IN THE

SUPREME COURT OF FLORIDA

Case No. 90,042

IN RE:

ADVISORY OPINION TO THE GOVERNOR
1996 AMENDMENT 5 (EVERGLADES)

BRIEF OF
SAVE OUR EVERGLADES, INC.

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STATEMENT OF THE CASE

Save Our Everglades, Inc. ("SOE") is the drafter and sponsor of Article 2, Section 7(b) of the Florida Constitution, commonly referred to as either Amendment 5 or the Polluter Pays amendment, which states:

> **Those in the Everglades Agricultural Area who cause water pollution within the Everglades Protection Area or the Everglades Agricultural Area shall be primarily responsible for paying the costs of the abatement of that pollution. For purposes of this subsection, the terms "Everglades Agricultural Area" and "Everglades Protection Area" shall have the meanings as defined in statutes in effect on January 1, 1996.**

In Advisory Opinion to the Attorney General - Fee on the Everglades Sugar Production, 681 So. 2d 1124, 1130-31 (Fla. 1996), this Court stated that the Polluter Pays amendment "makes clear" that those "who cause water pollution will pay for their pollution." Id. at 1130-31. This Court held that the Polluter Pays amendment would remain on the ballot because it complied with the single subject rule and because the title, summary, and text were not misleading. Id. at 1132.

On November 5, 1996, the Polluter Pays amendment was approved by over 68% of the voters. On November 12, 1996, the Attorney General opined that Amendment 5 is self-executing. Op. Fla. Atty. Gen. 96-92 (1996).

On March 6, 1997, Governor Chiles requested an advisory opinion from this Court regarding two questions. First, whether Amendment 5 is self-executing. Second, whether the term "primarily

responsible" as used in Amendment 5 means that after an entity has been determined to be a polluter, it is required to pay for the entire cost to abate its own pollution, or, in the alternative, whether an entity is required to pay only a portion of the cost to clean up its own pollution.

In response to the Governor's request for an advisory opinion from this Court, the U.S. Sugar Corporation and three other sugar growers, Osceola Farms Company, Atlantic Sugar Association, Inc., and Okeelanta Corporation, requested this Court to decline to provide an opinion in response to the Governor's request.[1]

In contrast, SOE requested that this Court exercise its discretion to provide an opinion in response to the Governor's request in light of the fact that the answers to the Governor's questions are of substantial importance to the citizens of Florida and the future of the Florida Everglades.

On March 17, 1997, this Court entered an Order stating that it would exercise its discretion to provide an opinion in response to the Governor's request.

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[1] The U.S. Sugar Corporation filed a Motion to Remand to Circuit Court or, in the alternative, Motion to Strike or Dismiss Request for an Advisory Opinion wherein they purported to raise numerous ancillary issues which they contend must be answered. These "issues" are outside of the Governor's request and therefore are not properly before the Court.

SUMMARY OF ARGUMENT

Constitutional amendments are presumed to be self-executing, the rationale being that the Legislature could otherwise defeat the will of the people. Gray v. Bryant, 125 So. 2d 846, 851 (Fla. 1960). The basic standard for whether a constitutional provision is self-executing is whether the provision "lays down a sufficient rule" by means of which the purpose may be determined. Id. at 851.

Article 2, Section 7(b) lays down a sufficient rule which makes clear that those in the EAA who cause water pollution in the EAA or EPA (both specifically defined geographic areas) will pay the costs of abating their pollution and, therefore, the provision is self-executing. This Court has specifically articulated the clear rule that "the Responsibility initiative makes clear that those in the Everglades Protection Area or the Everglades Agricultural Area who cause water pollution will pay for their pollution." Advisory Opinion to the Attorney General - Fee on the Everglades Sugar Production, 681 So. 2d 1124, 1130-31 (Fla. 1996)

The meaning of "primarily responsible" under the Polluter Pays amendment is that polluters shall pay the entire cost of that pollution which they have been proven to have caused. This construction is consistent with the: (1) plain meaning of the language used, (2) Court's statement that Amendment 5 "makes clear" that polluters "will pay for their pollution", (3) publicly expressed intent of the drafters, (4) will of the people, (5) purpose which the provision seeks to accomplish, and (6) language used to promote the amendment to the public.

The words "primarily responsible" in Amendment 5 clearly relate to financial responsibility for costs, as compared to relative responsibility for causing pollution. This Court recognized the financial impact of the amendment in its conclusion that those who cause water pollution "will pay for their pollution." Id. at 1130-31. Those who are to be "primarily responsible" will have already been found to have caused pollution and the cost of that abatement will have been determined. Only after these findings is the term primarily responsible applied to impose financial responsibility. Accordingly, primarily responsible is a definition of financial responsibility after proof of causation and proof of related costs.

Florida courts have consistently interpreted the term "primarily responsible" in the context of financial responsibility to require a person or entity to pay for the entire costs associated with that obligation.

Why use the term "primarily" if the polluter is 100% responsible for its own pollution? The term was used advisedly for two key reasons. First, if the polluter is unable to pay the costs, the value of the Everglades as a natural resource is such that the public is secondarily responsible and could pay the costs even where a polluter was proven responsible. This is the same logic that holds parents "primarily responsible" for the care of their children. If the parents abandon their child, society will not let the child starve. If polluters cannot pay for abating their own pollution, the public cannot let the Everglades die.

Second, using the term "primarily responsible" avoids the situation where a potential taxpayer litigant could allege that the exclusive liability of a polluter prohibits any use of public funds from being expended to clean up that pollution. If the polluter is unable to pay the costs, the public can still be secondarily responsible and pay the costs.

ARGUMENT

Introduction

The two issues presented by the Governor's request each focus on the clarity and the intent of the Polluter Pays amendment. As this Court stated in its Advisory Opinion, Amendment 5 "makes clear" that polluters "will pay for their pollution." Advisory Opinion to the Attorney General - Fee on the Everglades Sugar Production, 681 So. 2d 1124, 1130-31 (Fla. 1996).

The Polluter Pays amendment is clear, specific and easily implemented. The effect of the Polluter Pays amendment as self-executing is logical and consistent with the intent of the amendment. In contrast, a finding that the Polluter Pays amendment is not self-executing is illogical, inconsistent with the intent of the amendment, and will result in delay and confusion. A self-executing Polluter Pays amendment allows courts and administrative agencies to proceed without unnecessary, unintended, and protracted legislative intervention.

By the same token, a finding that "primarily responsible" means 100% financial responsibility for pollution found to be caused by those in the EAA is logical, fair and consonant with the intent of the amendment. A finding that "primarily responsible" means 100% financial responsibility has the following consequences: administrative certainty, reduced complexity and duration of litigation, fair financial responsibility for cleanup assessed on those who are found to have caused water pollution, equity to taxpayers, and stability in statutory funding plans.

