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# Reducing Nutrient Pollution in the Everglades Agricultural Area through Best Management Practices

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Setting a standard or level of acceptable nutrient pollution is only the first step when addressing nutrient pollution in U.S. waters. How can we improve environmental quality while continuing to produce the goods and services upon which we are all relying? And how can we make this “system” work over time rather than degrading the environment, the economy, or both? These are the kinds of questions that lead scholars to such concepts as adaptive ecosystem management, conservation easements, and sustainability rather than to the tools of traditional environmental regulation. My hypothesis, here, though, is that environmental regulation can lead to improvement in environmental quality—sometimes in surprising ways. Some Florida farmers recently have been reducing the level of nutrient pollution discharged from their fields and entering sensitive Florida ecosystems from the level found in the irrigation water they use. They are doing this while continuing to operate their productive farms. Below, I describe how this came about. Florida’s approach may serve as a bellwether for and be informative to other states with significant agricultural production that may have to confront the challenge of nutrient pollution soon in light of EPA’s priority emphasis on the problem.

Phosphorus is considered the limiting nutrient in the natural Everglades. Natural levels between four and ten parts per billion (or micrograms per liter) characterized the original system, although incoming waters from Lake Okeechobee (the Lake) may have been naturally higher, perhaps 20 parts per billion (ppb). The northern Everglades acted as a natural nutrient-removal system as it grew and laid out peat soils. In the 1940s, the U.S. Army Corps of Engineers (Corps) began constructing the Central and Southern Florida Flood Control Project (C&SF Project). Among other things, the C&SF Project designated a large area of the northern Everglades, south of the Lake, to be managed for agriculture. Called the Everglades Agricultural Area (EAA), it encompassed about 27 percent of the historic Everglades and was a major factor in the economic justification for the C&SF Project. After Castro rose to power, Cuban exiles helped sugarcane cultivation to increase. The

EAA is about 7,000 acres (over 1,000 square miles), with about 65 percent in sugarcane production. Other crops are sod (lawn grass), vegetables (such as beans, lettuce, celery, corn, radishes), and rice. EAA soils are naturally rich in nitrogen but low in phosphorus.

A typical field in the EAA is 40 acres and configured in a rectangle a half-mile long by an eighth-mile wide. The long sides of each field are bordered by ditches connected by adjustable gates through a low dike to 15-foot-wide canals that border the ends of the fields. The canals connect to larger canals of the regional system, from which water can be added or removed by pumps. This configuration allows growers to control the groundwater level or flooding in each field. During the fifties and sixties, EAA stormwater contained high phosphorus levels from fertilizer applications, often in excess of 500 ppb. By the 1970s, this excess stormwater often was “backpumped” into the Lake, leading to the Lake’s eutrophication and to a 1979 decision to redirect EAA stormwater to Water Conservation Areas (WCAs) to its south and west, including the Loxahatchee Wildlife Refuge. See Thomas E. Lodge, *THE EVERGLADES HANDBOOK: UNDERSTANDING THE ECOSYSTEM* (2d ed. 2005).

This backpumping and redirection of the stormwater led to changes on federal lands, such as Everglades National Park, resulting from increased concentrations of phosphorus (e.g., conversion of “sawgrass prairie” to cattails). Some advocated the imposition of the costs of restoration on the sugar industry, through taxes or environmental liability. A state referendum in 1996 to establish such a tax failed. In public and media perception, the putative remedy often has seemed to be elimination of the use of phosphorus fertilizer, or better yet, the elimination of “big sugar” altogether. Some environmental economists associated destruction of the Everglades with congressional price supports, which artificially encourage domestic sugar production.

In 1988, the U.S. Attorney in Miami sued the South Florida Water Management District (SFWMD), the Florida state agency that manages water supply and flood control throughout southern Florida. The suit sought to force improvement in the quality of water flowing from areas managed by the SFWMD into the Everglades Protection Area (basically, the Everglades National Park and the Loxahatchee Wildlife Refuge). In what many at the time considered a novel, if not problematic, interpretation of the federal Clean

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Water Act (CWA), the government alleged that SFWMD was violating the state's own narrative state standard for nutrients, which prohibited pollution causing "an imbalance in natural populations of aquatic flora and fauna." Chapter 62-302.530, Florida Administrative Code After years of what the Eleventh Circuit described as "acrimonious litigation," Governor Lawton Chiles, shortly after his election, staged a high-profile "surrender" (complete with ceremonial sword) at the federal courthouse in Miami.

