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IN THE

SUPREME COURT OF FLORIDA

Case No. 83,301

Upon A Request From The
Attorney General For An
Advisory Opinion As To The
Validity Of An Initiative Petition

IN RE:
ADVISORY OPINION
TO THE ATTORNEY GENERAL --
SAVE OUR EVERGLADES TRUST

INITIAL BRIEF OF FLORIDA AUDUBON SOCIETY IN SUPPORT OF SAVE OUR EVERGLADES TRUST INITIATIVE

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STATEMENT OF CASE AND FACTS

The Attorney General initiated this proceeding to test the propriety of a proposed constitutional amendment commenced through the initiative process of Article XI, Section 3, Fla. Const., by a political group known as "Save our Everglades Committee." The proposed constitutional amendment is titled Save Our Everglades (hereinafter referred to as "SOE"). In compliance with constitutional and statutory procedural requirements, the Attorney General asked the Court to consider whether the proposed constitutional amendment meets the requirements of law for placement on a ballot to be submitted to the voters of Florida.

On March 11, 1994, the Court entered an Order authorizing interested parties to file briefs on or before March 31, and setting oral argument for May 2, 1994. Respondent, the Florida Audubon Society, a not-for-profit statewide association representing over 35,000 members, was founded in 1900 to promote the goals of conservation and restoration of natural resources with an emphasis on wild life, wild life habitats, soil, water, and forests. The Florida Audubon Society contends that the SOE amendment meets the requirements for placement on a ballot and therefore appropriate for submission to the electorate. The proposed SOE amendment, including an introduction or preamble, states:

FULL TEXT OF PROPOSED AMENDMENT:

(a) The people of Florida believe that protecting the Everglades Ecosystem helps secure clean water and a healthy economy for future generations. The sugarcane industry in the Everglades Ecosystem has

profited while damaging the Everglades with pollution and by altering water supply. Therefore, the sugarcane industry should help pay to clean up the pollution and to restore clean water. To that end the people hereby establish a Trust, controlled by Florida citizens, dedicated to restoring the Everglades Ecosystem and funded initially by a fee on raw sugar from sugarcane grown in the Everglades Ecosystem.

(b) Article X, Florida Constitution, is hereby amended to add the following:

Section 16. Save Our Everglades Trust Fund.

(a) There is established the Save Our Everglades Trust Fund (Trust). The sole purpose of the Trust is to expend funds to recreate the historical ecological functions of the Everglades Ecosystem by restoring water quality, quantity, timing and distribution (including pollution clean up and control, exotic species removal and control, land acquisition, restoration and management, construction and operation of water storage and delivery systems, research and monitoring).

(b) The Trust shall be administered by five Trustees. Trustees shall be appointed by the Governor, subject to confirmation by the Senate, within thirty days of a vacancy. Trustees' appointments shall be for five years; provided that the terms of the first Trustees appointed may be less than five years so that each Trustee's term will end during a different year. Trustees shall be residents of Florida with experience in environmental protection, but Trustees shall not hold elected governmental office during service as a Trustee. Trustees may adopt their own operating rules and regulations, subject to generally-applicable law. Disputes arising under this Section shall be first brought to a hearing before the Trustees, and

thereafter according to generally-applicable law. Trustees shall serve without compensation but may be reimbursed for expenses.

(c) The Trust shall be funded by revenues which shall be collected by the State and deposited into the Trust, all of which funds shall be appropriated by the Legislature to the Trustees to be expended solely for the purpose of the Trust. Revenues collected by the State shall come from a fee on raw sugar from sugarcane grown within the Everglades Ecosystem. The fee shall be assessed against each first processor of sugarcane at a rate of $.01 per pound of raw sugar, increased annually by any inflation measured by the Consumer Price Index for all urban consumers (U.S. City Average, All Items), or successor reports of the United States Department of Labor, Bureau of Labor Statistics or its successor, and shall expire twenty-five years after the effective date of this Section.