I. ARTICLE 2, SECTION 7(b) OF THE FLORIDA CONSTITUTION IS SELF-EXECUTING BECAUSE IT LAYS DOWN A CLEAR RULE THAT ESTABLISHES A PRIMARY OBLIGATION ON EAA POLLUTERS TO PAY THE COSTS OF ABATING THEIR POLLUTION IN THE EAA OR EPA REGARDLESS OF LEGISLATIVE ACTION

Article 2, Section 7(b) of the Florida Constitution, commonly referred to as either Amendment 5 or the Polluter Pays amendment, states:

> **Those in the Everglades Agricultural Area who cause water pollution within the Everglades Protection Area or the Everglades Agricultural Area shall be primarily responsible for paying the costs of the abatement of that pollution. For purposes of this subsection, the terms "Everglades Agricultural Area" and "Everglades Protection Area" shall have the meanings as defined in statutes in effect on January 1, 1996.**

The Polluter Pays amendment was added to the Constitution as Article 2, Section 7(b) following its approval by over 68% of the voters on November 5, 1996.

a. Constitutional amendments are presumed to be self-executing because otherwise the Legislature would have the power to nullify the will of the people.

The will of the people is paramount in determining whether a constitutional provision is self-executing and therefore constitutional provisions are presumed to be self-executing. Gray v. Bryant, 125 So. 2d 846, 851 (Fla. 1960). Where there is a choice as to whether an amendment is self-executing, it should be construed to be self-executing because such a construction avoids frustrating the will of the people. Id. at 852. Further, the mere fact that a constitutional provision could be supplemented by more detailed legislation does not preclude the amendment from being

self-executing. Id. at 851.[2]

The Gray v. Bryant Court developed the following test for determining whether a constitutional provision is self-executing:

> **The basic guide, or test, in determining whether a constitutional provision should be construed to be self-executing, or not self-executing, is whether or not the provision lays down a sufficient rule by means of which the right or purpose which it gives or is intended to accomplish may be determined, enjoyed, or protected without the aid of legislative enactment. State ex rel City of Fulton v. Smith, 1946, 355 Mo. 27, 194 S.W. 2d 302. If the provision lays down a sufficient rule, it speaks for the entire people and is self-executing. City of Shawnee v. Williamson, Okl. 1959, 338 P.2d 355. The fact that the right granted by the provision may be supplemented by Legislation, further protecting the right or making it available, does not prevent the provision from being self-executing. People v. Carroll, 1958, 3 N.Y. 2d 686, 171 N.Y.S. 2d 812, 148 N.E. 2d 875.**

Id. at 851.

On October 17, 1996, Mr. Samuel E. Poole, III, Executive Director of the South Florida Water Management District, asked Attorney General Robert A. Butterworth whether Amendment 5 requires implementing legislation. On November 12, 1996, the Attorney General opined that Amendment 5 "establishes a primary obligation on polluters to pay the costs of abating Everglades pollution

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[2] In Gray v. Bryant, this Court stated: "[T]he modern doctrine favors the presumption that constitutional provisions are intended to be self-operating. This is so because in the absence of such a presumption the Legislature would have the power to nullify the will of the people expressed in their constitution, the most sacrosanct of all expressions of the people." Id. at 851.

regardless of legislative action." Op. Fla. Atty. Gen. 96-92 (1996). The Attorney General emphasized that the presumption supporting the self-executing nature of constitutional amendments is particularly strong regarding citizen initiatives supported by the voters. Id.[3]

Although there are some provisions in the Florida Constitution that have been construed not to be self-executing, these provisions are easily distinguishable from the Polluter Pays amendment because they include specific language suggesting the need for enabling legislation in order to overcome the presumption that they are self-executing. For example, many amendments include a clause stating that "The Legislature shall have the power to enforce," "by general law the Legislature shall prescribe," "adequate provision shall be made by law," or "as may be provided by law."[4]

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[3] The Attorney General stated: "[I]t is presumed that constitutional amendments are self-executing, the rationale being that the Legislature could otherwise defeat the will of the people. This is particularly so where, as here, the constitutional amendment is proposed by citizen initiative." Id.

[4] *See* Advisory Opinion to the Attorney General English-The Official Language of Florida, 520 So.2d 11, 12 (Fla. 1988) (Article II, Section 9, states "the Legislature shall have the power to enforce this section by appropriate legislation."); Williams v. Smith, 360 So. 2d 417, 419-420 (Fla. 1978) (Article II, Section 8(d) states "as may be provided by law."); Jackson v. City of Jacksonville, 225 So.2d 497, 507 (Fla. 1969) (amendment gives the Legislature the power to act); Bryan v. City of Miami, 139 Fla. 650, 190 So. 772 (Fla. 1939)("The Legislature shall establish..."); Fla. Const. art. I, § 25 ("by general law the Legislature shall prescribe and adopt a taxpayer's bill of rights"); Fla. Const. art. VII, § 1(e)("the Legislature shall, by general law, prescribe procedures necessary to administer this subsection."); Jasper v. Mease Manor, Inc., 208 So.2d 821, 824-25 (Fla. 1968)(Article VII, Section 3(e), which includes phrase "shall be determined by general law" held not to be self-executing); Fla. Const. art. X, § 6(b)("provision may be made by law").

In sum, there is a heavy presumption in favor of Article 2, Section 7(b) being self-executing, especially since it was a citizen initiative supported by over 68% of the voters and there is absolutely no language in the amendment itself which suggests the need for enabling legislation. Further, Article 2, Section 7(b) meets the Gray v. Bryant test because it lays down a sufficient rule by means of which the purpose may be determined. Gray v. Bryant, 125 So. 2d at 851.

b. Article 2, Section 7(b) makes clear that those in the EAA who cause water pollution in the EAA or EPA will pay for their pollution.

Article 2, Section 7(b) "lays down a sufficient rule" which makes clear that those in the EAA who cause water pollution in the EAA or EPA (both specifically defined geographic areas) will pay the costs of abating their pollution. As this Court recently stated in Advisory Opinion to the Attorney General - Fee on the Everglades Sugar Production, 681 So. 2d 1124, 1130-31 (Fla. 1996):

> **The responsibility initiative makes clear that those in the Everglades Protection Area or the Everglades Agricultural Area who cause water pollution will pay for their pollution.**

Id. at 1130-31. This specific statement does not indicate the need for legislative intervention but states that those "who cause water pollution will pay for their pollution." This clear interpretation shows that the amendment lays down a sufficient rule by means of which the purpose may be determined "without the aid of legislative enactment." Gray v. Bryant, 125 So. 2d at 851.

