

Lawsuit to save river needs help from Martin

Palm Beach Post Editorial
Friday, November 17, 2006

Last week, Martin County residents went to court with their despair over years of government-sanctioned pollution of the St. Lucie River. The lawsuit opens a needed front in the fight to save the river.

Backed by the Rivers Coalition, an alliance of more than 40 businesses, fishermen, civic and homeowners' groups, 22 riverfront landowners told the court that the U.S. Army Corps of Engineers has violated their property rights. Discharging massive amounts of polluted water from Lake Okeechobee into the river, the plaintiffs said, limits their ability to fish, swim, boat or enjoy the wildlife the dirty water has chased away. The landowners want \$50 million, the combined market value of their properties, in damages. Any money actually awarded would go to the Rivers Coalition to pay legal costs.

The goal is for them (the corps) to find somewhere else to put the water," said coalition Chairman Leon Abood. The lawsuit, filed in the U.S. Court of Federal Claims in Washington, hinges on property rights rather than environmental laws, from which the corps has statutory immunity. Instead, the property owners cite the Fifth Amendment, which protects property rights, and state law, which protects the rights of waterfront property owners. The government, the landowners' lawyers said, can't take away those rights without paying "just compensation."

The South Florida Water Management District, the state agency that shares responsibility with the corps for managing Lake Okeechobee discharges, is not named in the lawsuit. That, too, is unusual, because the state is responsible for water quality. The coalition, Mr. Abood said, "does not rule out the possibility of future action toward the state and the water district."

By suing only the corps, the Rivers Coalition may be trying to spare the community any retaliation by the district. Earlier, water district officials threatened Martin County commissioners when the commission talked of suing the district, claiming that such a lawsuit could stall projects designed to store dirty lake water. Worried that the river could suffer further harm, Martin commissioners dropped plans to sue. They have not yet offered the Rivers Coalition financial aid from the county, though individual commissioners have contributed.

For eight years, Martin Countians have protested huge lake discharges that have devastated the scenic St. Lucie River. Though the corps and water district continue to talk about solutions, little has changed. East and west coast rivers remain dumping grounds for Lake Okeechobee's excess water. Even the reservoirs under construction won't solve the problem; they will hold only about a foot of lake water. The Rivers Coalition has mounted a creative legal fight. The Martin County Commission should join it.