

# How Protectionism Is Destroying the Everglades

*Protectionist measures by the federal government help keep the sugar industry prosperous in South Florida, despite its destructive influence on the Everglades. A law professor details the history of these industry supports, and the cost to Everglades ecosystems and to the nation's taxpayers.*

by Aaron Schwabach

**O**ne of the sacred canons of the anti-globalization movement is that globalization of trade is bad for the environment. Free-trade enthusiasts, on the other hand, would have us believe that free markets promote wealth (probably true) and that wealth is good for the environment (possibly true, at least some of the time). The truth is probably somewhat more complex. On the anti-globalization side, there are situations in which free trade, coupled with lax regulation, will encourage resource exploiters to pass along significant environmental costs to their compatriots, achieving enhanced profits while diminishing the wealth and environmental well-being of their countries.

On the free-trade side, however, there are certainly situations in which protectionist regimes lead to government-protected environmental destruction for the sake of protecting otherwise unprofitable industries. Japan's whaling industry is an oft-cited example. Here in the United States, one of the most egregious cases is that of the sugar industry.

Sugar is grown in several states in the United States, either as sugar beets or sugar cane. Growers are protected by a complex price-support system that keeps U.S. prices at two to three times the world price and shuts out foreign competitors. Among America's sugar-growing regions is one of the world's most fragile and unique ecosystems, designated by the United Nations as a World Heritage Site: the Florida Everglades.

The United States grows sugar in this environmentally sensitive region despite the lack of any competitive advantage.<sup>1</sup> The soil is not really suitable for sugar cane, and the climate, warm as it is, is not warm enough. Special varieties of sugar cane have had to be developed for the Everglades, and massive amounts of fertilizers are required.

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The most serious problem, though, is that the Everglades is too wet for agriculture. The federal government has invested enormous effort and expense to drain the northern portion of the Everglades to make it possible to grow a crop that can be grown more cheaply, with less environmental destruction, elsewhere.

Leaving aside the costs of draining the Everglades, the price-support system costs Americans approximately \$2 billion per year.<sup>2</sup> In other words, we are paying a small number of wealthy individuals and corporations to destroy the Everglades for us. And anti-globalization activists have unwittingly become their allies.

The solution is simple, although achieving it in a world of interest-group politics will be difficult. Cut off the subsidies, open the sugar market to foreign trade, and there will be no more reason to grow sugar in the Everglades. The two billion dollars currently wasted each year could be plowed back in to the economy. Perhaps in the first year it could be used to purchase the privately owned land in the northern Everglades for rehabilitation and inclusion in the Everglades National Park.

## The Government Invades the Everglades

The Everglades is like no other place on Earth. The popular image of the Everglades as a "river of grass" comes from the title of the famous book by Marjorie Stoneman Douglas.<sup>3</sup> It is a "river" only in the sense that it contains fresh water flowing slowly toward the ocean. It flows so slowly that any individual drop of water leaving Lake Okeechobee is likely to have evaporated and fallen again as rain several times before reaching the Florida Bay. In many places it is only inches deep, but the peaty soils underlying it are also saturated with water—when that water is removed, they subside and can even catch fire with disastrous results.

Where the Everglades is still relatively unaffected by fertilizer runoff from the sugar plantations, its surface is covered with sawgrass. The sawgrass shelters numerous species of animals, including wading birds. Where phosphates have intruded into the Everglades, the sawgrass is partially or totally replaced by cattails, which clump too

tightly for the wading birds to land or move among.

The dominance of sawgrass is itself a sign of loss of biodiversity, however. As other forms of plant cover vanished as a result of human activities in the nineteenth and very early twentieth centuries, the ecological niches that were opened were filled with sawgrass, just as

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the sawgrass itself is now being displaced by the cattails. As early as 1929 this environmental disruption led one botanist to lament “the wholesale devastation of the plant covering, through carelessness, thoughtlessness, and vandalism in the Peninsular State[.]”<sup>4</sup>

The Everglades

hydraulic system is completely if poorly regulated by numerous federal, state, and local entities. Administratively, the Everglades can be divided into three main areas. To the north, immediately south of Lake Okeechobee, is the Everglades Agricultural Area (EAA) where sugar cane is grown. To the south of the EAA, in the central Everglades, are the Water Conservation Areas, which receive excess water drained from the EAA and supply water to urban areas of South Florida. The southern part of the Everglades lies mostly within the Everglades National Park; although it is the least damaged of the three areas, it inevitably suffers from the environmental damage upstream.