Other provisions of the Florida Constitution, many of which are less detailed than Article 2, Section 7(b), have been held to

be self-executing. In Schreiner v. McKenzie Tank Lines & Risks Management Services, Inc., 408 So. 2d 711 (Fla. 1st DCA 1982), *opinion approved of and adopted*, 432 So. 2d 567 (Fla. 1983), the court held the following portion of Article I, Section 2 of the Florida Constitution to be self-executing:

> **"... No person shall be deprived of any right because of race, religion or physical handicap."**

Applying the Gray v. Bryant test, the court found this provision to be "quite direct and in need of no implementing legislation." Id. at 714. Significantly, the court stated that a remedy should exist under this constitutional provision to avoid negating the will of the people:

> **Since there were no statutory enforcement provisions in effect to provide relief between 1974, when Article I, Section 2 was amended to included the physically handicapped, and July 1, 1978, which was the effective date of the statutory protections, the only relief available would be based on the constitutional provision. A decision that the constitutional provision is not self-executing would in effect cause the provision to have been null and void during that period. This would negate the will of the people in approving this amendment to the constitution, and *the will of the people is always the paramount consideration in determining the self-executing nature of a provision*. (emphasis supplied)**

Id. at 714.

Other provisions of the constitution dealing with the rights of citizens have been found to require no Legislative enactment. In Flatt v. City of Brooksville, 368 So. 2d 631 (Fla. 2d DCA 1979), the court found that the following eminent domain provision of the Florida Constitution, Article X, Section 6(a), was self-executing:

> **"No private property shall be taken except for a public purpose and with full compensation therefore..."**

Although the provision did not specify whether personal property, as well as real property, was included within the meaning of the term "private property," the court held that it required no enabling legislation and allowed for compensation for loss of personal property as well as realty. Id. at 632.

In addition, the privacy amendment, Article I, Section 23, is self-executing in its granting of affirmative rights of privacy. See In Re: T.W., 551 So. 2d 1186, 1192 (Fla. 1989) (right to abortion).[5]

Florida courts have held also that sections of the Constitution giving courts jurisdiction over certain cases are self-executing. State v. G.P., 429 So. 2d 786 (Fla. 3rd DCA 1983) (appellate jurisdiction of DCAs); State v. Harris, 136 So. 2d 633 (Fla. 1962) (S.Ct. certiorari for conflicting DCA decisions).

In addition, the initiative provision of Article XI, Section 3 was also held to be self-executing. State ex rel Citizens Proposition for Tax Relief v. Firestone, 386 So. 2d 561 (Fla. 1980). In Citizens Proposition, this Court found Article XI, Section 3 self-executing, noting that it "clearly establishes a right to propose by initiative petition a constitutional amendment which may be implemented without the aid of any legislative

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[5] However, the privacy amendment is not self-executing to the extent of giving a right to money damages for governmental intrusion in the absence of state action. Tucker v. Resha, 634 So.2d 756, 759 (Fla. 1st DCA 1994), *aff'd on other grounds*, 670 So.2d 56 (Fla. 1996). Unlike the Polluter Pays amendment, the privacy amendment had neither a textual reference nor a clearly stated purpose relating to the responsibility for payment of costs.

enactment." Id. at 566.

The interpretation of the Polluter Pays amendment as self-executing minimizes, narrows, and possibly eliminates some future litigation because the ensuing remedies would be straightforward, fair, and expeditious. Nevertheless, the mere fact that there may be some potential litigation regarding a constitutional amendment is no reason to frustrate the will of the people. Alsdorf v. Broward County, 333 So. 2d 457, 459 (Fla. 1976) ("We simply can not abdicate our responsibility to follow the will of the people as expressed in the constitution on the grounds of administrative complexity.")

c. The sugar companies' arguments that Article 2, Section 7(b) should be construed not to be self-executing are flawed and inconsistent with Florida law.

The sugar companies have made three arguments to support their position that Article 2, Section 7(b) should be construed to not be self-executing. First, they contend that since Article II, Section 7(a) states that "Adequate provision shall be made by law . . . ", the other subsection of Article 2, Section 7, subsection (b), should automatically be construed to not be self-executing. This argument is flawed and is inconsistent with Florida precedent. Florida law recognizes that with regard to two subsections within the same provision one may be self-executing and the other may not be. For example, the eminent domain provision, Article X, Section 6 contains subsections (a) and (b). Article X, Section 6(b) is clearly not self-executing because it contains the phrase "provision may be made by law." However, Article X, Section 6(a)

which does not have this type of language, was held to be self-executing. Flatt v. City of Brooksville, 368 So. 2d 631, 632 (Fla. 2d DCA 1979).

In addition, with respect to the Ethics in Government provision, Article II, Section 8, one of the subsections, (a), was held to be self-executing in Plante v. Smathers, 372 So. 2d 933, 938 (Fla. 1979), while another subsection, (d), was held to not be self-executing in Williams v. Smith, 360 So. 2d 417, 419-420 (Fla. 1978)(Unlike the Polluter Pays amendment, Article II, Section 8(d) states "as may be provided by law."). Accordingly, if one subsection of a provision is not self-executing, it does not automatically mean that other subsections are not self-executing.

Second, the sugar companies contend that Article 2, Section 7(b) should not be self-executing because the word "pollution" is not defined within Article 2, Section 7(b). This argument is also flawed. In Plante v. Smathers, 372 So. 2d 933 (Fla. 1979), this Court held that Article II, Section 8(a) was self-executing even though it used the word "candidate" without defining it within the provision. Id. at 938. Referring to a statutory definition of "candidate" in existence at the time Article II, Section 8(a) was approved by the voters, this Court stated:

> **This statutory provision was in effect at the time the people ratified article II, section 8, and it served as a reasonable reference for the meaning of the term "candidate."**

Id. at 938.

In the instant case, there were virtually identical regulatory and statutory definitions of "pollution" in existence at the time

Article 2, Section 7(b) was approved by the voters and they too serve as reasonable references for the meaning of the term "pollution." For example, Chapter 62-302, Florida Administration Code, entitled "Surface Water Quality Standards", specifically defines pollution in Rule 62-302.200(19) as follows:

> "Pollution" shall mean the presence in the outdoor atmosphere of waters of the state of any substances, contaminants, noise, or man-made or man-induced alteration of the chemical, physical, biological or radiological integrity of air or water in quantities or levels which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property, including outdoor recreation.