Governor Chiles committed Florida to a decades-long effort to "clean up" nutrient pollution in Florida waters destined for the Everglades Protection Area. The consent decree settling this case (the Decree), which was followed by Florida's passage of the Florida Forever Act in 1994, FLA. STAT. § 259.105 (2010), required Florida to promulgate and comply with a numerical state water-quality standard for phosphorus for water entering the federal lands. Eventually, the state adopted an extremely stringent numeric standard for phosphorus of 10 ppb (10 micrograms/liter) specifically for waters entering the area of the federal lands. This standard is an important component of what has become known as the Comprehensive Everglades Restoration Plan (CERP). See Alfred R. Light, *Ecosystem Management in the Everglades*, 14 NAT. RESOURCES & ENV'T 166 (2000).

The U.S. Environmental Protection Agency (EPA) acknowledges in the preamble to its 2010 proposed water-quality standards for the State of Florida's Lakes and Flowing Waters that "Florida is one of the few states that has in place a comprehensive framework of accountability that applies to both point and nonpoint sources and provides the enforceable authority to address nutrient reductions in impaired waters based upon the establishment of site-specific total maximum daily loads (TMDLs)." 75 Fed. Reg. 4174, 4175 (Jan. 26, 2010). EPA further remarks that Florida's Department of Environmental Protection (FDEP) had made nutrient pollution "a top priority" and over the past decade had "spent over 20 million dollars collecting and analyzing data on the relationship between phosphorus, nitrogen, and nitrite-nitrite concentrations and the biological health of aquatic systems." *Id.*

### ***BMPs for Agricultural Producers***

Among other things, Florida's numeric nutrient standard for phosphorus spurred changes in agricultural practices in the EAA. In 1999, the Florida legislature passed the Florida Watershed Restoration Act (Act). FLA. STAT. § 403.067 (2010) The Act authorizes the Florida Department of Agriculture and Consumer Services (FDACS) to provide interim measures, best management practices (BMPs), cost-share incentives, and other technical assistance to assist agriculture in reducing pollutant loads in target watersheds. The Act defines a process for the development of TMDLs for impaired waters and directs the FDACS to identify and adopt by rule BMPs for agricultural nonpoint sources. By law, agricultural producers who implement these BMPs, which have been verified effective by FDEP and adopted by rule, receive a "presumption of compliance" with state water-quality standards. FLA. STAT. § 403.067(7)(c)

(2010). They are also eligible for cost-share money to implement selected BMPs once eligible practices are identified.

BMPs are a practice or combination of practices determined by these agencies to be the most effective and practicable on-location means, when taking into consideration economic and technological factors, for improving water quality in agricultural and urban discharges. BMPs are typically implemented as a "BMP treatment train" that includes a combination of nonstructural and structural practices. FDACS publishes BMP manuals for various types of agriculture. For the EAA, the most important of these is the BMP Manual for Florida Vegetable and Agronomic Crops, which covers vegetables, potatoes, corn, peanuts, peppers, sugarcane, and cotton. Separately, FDACS is authorized to develop and create fertilizer BMPs. Federal CWA National Pollution Discharge Elimination System (NPDES) permits may, of course, also be required for an agricultural system if there is a point of discharge to surface waters.

Under the Act, FDACS is required to develop, implement, and adopt measures at the farm level that improve water quality and water use efficiencies in agricultural production systems. The general philosophy underlying the Act is that any BMP that reduces pollutants or reduces the volume or rate of runoff will be beneficial to water quality. Conserving water used in agricultural production not only saves water but also reduces the risk of leaching or discharging nutrients and chemicals into receiving waters. The State Comprehensive Plan mandated in the Act requires the elimination of inadequately treated agricultural wastewater and stormwater discharges. Additionally, the state Water Resource Implementation Rule establishes minimum stormwater treatment performance standards. For new stormwater discharges, the BMPs must provide at least an 80 percent reduction of the annual loading of pollutants (95 percent for Outstanding Florida Waters, a special state designation). For existing stormwater discharges, the stormwater treatment performance standard is the reduction of pollutants as needed to protect, maintain, or restore the beneficial uses of the receiving waterbody.