The greatest part of the farmland in the EAA is farmed by two sugar producers, United States Sugar and the Fanjul family’s Flo-Sun Corporation and associated companies. Sugar is a relative latecomer to the Everglades, following attempts to grow other crops that were disastrous both economically and, ultimately, in terms of human life. Attempts to make the Everglades suitable for agriculture began in 1918 after the completion of the Florida East Coast Railway to Moore Haven.<sup>5</sup> Early would-be settlers cleared the land by slashing and burning. The soil then caught fire and in some places burned down to the underlying rock. The soil that remained was nutrient-poor; even when it was cleared and planted, crops failed and cattle died because of a scarcity of trace elements. Early settlers also found that the summers were too hot and the winters too cold for many truck crops.<sup>6</sup>

It quickly became evident that agriculture and agricultural communities could not exist in the Everglades without significant alterations in the region’s drainage. In 1926 a hurricane caused Lake Okeechobee to overflow its levee, killing more than 300 people in and around Moore Haven. The hurricane also destroyed existing flood-control works, forcing a realization that the agricultural earnings of the region were inadequate to pay for the flood control that would make agriculture

possible over the long term.<sup>7</sup> At this point a rational, market-based response would have been to abandon the idea of converting the Everglades to farmland and allow the land to return to a natural state.

Instead, the federal government stepped in, creating the Hoover Dike around the southern shore of Lake Okeechobee and a network of drainage canals to lower water levels. The peat and muck soils derive a significant part of their volume from the water they contain. Lowering the level of fresh water thus created additional problems of saltwater intrusion, soil fires, and soil subsidence. In Moore Haven, for example, 13 years of agriculture resulted in a subsidence of nearly half of the original depth of the soil.<sup>8</sup>

Although drainage is the single biggest culprit, the Everglades ecosystem is also harmed by the conversion of large areas to single-species sugar plantations and the run-off of agricultural chemicals. In addition to the chemicals dumped on the land, draining and plowing causes oxidation of muck soils, leading to increased nutrient discharge. This in turn contributes to the eutrophication of the Everglades and Florida Bay.<sup>9</sup> The draining of the EAA was the first large direct subsidy from the federal government to the sugar growers, but by no means the last or the largest. In addition to providing a cheap and compliant labor force, thus keeping growers’ costs low, the federal government has maintained a protectionist quota/tariff regime and loan program to support sugar prices at an artificially high level.

### The Work Force

Florida, like the rest of the country, was suffering through the Depression. Even if the state government had possessed the will or the common sense to abandon the idea of turning the Everglades into farmland, the Everglades drainage control project provided the state with much-needed jobs and federal funds. At the same time, the unprofitability of farming in the Everglades and the economic collapse of family farming during the late 1920s and early 1930s drove many small farmers into bankruptcy, making it possible for a few large landowners to take over much of the agricultural land south of Lake Okeechobee. The most notable of these was the Southern Sugar Company, predecessor to today’s U.S. Sugar. Southern Sugar’s initial interest in sugar cane was as a source of bagasse, the by-product remaining after juice has been extracted from the cane. The bagasse was used to manufacture Celotex fiberboard.<sup>10</sup>

In addition to providing the sugar growers with arable land, the federal government provided them with a workforce. Local residents refused to work on the sugar plantations, indicating that the local labor market required higher wages and better working conditions. Instead of providing these, the sugar growers relied on the government’s U.S. Employment Service, which recruited workers from other areas of the South, often with misleading information about wages and working conditions.<sup>11</sup>

U.S. Sugar’s abuses of its workers were notorious at the time, ultimately leading to the company’s indictment for violation of the

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Thirteenth Amendment for such actions as recapturing three workers who had attempted to escape and forcibly returning them to the plantation.<sup>12</sup> By the 1940s, the corporations that had relied on near-enslavement of Americans were forced to improve wages and conditions or look elsewhere for cheap, captive labor.

