

IN THE SUPREME COURT OF FLORIDA

Case No. SC09-1817

Lower Case No.: 50-2008-CA-031975XXXXMB

MICCOSUKEE TRIBE OF INDIANS OF
FLORIDA, and
NEW HOPE SUGAR COMPANY and
OKEELANTA CORPORATION, et. al.,

Defendants/Appellants,

vs.

SOUTH FLORIDA WATER
MANAGEMENT DISTRICT,

Plaintiffs/Appellee.

**REPLY OF APPELLANT MICCOSUKEE TRIBE OF INDIANS OF
FLORIDA TO INTERVENOR FLORIDA AUDUBON SOCIETY’S
“RESPONSE IN SUPPORT OF MOTION TO EXPEDITE REVIEW”**

Defendant/Appellant, the Miccosukee Tribe of Indians of Florida (“Tribe”), hereby replies to Intervenor Florida Audubon Society’s “Response in Support of Motion to Expedite Review” as follows:

1. Appellant Tribe is taking the unusual step of filing a “Reply” to Intervenor Florida Audubon Society’s (“Audubon”) “Response in Support of Motion to Expedite Review” because Audubon’s filing, while designated a “Response,” is essentially a copy of the original Motion to Expedite filed by Appellee/Cross-Appellant South Florida Water Management District (“SFWMD”)

in this case. Audubon's "Response" adds nothing to the arguments of the SFWMD, but coming from an "environmental organization," it requires a brief reply from the Miccosukee Tribe, the only group of people who actually live in the Everglades and are affected in their daily lives by the actions and inactions of the SFWMD.

2. Audubon, not having sought any relief of its own and not having filed an appeal of its own, is essentially a cheerleader, supporting Appellee/Cross-Appellant SFWMD in all its endeavors. Discussing the reasons for Audubon's support of the SFWMD would require digression beyond the scope of this Reply, but suffice it to say that Audubon's motives have nothing to do with preserving and restoring the Everglades.

3. The Tribe's ultimate concern in challenging this bond validation is with what the U.S. Sugar purchase has done, and continues to do, to comprehensive Everglades restoration. As more fully explained in the Tribe's Initial Brief, this acquisition transaction will delay Everglades restoration by at least 20 years, and will drain the SFWMD's financial resources to the point where substantial Everglades restoration projects will have to wait for 30 years or until the District has paid off the crushing debt created by this bond issuance.

4. One of the most significant Everglades restoration projects, the EAA Storage Reservoir, was cancelled by the SFWMD in order to free the bonding capacity to enter the instant transaction. In the process, the SFWMD stopped work

on the reservoir after having invested more than \$250 million on construction, at an enormous loss to taxpayers. More importantly for purposes of this Reply, the reservoir would have provided 17,000 acres of deep water storage in the Everglades Agricultural Area (“EAA”) by 2010, a desperately needed amount of water that will not be available in the EAA for at least 20 years if the SFWMD has its way.

5. In brief, the evidence at trial clearly showed that rather than advancing Everglades restoration, the project so fervently cheered by Audubon, will delay Everglades restoration by decades. *See* trial testimony of Col. Terry Rice and Dr. Ronal Jones. A.5, 914, 919-20 (Rice); 1047-48 (Jones); Tribe Exh. 7 (A. 24, 2564).¹ And as has been stated on numerous occasions: “Delay is the enemy of the Everglades.”

6. Thus, while time is indeed of the essence for the Everglades, what is needed is execution and completion of the Comprehensive Everglades Restoration Plan (CERP), A.5, 1042-43, 1059-60 (Jones); A.10, 2137 (Jones); A.5, 938-39 (Rice); A.10, 1928-29, 1933-34 (Rice), and not a quick approval of bonds that admittedly caused the SFWMD to abandon half-finished CERP projects.

¹ These are references to the Joint Appendix filed by Appellants with the Court on or about October 13th, 2009, i.e., “A.” refers to the tab in the Appendix, followed by the consecutively numbered page of the Appendix.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Reply to Intervenor Audubon Society's "Response in Support of Motion to Expedite Review" has been furnished via U.S. Mail this 14th day of October, 2009, to the attached service list:

By: /s/ Dexter Lehtinen
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