(d) For purposes of this Section, the Everglades Ecosystem is defined as Lake Okeechobee, the historical Everglades watershed west, south and east of Lake Okeechobee, Florida Bay and the Florida Keys Coral Reef, provided that the Trustees may refine this definition.

(e) Implementing legislation is not required for this Section, but nothing shall prohibit the establishment by law or otherwise of other measures designed to protect or restore the Everglades. If any portion of this Section is held invalid for any reason, the remaining portion of this Section shall be severed from the void portion and given the fullest possible force and application. This Section shall take effect on the day after approval by the electors.

SUMMARY OF ARGUMENT

The Save Our Everglades initiative satisfies the Article XI, Section 3, Fla. Const. requirement that a constitutional amendment proposed by initiative "embrace one subject matter directly connected therewith." The one subject test has been synthesized by Supreme Court opinions to be one of function, requiring a logical natural oneness of purpose. The authority of the state to create an operated trust to assist in the restoration and cleanup of the Everglades funded by a fee on industry production is incidental and reasonably necessary to effect the main object and purpose of the amendment. The method chosen is consistent with other provisions of the Florida Constitution which operate in a similar fashion. The ballot language of the Save Our Everglades initiative meets the broad requirements necessary to give a voter fair notice of the decision to be made. The ballot language clearly describes the purpose of creating a defined trust to assist in restoring the Everglades.

ARGUMENT

The Court in determining the propriety of a proposed Constitutional amendment presented by the people's initiative being included on a ballot has recognized its duty to uphold the proposal unless a challenger can show the proposed amendment to be clearly and conclusively defective. Weber v. Smathers, 338 So. 2d 819 (Fla. 1976); Fine v. Firestone, 448 So. 2d 984 (Fla. 1984); Evans v. Firestone, 457 So. 2d 1351 (Fla. 1984). The Court has previously recognized its duty to act with extreme care, caution and restraint before it removes an amendment from the vote of the people. Askew v. Firestone, 421 So. 2d 151 (Fla. 1982).

The challenge to this amendment must fail because the opposition has not met the high burden required to prevent the electorate from voting on the Save Our Everglades initiative.

The SOE Initiative is narrowly constructed to provide a trust fund for contributing to the clean-up and restoration of the Everglades. The language of the amendment and the terminology of the ballot language have a clear and easily understood purpose.

The clean-up and restoration of the Everglades has long been recognized as a matter central to the purpose of the Florida Audubon Society. In Matter of Surface Water Management Permit No. 50-01420-S, 515 So. 2d 1288 (Fla. 4th DCA 1987), the District Court per Judge Letts noted that:

> The word 'Audubon,' as everyone knows, is derived from the famed naturalist John James Audubon and we take judicial notice of the fact that raison d'etre of Audubon Societies is concerned for the preservation of the environment, in this

> case in particular, the preservation of it in the Everglades and the South Florida Water Management District.

Id. at 1292.

Indeed, John James Audubon himself wrote about his adventures exploring the Florida Everglades when he visited in his travels through Florida in the spring of 1832. The uniqueness of this place is best summed in the opening words of Marjory Stoneman Douglas' classic work, The Everglades, River of Grass: "There are no other Everglades in the world." She goes on to note:

> They are, they have always been, one of the unique regions of the earth, remote, never wholly known. Nothing anywhere else is like them: their vast glittering openness, wider than the enormous visible round of the horizon, their racing free saltiness and sweetness of their massive winds, under the dazzling blue heights of space. They are unique also in the simplicity, the diversity, the related harmony of the forms of life they enclose. The miracle of the light pours over the green and brown expanse of saw grass and of water, shining and slow moving, the grass and water that is the meaning and central fact of the Everglades of Florida. It is a river of grass.

Id. at 5.