Similarly, the Florida Air and Water Pollution Control Act specifically defines "pollution" in Section 403.031(7), Florida Statutes, as follows:

> "Pollution" shall mean the presence in the outdoor atmosphere of waters of the state of any substances, contaminants, noise, or man-made or man-induced alteration of the chemical, physical, biological or radiological integrity of air or water in quantities or levels which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property, including outdoor recreation unless authorized by applicable law.

Accordingly, it is disingenuous for the sugar companies to claim that Amendment 5 is not self-executing because they are unsure of the definition of pollution. Specifically, the term pollution is well defined and well understood and needs no further augmentation. *See also* State v. Hamilton, 388 So. 2d 561, 563 (Fla. 1980) ("The definition of pollution is couched in commonly-used words which convey adequate warning of the prescribed conduct

when read in conjunction with the section creating the offense. The Legislature can not be expected to list every possible substance which causes harm when present in sufficient quantities. This would be an impossible standard to meet and is not mandated by our constitution.")

Third, the sugar companies take the words "[t]he amendment is not self-executing," which SOE used on page 14 of its Initial Brief in support of the initiative, out of context. Of course, when one examines the entire paragraph (see below), it is clear that SOE was merely pointing out that Amendment 5 does not automatically impose any liability for causation or usurp any judicial functions:

> Finally, the proposed amendment usurps no judicial functions. The amendment is not self-executing, but requires findings that someone has in fact polluted. There is no finding of any blame or fault for water pollution, nor does this amendment perform the "quintessential judicial function" of rendering "a judgment of wrongdoing and de facto liability. Cf. Save Our Everglades Trust Fund, 636 So. 2d at 1340. This proposal totally avoids making any finding of liability.

Id. at 14.

Obviously, SOE was not arguing that the provision should be null and void or that the will of the people in approving this amendment should be ignored.

In sum, Article 2, Section 7(b) "lays down a sufficient rule" which makes clear that those in the EAA who cause water pollution in the EAA or EPA will pay the costs of abating their pollution and, therefore, the provision is self-executing. The Polluter Pays amendment does not automatically impose any liability for causation, but rather still requires the proof of causation and the

proof of related cost.

II. AFTER IT HAS BEEN PROVEN THAT AN ENTITY IN THE EAA HAS CAUSED POLLUTION IN THE EPA OR EAA AND THE COSTS OF THE ABATEMENT OF THAT POLLUTION HAVE BEEN ESTABLISHED, THE "PRIMARILY RESPONSIBLE" STANDARD OF ARTICLE 2, SECTION 7(b) OF THE FLORIDA CONSTITUTION REQUIRES THE POLLUTER TO PAY FOR ALL OF THE COSTS TO ABATE THE POLLUTION THAT IT HAS CAUSED

The appropriate interpretation of "primarily responsible" under the Polluter Pays amendment is that polluters shall pay the entire cost of that pollution which they have been proven to have caused. This construction is consistent with the: (1) plain meaning of the language used, (2) Court's statement that Amendment 5 "makes clear" that polluters "will pay for their pollution", (3) publicly expressed intent of the drafters, (4) will of the people, (5) purpose which the provision seeks to accomplish, and (6) language used to promote the amendment to the public.

a. The plain meaning of the language used, as well as the publicly expressed intent and overall purpose of the amendment itself, clearly show that the term "primarily responsible" relates to the financial responsibility of those who have been proven to have caused pollution.

The plain meaning of the Polluter Pays amendment should be the first consideration in construing the phrase "primarily responsible." Acosta v. Richter, 671 So. 2d 149, 153 (Fla. 1996); Tallahassee Memorial Regional Med. Ctr. v. Tallahassee Med. Ctr., 681 So. 2d 826, 830 (Fla. 1st DCA 1996).

The pertinent language of Article II, Section 7(b) provides:

> **Those in the Everglades Agricultural Area who cause water pollution within the Everglades Protection Area or the Everglades Agricultural Area shall be primarily responsible for paying the costs of the abatement of that pollution.**

The plain meaning of the amendment supports a determination that the polluter is responsible for the entire cost of abating his pollution. Black's Law Dictionary defines "primary" as: "First; principal; chief; leading. First in order of time, or development, or in intention." Black's Law Dictionary, 1190 (6th Ed. 1990). "Responsible" is further defined as: "Liable; legally accountable or answerable. Able to pay a sum for which he is or may become liable, or to discharge an obligation which he may be under." Id. at 1312. These elementary definitions point to the fact that the polluter is first in line or "first in order of time" to pay the costs of abating their own pollution.

The plain meaning of the Polluter Pays amendment is crystal clear. In fact, in Advisory Opinion to the Attorney General - Fee on the Everglades Sugar Production, 681 So. 2d 1124, 1130-31 (Fla. 1996), this Court stated the plain meaning of the amendment as follows:

> **The responsibility initiative makes clear that those in the Everglades Protection Area or the Everglades Agricultural Area who cause water pollution *will pay for their pollution*.** (emphasis supplied)

Id. at 1130-31.

This Court did not state that polluters will pay for "a portion of the costs" or "most of the costs" for their pollution. This Court's statement that polluters "will pay for their pollution" is consistent with an interpretation that polluters bear the entire (primary) financial burden for the cost of abatement for that pollution which they have caused and it recognizes the

distinction that "primarily responsible" does not relate to causation, it relates to financial responsibility once liability has already been established for pollution.

The Polluter Pays amendment "should be interpreted to give effect to every clause in it, and to accord meaning and harmony to all of its parts." Acosta v. Richter, 671 So. 2d at 153-54. The phrase "primarily responsible" should not be read in isolation, but rather within the context of the entire amendment. Id. at 154. The "primarily responsible" phrase applies only to those "who cause water pollution" within the Everglades. Therefore, the determination of causation or liability will already have been made before allocating financial responsibility. Accordingly, the "primarily responsible" language applies solely to determine the extent those proven to have caused pollution in the Everglades must fund the costs of abatement for that specific pollution. In short, "primarily responsible" does not relate to causation, it relates to financial responsibility once liability has already been established for pollution. This was precisely the publicly expressed intent of the drafters of Amendment 5.