The BMP Manual for Florida Vegetable and Agronomic Crops (Manual) establishes a set of "baseline" practices, equivalent in concept to the standard level of waste treatment applied to wastewater plants, industrial facilities, or urban stormwater systems. See Chapter 5-M-8.002, Florida Administrative Code (incorporating Water Quality/Quantity Best Management Practice for Florida Vegetable and Agronomic Crops (Edition 2005)). The Manual then uses a hierarchical approach to BMP implementation. Each farm's BMP Implementation Plan rests on several steps: (1) general or universal BMPs applicable to all farming operations, (2) a decision-tree tool for additional BMP requirements, (3) use of on-farm assessments to "fine tune" the BMPs, and (4) development of a computer assisted, web-based system for future growers. A BMP quality assurance program includes proper operation and maintenance, record keeping, and the use of FDACS Ag Team and/or Soil and Conservation District staff in order to verify that BMPs are being maintained through routine site visits. A computer assisted BMP selection system, which became opera-

tional this year, is designed to allow a grower to identify their farm or fields on aerial satellite photos and to input selected crops, including a particular cropping sequence. Estimates of crops, yields, water-quality effects, links to futures information, and expected revenues are all factored in.

To optimize BMPs for a particular operation, the BMP Manual includes a plethora of practices. It enumerates five areas of pesticide management, nine areas of conservation practices and buffers, eleven areas of erosion control and sediment management practices, eighteen areas of nutrient and irrigation management practices, and six areas of water resource management practices. Growers in the EAA are required to implement a suite of these BMPs and to conduct monitoring of daily rainfall, drainage volume, and phosphorus concentrations. This is done through a BMP permit issued by SFWMD. A point system is used to rate the BMPs, and the suite of BMPs implemented by a farmer must total 25 points as a base level effort. Other BMPs, however, can be implemented and claimed on the BMP permit if shown to be effective and approved by SFWMD. Monitoring of phosphorus concentrations throughout the EAA is extensive, with automatic monitoring equipment on irrigation pumps periodically inspected by FDEP.

### **Reducing the Phosphorus Discharge**

These BMPs have been in place on EAA farms with 100 percent participation since February 1, 1995. According to the SFWMD's 2008 Annual Report, farmers in the EAA that year achieved a 68 percent phosphorus reduction in the water leaving the region, despite an increase in the phosphorus concentrations in the water received from the Lake. Under the plan mandated by the Everglades Forever Act, FLA. STAT. § 373.4592 (1994), farmers are tasked with reducing phosphorus concentrations by 25 percent each year. A University of Florida Institute of Food and Agricultural Sciences (IFAS) comprehensive assessment in 2008 reported a 50 percent average annual reduction over a 12 year period. Samira H. Daroub, Timothy A. Lang, Orlando A. Diaz, and Manohardeep S. Johan, Implementation and Verification of BMPs for Reducing P Loading from the Everglades Agricultural Area, 2008 Annual Report (University of Florida, Institute of Food and Agricultural Sciences Everglades Research and Education Center, Belle Glades, FL 33430, July 11, 2008).

The IFAS study found a number of factors to be correlated with a farmer's reduction of phosphorus concentrations in its drainage water, particularly its water management and cropping practices. As to water management, the key statistical indicator was pump to rainfall ratio and higher canal head differences. Higher phosphorus loads could be expected in drainage water the more a farmer pumped irrigation water out of the canals relative to reliance on rain water. High canal head difference indicates lower inside canal elevation (farm main canal), higher outside canal elevation (SFWMD canal), or both, and may result from farm drainage pumping due to rainfall and/or seepage. In short, the more canal water in the fields, the higher the phosphorus concentration. This is not

surprising given the higher concentrations in Lake water than in rainfall in the EAA.

The IFAS study also indicated that lower phosphorus loadings are correlated with the presence of sugarcane in the crop rotation. The IFAS attributes this in part to the relatively lower fertilization rates needed for sugarcane compared with other crops grown in the EAA. In addition, sugarcane can tolerate higher water tables and occasional flooding which reduces the total farm drainage volume on a per acre basis. The value of a farmer's reliance on rainwater in reducing phosphorus discharges probably also derives from another IFAS finding that concentrations of phosphorus in Lake water available for irrigation water have been increasing. The study also suggests that phosphorus concentrations decrease as the depth of soil decreases. University of Florida (UF) scientists speculate that as drainage water passes through limestone bedrock, soluble phosphorus may be adsorbed or precipitated out of the water column as calcium-phosphate fraction.

These sorts of findings have led the IFAS to make a number of suggestions to EAA farmers to reduce their phosphorus concentrations. First, the IFAS recommends that each farm determine an optimum canal elevation that permits adequate drainage without transporting sediments out of the farm. Second, the IFAS emphasizes a sound canal cleaning program that minimizes sediment transport. Keeping the soil on the farm means keeping the phosphorus in the soil on the farm. Third, the IFAS recommends flooding fallow fields in the dry summer season, taking into account the proper way to discharge the water from these fields. This protects organic soils. Flooded water can be routed throughout the farm to allow the soluble phosphorus in the water to adsorb and precipitate in the soil and canal sediments. It also may be possible to allow water to evaporate and percolate down through the soil and substrata to drain rice or other flooded fields. As farmers have learned about how these various factors affect their ability to reduce phosphorus discharges, they have complained to the IFAS about the impact of Lake irrigation water quality and the floating aquatic plant control in some SFWMD canals.