But this river of grass has not always been compatible with the river of people that has flowed into South Florida. As stated in "The Everglades: Dying for Help," National Geographic Magazine, April. 1994, at 2:

> But for more than 110 years, people have monkeyed with that system, building canals, levees, and water impoundments to satisfy human needs. The results for Everglades National Park, which is situated on the tail end of this watershed, have been devastating: the wading bird population has crashed, Florida Bay -- which constitutes one-

> third of the park -- is dying, and animals whose ranges extend beyond the park have lost critical habitat. All of which only compounds the problems faced of the 14 species of wildlife in the park that are either threatened or endangered, including the American crocodile, southern bald eagle, and loggerhead turtle.
>
> This environmental erosion, though, is yesterdays news. Ever since the park was established in 1947, the press has bemoaned its sorry state. A sampler: 'Last chance for the great swamp' 1992, 'Everglades National Park: An Imperiled Wetland' (1983), 'Everglades Not Everlasting: The Human Threat' (1974), 'Last Chance to Save the Everglades' (1969), 'The Heavy Stench of Death Grows Steadily Over Glades' (1967).

The role of the sugar industry in this controversy cannot be ignored. Quoting Ms. Marjory Stoneman Douglas:

> Sugar can has come to dominate the old northern Everglades as the vegetable and cattle people bail out or convert. Sugar cane is just about freeze-proof, needs little labor and enjoys federal price supports in the form of import quotas, keeping out cheaper foreign sugar. So it has attracted people. Now the green stalks grow thick like a carpet that stretches between horizons, a visual monoculture over 1,000 square miles.
>
> Sugar cane in the South Florida muck is irrigated by saturating the water table in the field and is drained with pumps. The drainage of the cane land has helped to precipitate a host of crises--the decline of once-tough, old Lake Okeechobee and the destruction of thousands of acres of Everglades, . . .

Id. at 410, 411.

Forty years after Marjory Stoneman Douglas authored the original River of Grass a revised edition was published which ended on the following note:

> It is an article of faith in Florida, the emerging urban giant carved from wild dunes in accessible swamps, that events can be propelled fast enough to keep ahead of consequences. A century after man first started to dominate the Everglades, that progress has stumbled. Consequences have started to catch up. It is perhaps an opportunity. The great wet wilderness of south Florida need not be degraded to a permanent state of mediocrity. If the people will it, if they enforce their will on the managers of Florida's future, the Everglades can be restored to nature's design.

Id. at 427.

The Save Our Everglades Initiative is an opportunity for the people of Florida to answer the question posed by Ms. Douglas. The Florida Audubon Society is confident that the considered deference this Court gives to the people's right to exercise their electoral vote will result in approval of the Save Our Everglades Initiative.

I.

THE SAVE OUR EVERGLADES INITIATIVE EMBRACES ONLY ONE SUBJECT

Article XI, Section 3 of the Florida Constitution requires that a Constitutional amendment proposed by initiative petition "embrace but one subject and matter directly connected therewith." Article XI, Section 3 was last amended in 1972. Since 1972, the one "subject rule" in initiative petitions has been vigorously litigated in challenges to the "Sunshine Amendment" (Weber v. Smathers, 338 So. 2d 819 (Fla. 1976)); a "Casino Gambling Amendment" (Floridians Against Casino Takeover v. Let's Help Florida, 363 So. 2d 337 (Fla. 1978)); a "Citizens Choice on Government Revenue Amendment," (Fine v Firestone, 448 So. 2d 984 (Fla. 1984)); a "Citizens Rights in Civil Actions Amendment" (Evans v. Firestone 457 So. 2d 1351 (Fla. 1984)); a state operated lottery, (Carroll v. Firestone), 497 So. 2d 1204 (Fla. 1986)); the English only amendment (In Re: Advisory Opinion to the Attorney General - English the Official Language of Florida, 520 So. 2d 11 (Fla. 1988)); and more recently, (Advisory Opinion to the Attorney General - Limited Political Terms in Certain Elective Offices, 592 So. 2d 225 (Fla. 1991); a ban on commercial net fishing in Advisory Opinion to the Attorney General - Limited Marine Net Fishing, 620 So. 2d 997 (Fla. 1993)); and In Re: Advisory Opinion to the Attorney General - Restricts Laws Related to Discrimination, 19 Fla. L. Weekly, S 109 (Fla. 1994).

