooperative of Florida, said if farmers must operate under federal rules they argue are cumbersome, redundant and expensive, so should everyone else.

"If you're going to single out farm structures, we believe it's only fair that all structures need to meet the same standard," she said.

David Guest, an attorney for Earthjustice in the case, dismissed the maneuver as legal "looney tunes."

"Big Sugar is being introduced to the world that everyone else lives in where they lose some of the time," he said. "This has caused them to have a psychotic breakdown."

The district's governing board dealt growers a landmark defeat this month, rejecting "back-pumping" to replenish drought-depleted Lake Okeechobee -- despite warnings

from farmers and the state Agriculture Department of staggering economic losses if water restrictions continue next year.

NATIONAL IMPACT?

That decision followed a December ruling by Miami District Court Judge Cecilia Altonaga, who found water managers in violation of the U.S. Clean Water Act for back-pumping. She rejected an array of arguments, including that the district wasn't producing polluted water but simply moving it between two similar places -- the giant lake that serves as South Florida's reservoir and farm canals to the southeast.

Her ruling could have national implications if it stands, both on a similar pending federal case involving another giant pump, the S-9, in western Broward County and on a rule the U.S. Environmental Protection Agency proposed last June to exempt such "water transfers," crafted in direct response to the Florida cases. Both have been closely watched nationally, particularly in Western states, where transfers are common.

'MONUMENTAL BURDEN'

The sugar threat echoes district arguments about seeking federal approval. Still, water managers issued an unattributed statement, saying, "we are disappointed and concerned about the monumental burden this action, if successful, would place on the state's resources and the district's ability to manage Florida's waters."

Guest argued that the ripple effects of Altonaga's decision would be limited to perhaps a handful of district structures.

Gaston Cantens, a vice president of Florida Crystals, a major grower, and a Sugar Cane League spokesman, said farmers are weary of taking blame for "all the evils of the Everglades and Lake Okeechobee.

"What we're trying to figure out is: Are people really interested in cleaning the water or is their purpose to drive people out of business?" he said.