"The fundamental object to be sought in construing a constitutional provision is to ascertain the intent of the framers and the provision must be construed or interpreted in such a manner as to fulfill the intent of the people, never to defeat it." Gray v. Bryant, 125 So. 2d 846, 851 (Fla. 1960). SOE, as the drafter of Amendment 5, publicly made clear its intent regarding the meaning of the term "primarily responsible" in its Initial Brief (in

support of the initiative), its Reply Brief, and in its Oral Arguments before this Court on August 29, 1996:

> **Your Honor, the Proposition 5, the Polluter Pay Proposition, is in fact a specific direction to a fact finder or to a tribunal once liability has been imposed separately, and once there have been an identification of costs, to put a polluter first in line to pay for that pollution rather than a taxpayer. (Oral Argument remarks by SOE counsel, George Meros)**
>
> **'Primarily' has the plain meaning in the dictionary of establishing the polluter as having the first responsibility for participating in the cleanup of their own pollution. (Initial Brief, p. 3)**
>
> **The term used by the proposed amendment to describe responsibility is primarily responsible. By this it is meant that those found to have polluted should be first in line in bearing financial costs associated with the pollution that they have caused. (Initial Brief, p. 11)**
>
> **The sole effect is to make polluters primarily responsible for paying for their pollution, once liability is found. (Reply Brief, p.2)**

In addition to the plain meaning of the provision, the intent of the drafters, and the will of the people, this Court should also consider the purpose which the provision seeks to accomplish and the evil it seeks to remedy. Plante v. Smathers, 372 So. 2d 933, 936 (Fla. 1979) ("The objective to be accomplished and the evils to be remedied by the constitutional provision must be constantly kept in view, and the provision must be interpreted to accomplish rather than to defeat them.")

The stated purpose of the amendment was to transfer the cost of pollution abatement from the public to the parties actually

responsible for causing that pollution. To glean the stated purpose of Amendment 5, this Court may consider materials available to the Florida voters at the time they decided to include the provision in their Constitution. In re: Advisory Opinion to the Governor (Constitutional Revision Commission), 343 So. 2d 17, 21 (Fla. 1977); Williams v. Smith, 360 So. 2d 417, 420 (Fla. 1978). Amendment 5 promotional materials available to the Florida voters (including paid political advertisements and op-ed newspaper articles, true copies of three samples are attached to Appendix A) stated:

- **"Make the polluter pay -- so you don't have to!" (Pd. Pol. Adv. by SOE)**
- **"Amendment 5 requires Everglades polluters to pay 100% of the cost of cleaning their pollution." (Pd. Pol. Adv. by SOE, Oct. 14, 1996)**
- **"Amendment 5 requires Everglades polluters to pay 100% of the cost of cleaning up the pollution." (*The Times-Union*, Nov. 2, 1996, at A-11, op-ed article by SOE director Paul Tudor Jones)**

In addition to the plain meaning of the Polluter Pays Amendment, as well as the publicly expressed intent and overall purpose of the amendment itself, the Florida courts have consistently interpreted the term "primarily responsible" in the context of financial responsibility to require a person or entity to pay for the entire costs associated with that obligation.

b. When the term "primarily responsible" is considered in the context of a financial obligation, it is consistently construed to require a person or entity to pay for all of the costs associated with that obligation.

As stated earlier, the words "primarily responsible" in Amendment 5 do not relate to the relative responsibility for

causing pollution. Those who are to be "primarily responsible" will have already been found to have caused pollution and the cost of that abatement will have been determined. Only after these findings is the term primarily responsible applied to impose financial responsibility. Accordingly, primarily responsible is a definition of financial responsibility after proof of causation and proof of related costs.

Why use the term "primarily" if the polluter is 100% responsible for their own pollution? The term was used advisedly for two key reasons. First, if the polluter is unable to pay the costs, the value of the Everglades as a natural resource is such that the public will then be secondarily responsible and could pay the costs. This is the same logic that holds parents "primarily responsible" for the care of their children. If the parents abandon their child, society will not let the child starve. If polluters cannot pay for abating their own pollution, the public cannot let the Everglades die. Second, using the term "primarily responsible" avoids the situation where a potential taxpayer litigant could allege that the exclusive liability of a polluter prohibits any use of public funds from being expended to clean up that pollution. If the polluter is unable to pay the costs, the public can still be secondarily responsible and pay the costs.

The term "primarily responsible" is no strange novelty or unfamiliar expression when used to describe financial responsibility. Florida courts have confronted the term in other cases, and have consistently interpreted the term "primarily

responsible" in the context of financial responsibility to require that a person or entity pay for the entire costs associated with that obligation. For example, a consistent construction of the phrase "primarily responsible" occurs in the family law context. Initially, it has been held that Section 39.407(11), Florida Statutes, enacted a policy that parents are "primarily responsible" for the care and support of their children. In the Interest of J.P., 586 So. 2d 485, 487 (Fla. 1st DCA 1991). The decision noted that while the Department of Health and Rehabilitative Services ("HRS") may make certain payments for the child's care, the parents were required to assume primary responsibility for these medical expenses and other costs. Id. It was only if the parents made a showing that they did not have the resources to cover these expenses that the court would determine what lesser portion of these expenses the parents might repay to HRS. Id.

Therefore, the court's determination that parents are "primarily responsible" requires the parents to pay for all costs of medical treatment assuming they are financially able to fund this treatment. Id. In this situation, HRS is secondarily liable for these expenses and will make payments only upon a finding that the parents, as the primarily responsible party, are unable to do so. Id. at 487. Other statutes relating to family law confirm that the "primarily responsible" party is obligated to pay the entire amount of child care and support. *See*, Department of Rehabilitative Services v. Sims, 444 So. 2d 1148, 1149 (Fla. 5th DCA 1984) (interpreting Fla. Stat. § 409.2561(4)).

As stated earlier, the family law analogy is especially applicable to Everglades restoration and the purpose of the amendment. By virtue of the amendment, polluters of the Everglades are deemed "primarily responsible" for paying the costs of cleaning up their pollution. In the same way, parents are held "primarily responsible" for the care of their own children. Parents are therefore required to pay the entire amount to feed and care for the child. However, if the parents cannot pay, the state will not let the child starve, but will assume secondary responsibility and pay the remaining costs required. Similarly, if polluters cannot pay for abating their own pollution, the public will not let the Everglades die, but will step in and assume secondary responsibility.

The term "primarily responsible" is also frequently used in the context of insurance where Florida courts have consistently held that a party who is "primarily responsible" stands first in line to satisfy the total amount of the obligation. This is especially true in situations where there is a primary and secondary insurer. In these situations, the insurer providing primary coverage, or who is "primarily responsible," is obligated to pay the full amount of any debt or judgment up to the limits of that insurer's policy. It is only after the insurer "primarily responsible" has exhausted its limits that the secondary insurers will provide any further coverage. *See, e.g.*, Allstate Insurance Co. v. Fowler, 480 So. 2d 1287, 1289-90 (Fla. 1985); McCue v. Diversified Services, Inc., 622 So. 2d 1372, 1373-74 (Fla. 4th DCA

1993); State Farm Mutual Auto. Ins. Co. v. Lindo's Rent-A-Car, Inc., 588 So. 2d 36, 37 (Fla. 5th DCA 1991).

