

By SUZANNE WENTLEY
suzanne.wentley@scripps.com
November 10, 2006

JENSEN BEACH — Twenty-two waterfront property owners in Martin and St. Lucie counties sued federal water managers Thursday claiming the government took away their right to enjoy the St. Lucie River by polluting it with dirty water from Lake Okeechobee.

Organized by the Rivers Coalition Defense Fund, the property owners — with about 100 other Treasure Coast residents holding protest signs — packed a meeting room at Indian RiverSide Park to announce plans to demand \$50 million from the federal government to compensate them for "taken" property.

"We've been fighting for clean water since we moved here in 1990," said Gerry Tafoya, a Port St. Lucie resident and plaintiff in the lawsuit. "I have my grandchildren here. I'd like nothing better than to let them jump in the river and swim. I dream of eating fish from the river. That's just not going to happen. It's sad."

Coalition members stood next to a poster plastered with pictures of fish lesions and signs warning residents away from the river and told the crowd that years of political negotiations with state and federal water managers have failed.

Over the past year, they have worked with the law firm Marzulla & Marzulla, which filed the Fifth Amendment lawsuit against the U.S. Army Corps of Engineers in federal court.

Mary Rawl, executive director of the PURRE Water Coalition from Fort Myers, attended the rally Thursday and said west coast activists are considering joining the lawsuit.

A corps spokeswoman said officials would not comment on pending litigation.

Karl Wickstrom, chairman of the legal task force, estimated the action will cost about a half-million dollars over at least a year — a smaller price tag than originally anticipated because a number of marine biology and water quality experts agreed to testify for free.

The plaintiffs were chosen for a broad geographic representation, their many years of living on the water and their poise, he said.

While there have been previous court attempts to stop discharges from Lake Okeechobee, Wickstrom said this is the first time one has used the concept of "riparian rights" — the idea that waterfront property owners have a right to enjoy the water adjacent to their land.

Polluted lake discharges — which during the summer of 2005 caused widespread neon green algae blooms, wiped out the oyster and sea grass populations and clouded the water — took away the residents' ability to fish, swim, boat and watch wildlife, the lawsuit claims.

Jim Harter, a plaintiff who has lived on the water in Palm City since 1994, said he's watched the fish population decline with each passing year.

"I moved to this area to be on the water, and it's being taken away from me," he said. "It's depressing to look at it and know you can't use it."

The 22 waterfront property owners suing the federal government are:

- John Mildenerger and Michele Ruth of Sewall's Point
- Robert and Carol Baratta of Stuart
- Kevin and Patricia Henderson of Stuart

- Charles and Julie Crispin of Stuart
- Athol and Patricia Cloud of Stuart
- Jim and Patricia Harter of Palm City
- Robert and Eryn Par'è of Sewall's Point
- Ted and Stella Guy of Stuart
- Mark Beatty of Stuart
- Rufus and Melynda Wakeman of Jensen Beach
- Bob and Karen Voisinet of Stuart
- Ann MacMillan of Stuart
- John Patteson of Palm City
- Paul Par'è of Stuart
- Brian and Deborah Schmidt of Stuart
- Frederick and Kimberly Rutzke of Stuart
- Bud and Majorie Jordan of Stuart
- Phil and Gerry Tafoya of Port St. Lucie
- William and Lisa Addeo of Stuart
- Mark Connell of Palm City
- Robert Pearson of Stuart
- Charles and Vera Locke of Palm City

PREVIOUS LEGAL ACTIONS

Past efforts to use the court system to stop Lake Okeechobee discharges have been unsuccessful:

- In the 1950s, a group called the River League sued what was then called the Flood Control District because the league believed the lake releases would destroy the estuary. Despite donations from the Jupiter Island Club and other organizations, they ran out of money and eventually lost.
- In 1998, the St. Lucie River Legal Defense Fund filed legal action against the state Department of Environmental Protection, alleging that freshwater itself is a pollutant to the brackish estuary, therefore the discharges violated the Clean Water Act. The state settled out of court in 2000 by promising to help pass a rule outlining a healthy salinity range for the estuary, but that never happened.