Seemingly, the only common thread running through all of these opinions regarding the one subject rule may be summed up by Justice England's observation that the rule "obviously means different things to different, reasonable people." Weber, supra

at 822, (England, J. concurring).

This 1972 addition to the constitution was designed to enlarge the right to amend the constitution by initiative petition. The progression of initiative petition litigation set forth above has produced an ever-increasing collection of dissenting, concurring, and specially concurring opinions where individual justices offer their varying thoughts on what the one subject rule means. Notwithstanding refinements in the Supreme Court's analysis of the one subject rule, and recision from discrete language in earlier opinions, the Article XI, Section 3, Fla. Const. cases continue to offer a fundamental analytical basis upon which to judge a one subject challenge. This fundamental analytical basis includes three principles which have not varied.

> First, 'the 1972 change was designed to enlarge the right to amend the Constitution by initiative petition.' Second, 'the burden' upon the opponent is to establish that the initiative proposal is clearly and conclusively defective.' Third, 'the 'one subject' limitation was selected to place a functional, as opposed to locational, restraint on the range of authorized amendments.'

See Floridians Against Casino Takeover, supra at 340.

The functional test was established in City of Coral Gables v. Gray, 19 So. 2d 318 (Fla. 1944). In Gray, the Court held:

> [T]he fact that an amendment may be capable of separation into two or more propositions concerning the value of which diversity of opinion might arise is not alone sufficient to condemn the proposed amendment; provided the proposition submitted may be logically viewed as having a natural relation and connection as component parts or aspects of a single dominant plan or scheme. Unity of object and plan is the universal test, and it is to be looked for in the ultimate

> end sought, not in the details or steps leading to the end.

Id. at 320.

In more recent cases, the Gray test has been cited with approval as consistent with the proposition that the one subject test is functional and not locational. In Fine v. Firestone, supra, Justice Overton, writing for the majority, reaffirmed the Gray test, and reaffirmed the Court's emphasis that the test should include a determination of whether the proposal affects a section of the Constitution. As Justice Overton wrote:

> The significance of the word 'function' as used in Floridians was to point out that the one subject limitation dealt with a logical and natural oneness of purpose, as opposed to the prior limitation on initiative proposals affecting multiple sections of the Constitution.

448 So. 2d at 990.

The intent of this test is to protect against multiple precipitous changes in our state constitution. Id. A proposed amendment meets this single subject requirement if it has "logical and natural oneness of purpose." Advisory Opinion to the Attorney General - Limited Political Terms in Certain Elective Offices, 592 So. 2d 225, 227 (Fla. 1991).

The provisions of the SOE Initiative all relate directly to its mission of providing a combined method and funding source to contribute to the clean-up and restoration of the Florida Everglades. The question asked of voters is a singular, direct and fair measure of the Electoral will. There is nothing in the initiative proposal which would require voters to accept part of a proposal which they oppose in order to obtain a

change which they support. See Fine v. Firestone, supra at 993; and In Re: Advisory Opinion to Attorney General - English the Official Language of Florida, 520 So. 2d at 12.

The SOE Initiative does not violate the single-subject test because it has a minimal impact on other constitutional provisions beyond the creation a new section of the Constitution designating the SOE trust. The actual language of the proposed amendment states:

> (a) There is established the Save Our Everglades Trust Fund (Trust). The sole purpose of the Trust is to expend funds to recreate the historical ecological functions of the Everglades Ecosystem by restoring water quality, quantity, timing and distribution (including pollution clean up and control, exotic species removal and control, land acquisition, restoration and management, construction and operation of water storage and delivery systems, research and monitoring).

While it is appropriate for the Court to consider how the above language may affect other articles or sections of the Constitution, the challengers must demonstrate more than simple impact to prevail. This Court approved the Term Limits Initiative even though it affected multiple Constitutional sections. See Advisory Opinion to the Attorney General - Limited Political Terms in Certain Elective Offices, 592 So. 2d at 227. The language of the proposed amendment creates a trust and raises revenue to effectuate the purpose of the trust, a necessary part of any public or private trust.