Indeed, in Fowler this Court confirmed that the phrase "primarily responsible" equated to total, initial responsibility for the entire amount of damages:

> **Thus, the primary insurer of the owner of the motor vehicle is primarily responsible for damages required by the financial responsibility law. (emphasis added)**

Id. at 1290.

Indeed, this exact phrase has been approved repeatedly to convey this concept to consumers. McCue, 622 So. 2d at 1372. ("The lessee's/renter's insurance carrier will be **primarily responsible** for any claim against the lessee/renter and/or lessor during the use and operation of the vehicle...The coverage of lessee's/renter's insurance carrier will be primary to the full extent of its liability limits."); *See also*, Gray v. Major Rent-A-Car, 563 So. 2d 176 (Fla. 5th DCA 1990) (Due to the defective compliance with statutory requirements, the lessor remained "primarily responsible" for the payment of claims).

In addition to the Court's use of this exact phrase, the language has also been upheld in advising consumers leasing a vehicle that their own automobile insurance will become primary under Florida law:

> ACCORDINGLY, YOU ARE HEREBY NOTIFIED THAT LESSOR IS ELECTING, IN ACCORDANCE WITH THE AFORESAID STATUTE [FLA. STAT. 627.7263], TO MAKE YOUR PERSONAL AUTOMOBILE INSURANCE CARRIER PRIMARILY RESPONSIBLE FOR ANY AND ALL CLAIMS ARISING OUT OF YOUR USE AND OPERATION OF THIS RENTAL VEHICLE.

Grant v. New Hampshire Insurance Company, 613 So. 2d 466, 467-68 (Fla. 1993).

In addition to Florida courts, regulatory agencies charged with interpreting insurance statutes have defined the term "primarily responsible" to require payment of all claims. For example, Section 468.529(1), Florida Statutes, uses the term "primarily responsible" when discussing the obligations of an insurance carrier who has issued a health insurance policy. Rule 61G7-6.007(1), Florida Administrative Code, interprets the term "primarily responsible" as follows:

> (1) **"Primarily responsible"** means that the admitted carrier is **liable for all claims** incurred under the plan of insurance during its effective period, regardless of any reimbursement or indemnification agreement between the licensed employee leasing company and the carrier. (emphasis supplied)

In the instant case, it is the polluter who will stand first in line to pay all costs of abatement of their pollution and may not attempt to delegate a portion of this obligation to those who are merely secondarily responsible.

The term "primarily responsible" is also frequently used in the context of financial obligations (e.g., promissory notes, guarantees and sureties) and Florida courts have consistently held that a party who is "primarily responsible" stands first in line to satisfy the total amount of the obligation. In United States v. Unum, Inc., 658 F.2d 300, 304-05 (5th Cir. 1981), the court stated:

> The maker of a note is always **primarily responsible** for the debt with no recourse except against co-makers. Sureties, whether accommodation makers or endorsers, are only

> secondarily liable; they retain a right of recourse against the primary obligor. (emphasis supplied)

Id. at 304-05.

Similarly, a guarantor is obligated to pay off the guaranteed debt or obligation only if those who are "primarily" responsible fail to satisfy the entire debt. *See, e.g.*, Mortoro v. Maloney, 580 So. 2d 822, 823 (Fla. 5th DCA 1991); New Holland, Inc. v. Trunk, 579 So. 2d 215, 217 (Fla. 5th DCA 1991).

By analogy, the polluter of the Everglades has incurred the obligation and is "primarily responsible" for satisfying that obligation, i.e. the costs of abatement for that pollution. It is only if this primarily responsible party fails to satisfy this obligation that anyone secondarily liable will be called upon to contribute additional funds.

The term "primarily responsible" is also used in statutes and regulations which relate to the financial responsibility of a person required to pay taxes, fees, or charges. For example, Section 199.052(9), Florida Statutes, which governs with the obligation of a person to pay intangible personal property taxes, states:

> **Where an agent has control or management of intangible personal property, the principal is primarily responsible for returning such property and paying the annual tax on it, but the agent shall return such property on behalf of the principal and pay the annual tax on it if the principal fails to do so. The Department may in any case require the agent to file an informational return.**

Similarly, sewage service fees and charges assessed by the Loxahatchee River Environmental Control District pursuant to Rule 31-10.009, Florida Administrative Code, entitled "Responsibility for payment and enforcement of collections," provides in pertinent part:

> (1) The District shall hold the **owner** of the property being served with sewage service **primarily responsible** for all charges for sewage service to the property, without regard to the fact that a tenant, licensee, customer or other party was actually utilizing the sewer service and is paying for same directly to the District, after being billed directly by the District.
>
> * * *
>
> (3) By acceptance of sewage service from the District, the property **owner** and user of the service shall be jointly and severally liable to the District **for all charges and fees incurred.** (emphasis supplied)

By analogy, just as those persons primarily responsible for the payment of taxes, fees, or charges are required to pay the entire amount of said taxes, fees, or charges, a polluter is responsible for all of the costs of abatement for its pollution.

Another consistent use of the phrase "primarily responsible" occurs when assessing one's financial responsibility for health care related payments. For example, the Medicaid Third-Party Liability Act, Section 409.910(1), Florida Statutes, provides in pertinent part:

> **Responsibility for payments on behalf of Medicaid-eligible persons when other parties are liable - -**
>
> (1) It is the intent of the Legislature that Medicaid be the payer of last resort for medically necessary goods and services furnished to Medicaid patients. All other

> sources of payment for medical care are **primary** to medical assistance provided by Medicaid . . . It is intended that if the resources of a liable third party become available at any time, the public treasury should not bear the burden of medical assistance to the extent of such resources. (emphasis supplied)

Similarly, with respect to the financial responsibility for health care expenses incurred by arrestees, Section 901.35(1), Florida Statutes ("Financial Responsibility for Medical Expenses"), provides in pertinent part:

> Notwithstanding any other provision of law, the responsibility for paying the expenses of medical care, treatment, hospitalization, and transportation for any person ill, wounded, or otherwise injured during or at any time of arrest for any violation of a state law or a county or municipal ordinance is the responsibility of the person receiving such care, treatment, hospitalization, and transportation.

The Attorney General interpreted this statute to require one receiving medical care to be "primarily responsible" for paying the expenses of receiving such care:

> **The person receiving the medical care, however, is <u>primarily responsible</u> for paying the expenses of receiving such care. Section 901.35, F.S., lists by priority who is responsible for the payment of medical care provided to arrested persons in need of a medical attention. In the event reimbursement is not available from the sources enumerated in S.901.35(1), F.S., the general fund of the county or the city in which the person was arrested will be used for the payment of the medical costs incurred while the person is in custody. (emphasis supplied)**

Op. Fla. Atty. Gen. 92-52 (1992).

