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\$1.75 Billion Land Deal Will Put U.S. Sugar Out of Business
Florida's purchase of 187,000 acres of farmland is part of plan to restore the Everglades

Sue Reisinger
Corporate Counsel
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A \$1.75 billion land purchase by the state of Florida is more than just the latest step in restoring the Everglades ecosystem. The complicated deal is also bringing together two former legal foes: Edward Almeida, the general counsel of United States Sugar Corp., and Eric Buermann, an attorney who chairs the board of the South Florida Water Management District.

On June 24 Gov. Charlie Crist announced that his state would buy 187,000 acres of farmland in central Florida from U.S. Sugar. The deal will put the Clewiston, Fla.-based company out of business. The state plans to use the land to restore the overflow of water from Lake Okeechobee in central Florida to the state's southern tip. For ages the spillover produced the unique environment of the Everglades, also known as the River of Grass. But starting in the 1920s, manmade changes to the landscape -- including sugar plantations and a dike around the lake -- blocked the flow of water.

This summer, lawyers for U.S. Sugar and the water management district (which is overseeing the purchase by the state) were busy finalizing the details of the deal. Both U.S. Sugar's Almeida and the district's Buermann say that the transaction is extremely complicated, involving some land swaps with another sugar producer that holds some contiguous acres, the spinning off assets such as a new U.S. Sugar refinery, and a schedule that will allow the company and its 1,700 employees to phase out their operations over the next six years.

The negotiations are expected to conclude in a preliminary contract by this fall, with closing scheduled for the end of the year. Buermann (who, in addition to chairing the water board, is also an of counsel in the Miami office of Squire, Sanders & Dempsey) adds that he's helping the state prepare a bond issue to fund the purchase.

Almeida, who has been U.S. Sugar's sole in-house lawyer since 2001, says that one of his biggest challenges has been working with a public agency. "Any information or documentation you provide [as part of due diligence] may become a public record," he explains. "That makes for some unique circumstances and an interesting deal."

The idea for the sale originated when U.S. Sugar found itself in a bind in the summer of 2007. Lake Okeechobee was at a record low, which meant that the company couldn't draw enough water from the lake to irrigate its nearby sugar fields. U.S. Sugar proposed pumping the treated wastewater from its factories into Okeechobee to raise the lake's level. Buermann's agency, which manages water use in southern Florida, said no.

A team of executives from U.S. Sugar met with Crist to complain about the economic hardship caused by the decision. Buermann, who also attended the meeting, recalls that Crist replied with a completely unexpected proposal: "'Well, why don't you just sell your land to us?'"

Almeida recalls being "swept away, shocked and speechless" at the scope of what Crist was suggesting. But Almeida asked the Palm Beach law firm of Gunster, Yoakley & Stewart to explore whether a deal was possible. Crist asked Buermann to put together a legal team to study the question from Florida's perspective. Both sides' lawyers reached the same conclusion: Let's do it.

Buermann explains that for the Everglades, "it was the opportunity of a lifetime that might never come again." Almeida appreciates the "overwhelming benefits" that the transaction will provide for U.S. Sugar and the environment. But he adds that the sale is "a bittersweet moment for a company that has been farming this land for more than four generations."

University of Florida law professor Michael Allan Wolf thinks the deal is certainly a "win" for U.S. Sugar. But whether it's a win for environmentalists, the state and taxpayers remains to be seen. Wolf, who teaches land use, environmental, and local government law, explains, "This initiative has more potential [than past projects] to serve the goal of restoring the Everglades, but [there's] certainly no guarantee that it will work."