Market mechanisms were not yet allowed to intervene in the labor side of the Everglades sugar industry, however, and U.S. Sugar chose the latter course. From 1943 until 1995, cane on the Everglades plantations was cut by guest workers from impoverished Caribbean island countries. These workers were brought to Florida on temporary visas and could be deported if they displeased their employer. Until 1947, the government itself even negotiated the employment contracts and paid the cost of round-trip transportation.<sup>13</sup> The “temporary” guest worker program was noted for its abuses, but a steady supply of new workers was guaranteed by the poverty of the Caribbean countries (ironically, the Caribbean countries were poor in part because of their inability to export their sugar cane crop to the United States and the consequent decline of their sugar industries). The program finally ended not because it was inhumane but because it had become unprofitable for growers. Attorneys had brought lawsuits on behalf of underpaid and mistreated cane workers while, as one grower’s attorney stated, “Machines are cheaper, they’re more efficient, and they rarely sue.”<sup>14</sup>

### **The Loan Program**

The Commodity Credit Corporation (CCC), an organ of the U.S. Department of Agriculture, makes “recourse” and “nonrecourse” loans to sugar farmers.<sup>15</sup> The recipient of a recourse loan is responsible for repayment of all money borrowed. While the recourse loans support the sugar industry by making credit available to those who might not otherwise receive it, they are not a direct price-support mechanism. The nonrecourse loans, which become available when imports in a given fiscal year reach 1.5 million tons, provide an option for sugar farmers to “sell” their crop to the government at a set price. Sugar is pledged as collateral for the loan; forfeiture of the sugar (plus a one cent per pound penalty) satisfies the loan even if the value of the sugar is less than the value of the money borrowed. A borrower who forfeits collateral during one crop year is not disqualified from obtaining another nonrecourse loan in the next.

The nonrecourse loans thus guarantee sugar farmers a minimum price for their crop. In the case of the Everglades sugar growers, this price is 18¢ per pound, less the 1¢ per pound penalty. This is more than twice as high as the 8¢ per pound that raw cane sugar brings outside the United States.<sup>16</sup>

As a result of overproduction, in 1999 the price of sugar in the United States fell to 18¢ per pound. By June 2000, the CCC was buying sugar at 20¢ per pound to support sugar prices; loan forfeitures had left the government with more than one million tons of sugar, stored at a cost of \$1.4 million per month.<sup>17</sup> Faced with the prospect of storing and ultimately disposing of a huge amount of

sugar, the federal government set up a payment-in-kind (PIK) program for sugar growers.<sup>18</sup> The PIK program allowed sugar farmers to decrease production and receive in exchange an equivalent amount of sugar (up to \$20,000 worth) from that stored by the government. The two giant Everglades sugar growers are unlikely to be affected by a mere \$20,000 worth of sugar, but the program serves to restrict the supply of sugar produced by smaller sugar-beet farmers, thus keeping sugar prices high.

### **The Tariff/Quota Regime**

For years prior to the overproduction crisis of 1999–2000, growers were able to sell raw cane sugar for 22.5¢ per pound, 4.5¢ above the support price.<sup>19</sup> At the same time, sugar in the rest of the world sold for between one-third and one-half of this amount. The distortion of the U.S. market is only made possible by excluding foreign sugar.<sup>20</sup>

During the 1970s the United States imported about half of its sugar.<sup>21</sup> Sugar imports had risen from 3.7 million short tons (mostly from Cuba) in 1955 to 6.1 million short tons (not from Cuba) by 1977.<sup>22</sup> The modern protectionist regime for sugar was largely created during the ostensibly pro-free trade Reagan and Bush Administrations. Through 1981, the United States continued to import about 5 million short tons of sugar per year. By 1987 this amount had fallen to just over one million short tons.<sup>23</sup>

The basic elements of the current quota/tariff regime can be found in George Bush the elder’s Presidential Proclamation 6179.<sup>24</sup> Proclamation 6179 addressed the concerns and complaints of other General Agreement on Tariffs and Trade (GATT) member nations by replacing the previous absolute quota system with a two-tiered tariff system.