As stated earlier, the purpose of Amendment 5, as publicly expressed by the drafters, is that once liability has been established, a polluter shall be first in line (primary obligor) to pay for that pollution rather than the taxpayer. This rationale mirrors that set forth in the Medicaid Third-Party Liability Act and the Financial Responsibility for Medical Expenses law.

Finally, the concept that an entity should be financially responsible for the entire amount of its own pollution is not new under Florida law. Those who have caused pollution as a result of drilling for oil, or as a result of oil spills, are also required to pay for all of the costs of cleanup of their pollution. Section 377.371(3), Florida Statutes, provides:

> Because it is the intent of this Chapter to provide the means for rapid and effective cleanup and to minimize damages resulting from pollution in violation of this Chapter, **if the waters of the State are polluted by the drilling or production operations of any person** or persons and such pollution damages or threatens to damage human, animal, or plant life, public or private property, or any mineral or water-bearing formation, **said person shall be liable to the State for all costs of cleanup or other damage incurred by the State. (emphasis supplied)**

Similarly, Section 376.12(1), Florida Statutes, requires all polluters to pay for all costs to abate their pollution:

> **(1) Liability for cleanup costs.** - Because it is the intent of SS. 376.011-376-21 to provide the means for rapid and effective cleanup and to minimize cleanup costs and damages, **any responsible party who permits or suffers a prohibited discharge or other polluting condition to take place within state boundaries shall be liable to the fund for all costs of removal, containment, and abatement of a prohibited discharge**, unless the

> responsible party is entitled to a limitation or defense under this Section. (emphasis supplied)

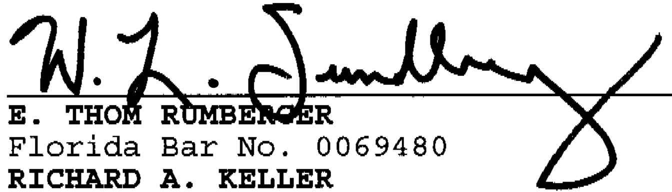
Similarly, the maxim "make the polluter pay" is embodied in federal environmental legislation which requires those responsible for problems caused by pollution to bear the costs for remedying the harmful conditions they created. Developments in the Law - Toxic Waste Litigation, 99 Harv. Law Rev. 1458, 1477 (1986); United States v. Wallace, 893 F. Supp. 627, 632 (N.D. Tex. 1995) ("Substantive fairness encompasses the concepts of corrective justice and accountability: a party should bear the costs of the harm for which it is legally responsible."); United States v. Reilly Tar & Chemical Corp., 546 F. Supp. 1100, 1112 (D. Minn. 1982) ("Congress intended that those responsible for problems caused by the disposal of chemical poisons bear the costs and responsibility for remedying the harmful conditions they created.")

CONCLUSION

It is presumed that constitutional amendments are self-executing, the rationale being that the Legislature could otherwise defeat the will of the people. Article 2, Section 7(b) "lays down a sufficient rule" which makes clear that those in the EAA who cause water pollution in the EAA or EPA will pay the costs of abating their pollution and, therefore, the provision is self-executing. In light of the fact that Amendment 5 passed with over 68% popular support, the people of Florida have overwhelmingly dictated that those who pollute the Everglades shall be primarily responsible for paying the costs of cleaning up their pollution.

It is respectfully submitted that requiring polluters to pay the entire cost of pollution which they have caused is the appropriate interpretation of "primarily responsible" under the amendment. This construction is consistent with the: (1) plain meaning of the language used, (2) Court's statement that Amendment 5 "makes clear" that polluters "will pay for their pollution", (3) publicly expressed intent of the drafters, (4) will of the people, (5) purpose which the provision seeks to accomplish, and (6) language used to promote the amendment to the public.

Respectfully submitted,



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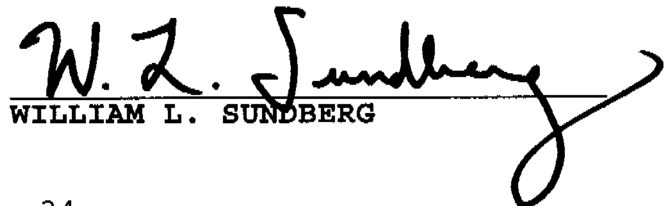
this 7th day of April, 1997.



WILLIAM L. SUNDBERG

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APPENDIX A

AMENDMENT 5 PROMOTIONAL MATERIALS

1. "Make the polluter pay -- so you don't have to!" Pd. Pol. Adv. by Save Our Everglades)

2. "Amendment 5 requires Everglades polluters to pay 100% of the cost of cleaning their pollution." (Pd. Pol. Adv. by Save Our Everglades, Oct. 14, 1996)

3. "Amendment 5 requires Everglades polluters to pay 100% of the cost of cleaning up the pollution". (*The Times Union*, Nov. 2, 1996, at A-11, op-ed article by Save Our Everglades director, Paul Tudor Jones)

Make the polluter pay–
so you don't have to!

Vote
YES on
Amendments
4•5•6

SAVE OUR
EVERGLADES

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SAVE OUR EVERGLADES

Everglades Protection Amendments 4, 5, and 6

Big Sugar's fair share to protect and restore Florida's Everglades

by

Paul Tudor Jones

Four years ago, my good friend and Everglades activist, the late George Barley, said to me, "Did you know that we are actually paying the sugar industry to pollute Florida's Everglades?" George explained to me how problems associated with the harvest of sugarcane in the Everglades were killing this irreplaceable natural environment at a rate of 4-5 acres each and every day. George proposed a 1 cent assessment on each pound of sugar grown in the Everglades be dedicated to repairing the damage done by decades of sugar industry abuse. The idea sounded fair and reasonable, so I looked into the matter further.

My first question was: is asking Big Sugar to pay justified? For the last 30 years Florida's sugar industry has discharged agricultural waste water into the Everglades. Further, every scientist I spoke to and every report I could find detailed how the sugar industry is responsible for diversion of much of the water and nearly all of the pollution entering the northern Everglades. I also learned that the cost of restoring those areas damaged by the sugar industry could exceed $2 billion. The sugar industry admits to polluting the Everglades, they continue to pollute this protected environment, yet they are paying less than 10% of the cost of remedying the problems they have created. Certainly, it was reasonable to ask them to stop polluting and to make a modest 1 cent per pound contribution to the restoration effort.