"The SOE Initiative stands alone and requires no other amendment to effect its purpose." See Fine v. Firestone, 448 So. 2d at 990.

The only question posed by SOE Initiative is whether voters want to create a trust to clean up and restore the Everglades funded by a fee on raw sugar produced in the

geographic area of the Everglades. It is neither confusing to voters or unclear in its purpose.

The SOE Initiative does not improperly affect the executive, judicial or legislative functions of government. In Fine, Evans, and In Re: Advisory Opinion to the Attorney General - Restricts Laws Related to Discrimination, the Court found a substantial impact on the multiple functions of government and would not be easily understood by voters. Moreover the creation of the trust fund and directing the appropriations for defined purpose does not impinge upon the appropriations function of the legislature.

The SOE Initiative funding procedure is nearly identical to that Constitutional provision by which the Legislature handily appropriates the funds for the Game and Fresh Water Fish Commission from fees that "shall be appropriated to the commission by the legislature." See Article IV, section 9, Fla. Const.

The proposed amendment is functionally and facially unified and complies with the single subject requirement. The sole purpose of the amendment is to create the trust fund to clean up and restore the Everglades. The remaining provisions, which provide for the selection procedure of the Board of Trustees, the method for assessing the fee on the sugar, the geographical definition of the everglades ecosystem system, the severability clause, and an effective date are logically related to the subject of the amendment. All of these are merely components, parts, or aspects of a single dominant plan or scheme to clean up the Everglades. See Advisory Opinion to the Attorney General - Limited Marine Net Fishing, 620 So. 2d at 999.

In all respects, the sole question before the voters will be whether they desire to create a funded trust with the defined purpose of cleaning up and restoring the Everglades. Likewise, the single subject rule concern about "logrolling" is met head on because the purpose of raising funds is unified with the purpose of the expenditure in a more straight forward manner than approved in Carroll v. Firestone, supra.

In summary the proposed Save Our Everglades Initiative complies with the one subject limitation because it clearly has "a logical and natural oneness of purpose" which this Court requires to pass muster under the single subject limitation. See Fine v. Firestone.

II.

THE SAVE OUR EVERGLADES TRUST INITIATIVE BALLOT SUMMARY COMPLIES WITH § 101.161, FLA. STAT.

Section 101.161(1), Fla. Stat., reads as follows:

> Whenever a constitutional amendment or other public measure is submitted to the vote of the people, the substance of such amendment or other public measure shall be printed in clear and unambiguous language on the ballot after the list of candidates, followed by the word 'yes' and also by word 'no,' and shall be styled in such a manner that a 'yes' vote will indicate approval of the proposal and a 'no' vote will indicate rejection. The wording of the substance of the amendment or other public measure and the ballot title to appear on the ballot shall be embodied in the joint resolution, constitutional revision commission proposal, constitutional convention proposal, or enabling resolution or ordinance. The substance of the amendment or other public measure shall be an explanatory statement, not exceeding 75 words in length, of the chief purpose of the measure. The ballot title shall consist of a caption, not exceeding 15 words in length, by which the measure is commonly referred to or spoken of.

The test to be applied in a challenge to a ballot summary was set forth in Askew v. Firestone, 421 So. 2d 151 (Fla. 1982). In Askew, the ballot summary test was described as follows:

> Simply put, the ballot must give the voter fair notice of the decision he must make . . . .
>
> . . . The people who are asked to approve them, must be able to comprehend the sweep of each proposal from a fair notification in the proposition itself that is neither less nor more extensive than it appears to be.
>
> The purpose of section 101.161 is to assure that the

> electorate is advised of the true meaning, and ramifications, of an amendment. . . .
>
> Fair notice in terms of a ballot summary must be actual notice consisting of a clear and unambiguous explanation of the measure's chief purpose.

Id. at 155-156.