Each sugar-producing country that trades with the United States is allotted a quota. Sugar imported within this quota is taxed at a low rate. Sugar outside this quota is taxed at a rate so high as to effectively prohibit the import of all but a few specialty sugars.<sup>25</sup> Raw cane sugar imported within the quota is taxed at between zero and 4.38¢ per kilogram, depending on the country of origin and the quality of the sugar.<sup>26</sup> Cane sugar imported in excess of the quota limits is taxed at between 18.26 and 39.85¢ per kilogram, again depending on origin and quality.

The quota/tariff and price support regimes thus create a hidden tax. As one sugar processor says, “The U.S. sugar program is the most efficient tax we have. . . . It comes directly from the consumers and goes directly to the growers, who turn around and give some of the money to the politicians.”<sup>27</sup> The hidden sugar tax is a regressive tax, since, assuming that all Americans consume roughly equal amounts of sugar, lower-income families spend a proportionately higher amount of their income on sugar.

### **Solution? Non-intervention**

Non-market solutions have failed to protect the Everglades. The ecosystem’s defenders have tried lawsuits and costly legislative/regulatory rehabilitation schemes without success. The one thing

that would work is not more intervention, but non-intervention. The ongoing destruction of the Everglades is only made possible by a constant and massive infusion of money. Shutting off the flow of money to the sugar growers will shut off the flow of pollutants to the Everglades. A one-time expenditure will restore the flow of water from Lake Okeechobee to the Everglades.

Attempts to do this in the past have proven unsuccessful, however. Perhaps the closest approach was the proposed Sugar Stabilization Act of 1989, which would have gradually reduced the

support price from 18 to 12¢ per pound, and would have increased the import quota by a minimum of 500,000 tons per year for the years 1990–1993.<sup>28</sup> The sugar lobby has been able to fend off such attacks on its subsidies because it is focused and organized, and its opponents are not. In particular, sugar subsidies have not drawn the attention from environmentalists that they should. The subsidies have been opposed largely by advocates of free trade, and many environmentalists are reluctant to make common cause with free-traders. Until they do, however, there is little hope for the Everglades. ■