Having been involved in the agricultural commodities business, I was in a unique position to evaluate this assessment. Since 1981, as a result of the federal sugar price support program, sugar in the US domestic market has sold for an average price of 23 cents per pound. Over this same period of time, the world price for sugar was about 11 cents. Our government actually sponsors a program that results in the American consumer paying twice the fair market price for sugar at the grocery store!!

How did Big Sugar pull off charging you this involuntary 100% mark-up? Well it was pretty simple. Big Sugar is among the most generous political givers in Florida, giving over ten million dollars to our elected officials. What do they get in return for their contributions? The necessary votes to ensure continuation of their cradle to grave subsidy program. Big Sugar gets $4 billion in in guaranteed profits over the next 20 years. You get a dead Everglades and the bill for sugar industry pollution. Did you get a chance to vote on this back room rip-off? Forget it.

444 Brickell Avenue, Suite 250 Miami, FL 33131 (305) 373-3137 FAX (305) 373-6137

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On November 5th you will finally have the opportunity to vote on this issue. Save Our Everglades is sponsoring Everglades Protection Amendments 4, 5, and 6 to the Florida Constitution. Amendment 4 requires Big Sugar polluters to pay a modest 1 cent assessment out of their federally protected 23 cent selling price for each pound of sugar they produce in the Everglades, Amendment 5 requires Everglades polluters to pay 100% of the cost of cleaning their pollution, and Amendment 6 establishes the Everglades Trust Fund to ensure money meant for Everglades restoration will be spent on Everglades restoration. This series of three amendments prevents further pollution of the Everglades, requires sugar industry polluters to pay a fair share of the cost of ongoing Everglades restoration efforts, and protects Everglades restoration funds from being misspent by bureaucrats and politicians.

There is no more direct or appropriate way to protect Florida's most precious natural resource. The Everglades provides fresh water for 5 million Floridians, 365,000 tourism and sporting related jobs, and brings over $13 billion into our economy. Everglades Protection Amendments 4, 5, and 6 ensure that this important part of our natural and cultural history will be preserved, and that the economy which is dependent on this resource will continue to thrive.

What will happen when Everglades Protection Amendments 4, 5, and 6 pass? Five million Floridians will have a source of clean, fresh drinking water. Your property taxes will not be raised yet again to pay for sugar industry irresponsibility. The problem of agricultural pollution in the northern Everglades will be resolved. The $13 billion tourist industry and the 365,000 jobs it supports will continue to thrive and survive. For the sugar industry: they will be able to point with pride to their contribution to Everglades restoration. Years from now, future generations will commend the sugar industry for finally taking responsibility for correcting the damage they have done.

This November 5th you have a choice. You can vote to protect the entrenched special interests who are killing the Everglades, or you can vote to end sugar industry pollution in the Everglades, save tax dollars and make the polluter pay a fair share for Everglades restoration. I encourage you to vote *yes* on Everglades Protection Amendments 4, 5, and 6. Remember, it is only a penny.

WPOINT

Everglades amendments will protect jobs and a precious natural resource

POINT OF VIEW
Paul Tudor Jones II

Four years ago, the late George Barley, Everglades activist, said to me,"Did you know that we are actually paying the sugar industry to pollute Florida's Everglades?"

Barley explained how sugarcane harvesting problems in the Everglades were responsible for killing this irreplaceable natural environment at a rate of 4- to 5 acres each and every day.

Barley proposed a 1-cent assessment on each pound of sugar grown in the Everglades be dedicated to repairing damage done by decades of sugar industry abuse. The idea sounded fair and reasonable, so I looked into the matter further.

My first question was: Can we justify asking big sugar to pay?

For the last 30 years. Florida's sugar industry has discharged agricultural wastewater into the Everglades. Every scientist I spoke to and every report I could find detailed how the sugar industry is responsible for diversion of much of the water and nearly all of the pollution entering the northern Everglades. The cost of restoring those areas damaged by the sugar industry could exceed $2 billion.

The sugar industry admits to polluting the Everglades. It continues to pollute this protected environment, yet it is paying less than 10 percent of the cost of remedying the problems it created. Certainly, it was reasonable to ask big sugar to halt the causes of pollution and to make a modest 1-cent-per-pound contribution to the restoration effort.

Having been involved in the agricultural commodities business, I was in a unique position to evaluate this assessment. Since 1981, as a result of the federal sugar price support program, sugar in the U.S. domestic market has sold for an average price of 23 cents per pound. Over this same period of time, the world price for sugar was about 11 cents per pound. Our government actually sponsors a program that results in the American consumer paying twice the fair market price for sugar at the grocery store.

How did big sugar pull off charging this involuntary 100 percent markup?

It was pretty simple. Big sugar is among the most generous political givers in Florida: over $10 million to our elected officials. What does it get in return for the contributions? The necessary votes to ensure continuation of a cradle-to-grave subsidy program.

... board of directors of the

Big sugar gets $4 billion in guaranteed profits over the next 20 years. Floridians get a dead Everglades and the bill for sugar industry pollution.

On Tuesday, Florida citizens will finally get to vote on this issue. Save Our Everglades is backing Everglades protection Amendments 4, 5 and 6 to the Florida Constitution.

Amendment 4 requires big sugar polluters to pay a modest 1-cent assessment out of its federally protected 23-cent selling price for each pound of sugar produced in the Everglades.

Amendment 5 requires Everglades polluters to pay 100 percent of the cost of cleaning up the pollution.

Amendment 6 establishes the Everglades trust fund to ensure money meant for Everglades restoration will be spend on Everglades restoration.

This series of three amendments prevents further pollution of the Everglades, requires sugar industry polluters to pay a fair share of the cost of ongoing Everglades restoration efforts and protects Everglades restoration funds from being misspent by bureaucrats and politicians.

There is a no more direct or appropriate way to protect Florida's most precious natural resource. The Everglades provides fresh water for 5 million Floridians. 365,000 tourism-related and sporting-related jobs and brings over $13 billion into our economy.

The Everglades protection amendments ensure that this important part of our natural and cultural history will be preserved and that the economy dependent upon this resource will continue to thrive.

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What will happen when the Everglades protection amendments pass?

Five million Floridians will have a source of clean fresh drinking water. Property taxes will not be raised, yet again, to pay for sugar industry irresponsibility. The problem of agricultural pollution in the northern Everglades will be resolved. The tourist industry and 365,000 related jobs it supports will continue to thrive and survive.

For the sugar industry, it will be able to point with pride to its contribution to Everglades restoration. Years from now, future generations will commend the sugar industry for finally taking responsibility for correcting the damage