The SOE ballot summary states:

> SUMMARY: Creates the Save our Everglades Trust to restore the Everglades for future generations. Directs the sugarcane industry, which polluted the Everglades, to help pay to clean up pollution and restore clean water supply. Funds the Trust for twenty-five years with a fee on raw sugar from sugarcane grown in the Everglades Ecosystem of one cent per pound, indexed for inflation. Florida citizen trustees will control the Trust.

The critical issue for this Court has always been whether the public has fair notice of both the meaning and the effect of the proposed amendment.

In Smith v. American Airlines, Inc., 606 So. 2d 618 (Fla. 1992), this Court held that the proposed ballot summary concerning taxation of leaseholds of government-owned property was defective because it failed to explain that post-1968 leases would be taxed at a different rate than pre-1968 leases. The Court will not impose on the voter a due diligence requirement to inform themselves about the details of a proposed amendment where the ballot title and summary are not accurate and informative. Id. at 621.

In this case the voters will know there will be some impact on the cost of sugar because of the imposition of a fee on sugar production to fund a trust to restore the Everglades.

The result here is controlled by Grose v. Firestone, 422 So. 2d 303 (Fla. 1982). In Grose, a ballot summary was held to be in compliance with § 101.161, Fla. Stat., in that it adequately disclosed the chief purpose of the proposed amendment, i.e., the right to be free from unreasonable searches and seizures. In Grose the challengers alleged the ballot summary was defective because it did not adequately describe all possible future effects of the amendment. The Court held the ballot summary valid because the chief purpose was clearly stated, giving the voters fair notice of the meaning and effect of the proposal. The Court specifically held that the inclusion of all possible effects is not required in a ballot summary.

The importance of the "chief purpose" requirement in the statute and the Court's position that all possible effects of a proposed initiative are not required to be set forth in a ballot summary has long been the law of Florida. In Hill v. Milander, 72 So. 2d 796 (Fla. 1954), the Court found that inclusion of the whole proposal was not mandatory because a voter would be apprised of all issues through the media and other means of communication. In Miami Dolphins, Ltd. v. Metropolitan Dade County, 394 So. 2d 981 (Fla. 1981), the Court again emphasized that not every aspect of a proposal need be explained in the voting booth because:

> It is a matter of common knowledge that many weeks are consumed, in advance of elections, apprising the electorate of the issues to be determined and that in this day and age of radio, television, newspaper and the many other means of communication and disseminating information, it is idle to argue that every proposition on a ballot must appear at great and undue length.

Id. at 987, quoting Hill v. Milander, 72 So. 2d at 798. See also, In Re: Advisory Opinion to the Attorney General - Homestead Valuation Limitation, 581 So. 2d 586, 588 (Fla. 1991).

It is clear that the Court does not require that all possible effects of a proposed amendment be included in a ballot summary. If that were the case, the summary would not be limited to 75 words in length, as prescribed by § 101.161, Fla. Stat., and the statute would not use the words "chief purpose." The ultimate test of a ballot summary is whether reasonable voters who read the ballot summary with reasonable care should understand what their "yes" or "no" vote accomplishes. By that measure, the ballot summary describing the Save Our Everglades Trust Fund amendment is in full compliance with § 101.161, Fla. Stat.

Alternatively, statutorily created notice requirements of § 101.161, Fla. Stat., could be said to be in conflict with constitutionally prescribed notice of procedure for amending a constitution via a vote of the people and as such should fall. Article XI, section 5(b), Fla. Const., sets forth the only constitutionally required notice provision which must be satisfied prior to placing a proposed amendment by initiative petition on the ballot and states:

> SECTION 5. Amendment or revision election.--
>
> (b) Once in the tenth, and once in the sixth week immediately preceding the week in which the election is held, the proposed amendment or revision, with notice of the date of election at which it be submitted to the electors, shall be published in one newspaper of general circulation in each county in which a newspaper is published.