## References

- <sup>1</sup> For example in Australia, with a hotter climate and better soil, a metric ton of cane sugar costs \$255 to produce. In the United States the cost is \$375 per metric ton. Paul Roberts, "The Sweet Hereafter: Our Craving for Sugar Starves the Everglades and Fattens Politicians," *Harper's*, Nov. 1, 1999, at 54.
- <sup>2</sup> The General Accounting Office estimates the cost to consumers at 1.9 billion dollars. "Sugar Industry Faces Big Test with Free Trade," *St. Petersburg (Fla.) Times*, May 6, 2001, at [http://www.sptimes.com/News/050601/Business/Sugar\\_industry\\_faces\\_.shtml](http://www.sptimes.com/News/050601/Business/Sugar_industry_faces_.shtml) (visited Aug. 11, 2001). From 1982 to 1985, when the protectionist regime was at its most extreme, the subsidies cost consumers \$3.7 billion per year. Katherine E. Monahan, Note, "U.S. Sugar Policy: Domestic and International Repercussions of Sour Law," *Hastings International and Comparative Law Review* 15 (1992) 325, 339.
- <sup>3</sup> Marjorie Stoneman Douglas, *Everglades: River of Grass* (Pineapple Press Inc, 1947).
- <sup>4</sup> John Kunkel Small, *From Eden to Sahara: Florida's Tragedy* (Science Press, 1929).
- <sup>5</sup> David McCally, *The Everglades: An Environmental History* (University Press of Florida, 1999), at 121.
- <sup>6</sup> *Id.* at 121–23, 125–26.
- <sup>7</sup> See *id.* at 131–40.
- <sup>8</sup> *Id.* at 136, 138.
- <sup>9</sup> *Id.*, at 172.
- <sup>10</sup> See *id.* at 161.
- <sup>11</sup> See generally, *id.* at 165–68; see also Zora Neale Hurston, *Their Eyes Were Watching God* (Lippincott, 1937), 108.
- <sup>12</sup> McCally, *supra* note 5 at 167–68.
- <sup>13</sup> *Id.*, at 168–169.
- <sup>14</sup> Rosalind Resnick, "\$50 Million Win for Cane Cutters," *National Law Journal*, July 13, 1992, at 3.
- <sup>15</sup> See generally 7 C.F.R. pt. 1435 (2001); see also generally Federal Agriculture Improvement and Reform Act of 1996, Pub. L. 104–127, section 156, 110 Stat. 888; 7 U.S.C.A. section 1421(e)(2); 7 U.S.C.A. section 1446.
- <sup>16</sup> "Cash Prices," *Wall Street Journal*, Aug. 13, 2001, at C-12.
- <sup>17</sup> The ultimate disposal of the stored sugar presents an additional problem. In 1985, for example, 430,000 tons of sugar were forfeited. The United States eventually sold the forfeited sugar to China for 5¢ per pound. "Sugar Industry Faces Big Test," *supra* note 2. See also, e.g., "Sugar Industry...Sweet Deal for Growers Is a Toothache for the Public" (editorial), *Naples (Fla.) Daily News*, Oct. 11, 2000.
- <sup>18</sup> See "U.S. Announces Payment-in-Kind Program for Sugar," *Sugar News*, Aug. 22, 2000, at <http://www.sugar.ca/22Aug00Prt.htm> (visited Aug. 11, 2001); see also "Cut the Sugar Tax" (editorial), *Washington Post*, Aug. 11, 2000, at A-24.
- <sup>19</sup> Daniel Fisher, "Sticky Situation," *Forbes*, May 14, 2001.
- <sup>20</sup> Monahan, *supra* note 2, provides a historical overview of U.S. sugar tariffs from 1789 through 1992.
- <sup>21</sup> See, e.g., GATT Secretariat Panel Report, *United States: Restrictions on the Import of Sugar and Sugar Containing Products Applied Under the 1955 Waiver and Under the Headnote to the Schedule of Tariff Concessions*, GATT Doc. L/6331-37S/228, at 20–22, Jan. 22, 1990 (adopted Nov. 7, 1990).
- <sup>22</sup> *Id.* at 22, para. 4.10. In the English system of measurement, a short ton equals 2,000 pounds.
- <sup>23</sup> GATT Report, *supra* note 21, at 20, para. 4.1, and 22, para. 4.10; see also Monahan, *supra* note 2, at 334, 336–37.
- <sup>24</sup> Proclamation No. 6179, Modification of Tariffs and Quota on Certain Sugars, Syrups, and Molasses, 55 *Federal Register* 38293 (Sept. 13, 1990).
- <sup>25</sup> Despite the price difference, the United States imported only 1.8 million tons of sugar in 1999, while producing 8.4 million tons domestically. Bill Walsh, "Smart or Smuggling?" *New Orleans Times-Picayune*, Apr. 30, 2000, at F-1.
- <sup>26</sup> Harmonized Tariff Schedule of the United States (HSTUS) sections 1701.11, 1701.12. In addition to Canada and Mexico, one of the countries from which sugar within the quota limit may be imported without tariff is the Dominican Republic. Half of the sugar-producing capacity of the Dominican Republic is owned by the Fanjul family, owners of Flo-Sun Corporation.
- <sup>27</sup> Fisher, *supra* note 19.
- <sup>28</sup> Sugar Supply Stabilization Act (not enacted) sections 2(b)(2), 3(a)(1), S. 552 and H.R. 1055, 101st Congress (1989).