The ballot initiative provisions of the constitution passed in 1972 were designed to enlarge the right to amend the constitution by initiative and ultimately by a vote of the people. This Court has long recognized the importance of the initiative as part of "constitutional democracy in which sovereignty resides with the people." Weber v. Smathers, 338 So. 2d at 821. Section § 101.161, Fla. Stat., could conflict with this constitutional method for amending the constitution by erecting an additional, legislatively created obstacle to the people's right to amend their constitution. If it does, it should fall.

III.

THE SAVE OUR EVERGLADES TRUST INITIATIVE IS SIMILAR TO OTHER TRUST FUNDS THAT CLEAN UP POLLUTION WHICH ARE FUNDED BY TAXES ON POLLUTERS.

The SOE Initiative proposes a trust shall be funded by revenues collected by the state from a "fee on raw sugar from sugarcane grown within the Everglades Ecosystem." The link between levying a fee on a product produced in a certain geographical area to fund cleanup of pollution caused by the production of that product is analogous to that levied on terminal facilities for transportation of pollutants such as petroleum over water. Sections 376.11 and 206.9945(1)(a), Fla. Stat. Funds collected are to be designated to the Florida Coastal Protection Trust Fund. This Fund is used to clean up discharges of pollution in coastal areas. See § 376.11(4), Fla. Stat. This Court is not asked to decide the wisdom of whether it is good public policy to require those who exploit a scarce resource for private gain to pay for the preservation of that scarce resource or the damage caused by its appropriation or creation.

This requirement is now a common and accepted practice in Florida, at all levels of governments and in the various states and federal government. The proposed amendment puts the voter on fair notice that this is the funding mechanism for the trust and the wisdom of this mechanism is best left to the electorate. In the final analysis, if it is the will of the people that the preservation of the Everglades should go forward, then the people will enforce their will on the managers of Florida's future and restore the Everglades to something near nature's design. If it is not their will, then this initiative will

be defeated where it should be defeated -- at the ballot box. But that decision should rarely be denied the voter unless the challenger to this initiative can show that it is clearly and conclusively defective. See Fine v. Firestone at 993.

In most cases, those who fear the public will advance many arguments to distort the simplicity of the requirements to get an amendment on a ballot. Most of these arguments are political considerations.

Accusatory press releases by opponents undoubtedly will deny the sugar industry polluted the Everglades, a denial that every school child knows is inaccurate. Others will call the fees a "tax" trying to gain negative advantage.

But these arguments are just that and do not reach the issues before the Court. The language fairly describes the proposed amendment.

CONCLUSION

The Save Our Everglades Initiative satisfies all Constitutional and Statutory requirements for being submitted to a vote of the people. The Initiative should therefore be approved by this Court for appearance on the ballot.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by HAND to ROBERT BUTTERWORTH, Attorney General, The Capitol, Tallahassee, Florida; JULIAN CLARKSON and SUSAN L. TURNER, Holland & Knight, 315 South Calhoun Street, Suite 600, Tallahassee, Florida 32302; CASS D. VICKERS, Vickers, Caparello, Madsen, Lewis, Goldman & Metz, P.A., 215 South Monroe, Suite 701, Tallahassee, Florida 32302; ROBERT P. SMITH, Hopping Boyd, Green & Sams, 123 South Calhoun Street, Tallahassee, Florida 32314; ARTHUR J. ENGLAND, Greenberg, Traurig, Hoffman, Lipoff, Rosen & Quentel, P.A., 101 E. College Avenue, Tallahassee, Florida 32302; HOWELL FERGUSON, 310 West College Avenue, Tallahassee, Florida; and KENNETH R. HART, Macfarlane, Ausley, Ferguson & McMullen, 227 South Calhoun Street, Tallahassee, Florida 32302; and by U. S. Mail to: JON L. MILLS and FLETCHER N. BALDWIN, JR., P. O. Box 2099, Gainesville, Florida 32602; JOSEPH W. LITTLE, 3731 N. W. 13th Place, Gainesville, Florida 32605; and JUDITH S. KAVANAUGH, Earl, Blank, Kavanaugh & Stotts, P.A., 1800 Second Street, suite 888, Sarasota, Florida 34236 this 5th day of April, 1994.

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