IFAS workshops no doubt have helped EAA farmers make major progress to reduce phosphorus. During the period July 1, 2007, through June 30, 2008, for example, the organization conducted six Best Management Practice (BMP) Workshops with a total of 132 participants from all major companies in the EAA as well as from different federal and state agencies. The workshops covered the BMP regulations (FLA. ADMIN. CODE . r. 40E-63), BMPs for Atrazine and Ametryn, floating aquatic weed control, BMP table overview (the point system), soil testing and plant tissue analysis, fertilizer application BMPs, rainfall detention, sediment control, and latest research findings. In other areas, the IFAS's extension service sometimes has come up with innovative, unexpected means to avoid the use of chemicals in the EAA. For example, a middle school science project led UF Professor Richard Raid to encourage the use of Barn Owl boxes as a partial alternative to the use of rat poisons. These boxes now are found in sugar fields throughout the EAA.

## Restoration

BMPs in the EAA, however, are only a part of the phosphorus reduction regime now a part of the Comprehensive Everglades Restoration Plan (CERP). In fact, the only defendant in the 1988 lawsuit was SFWMD, the state agency that manages water supply and maintains flood control in the region. The Decree made this state agency, not farmers, responsible for the quality of water entering the Everglades Protection Area. In a way, SFWMD is treated as the “polluter” in the consent decree, perhaps making its relationship to farmers analogous to that of a publicly-owned treatment works (POTW) (which obtains the NPDES permit) with industrial dischargers into the POTW.

The 1988 lawsuit drove the Everglades Construction Project, SFWMD’s building of acres of Stormwater Treatment Areas (STAs) to treat water discharged from the EAA before its entry into the Everglades Protection Area. Initially, SFWMD constructed a 4,000 acre STA abutting the northwest side of the Loxahatchee National Wildlife Refuge. After this STA proved more successful than originally anticipated, SFWMD designed and built a total of over 41,000 acres of STAs. The Decree’s coordinating role for Everglades restoration today, however, is largely eclipsed by the CERP, which addresses quantity, timing, and distribution of Everglades water as well as water quality. The CERP grew out of the Governor’s Commission for a Sustainable South Florida in the 1990s, which Congress and the Corps adopted as the blueprint for ecosystem restoration in the Water Resources Development Act of 2000. The CERP envisions additional STAs as well as a number of other innovative projects intended to restore more natural conditions in the WCAs to the south and east of the EAA.

Like farmers in the EAA, water managers have learned that further success in improving water quality largely turns on reducing the phosphorus being discharged into or already contained in the Lake, just north of the EAA. The Lake is directly linked to water supply for the rapidly growing regions of South Florida. As important, lake levels must be managed carefully to accommodate the regular storms that plague South Florida during hurricane season. Interestingly, though discharges from the Lake are managed by SFWMD, the Corps has responsibility for management of the Lake itself. The Corps must manage Lake levels so as to balance these competing goals and adapt the plan as CERP restoration projects become operational. In April 2008, the Corps approved its Lake Okeechobee Regulation Schedule to “best balance and meet the needs of all the water resource purposes that Lake Okeechobee serves.” U.S. Army Corps of Engineers, Jacksonville District, “Corps Approves 2008 Lake Okeechobee Regulation Schedule,” News Release, Apr. 30, 2008, available at <http://www.saj.usace.army.mil/Documents/NewsReleases/archive/2008/NR0831.pdf>.

One of CERP’s most beneficial objectives, when various Okeechobee area projects are in place, may be to decrease reliance on the Lake to store water, with the associated risk of unscheduled discharges out of the Lake in emergency situations. At the Lake, the many objectives of water management intersect—restoration, urban water supply, agriculture, navigation,

and public safety (flood control). Florida’s Lake Okeechobee Protection Act (LOPA), enacted in 2000 just as Congress was adopting the CERP, committed the state to restore and protect the Lake. FLA. STAT. § 373.4595 (2000). LOPA attempts a watershed-based, phased approach to achieve compliance with state water-quality standards, and especially the Everglades numeric water-quality standard for phosphorus. LOPA envisions a long-term solution for the Lake based upon a TMDL. LOPA also requires an aggressive program to control exotic plants and a long-term program of water quality and ecological assessment, research, and model development. SFWMD, in cooperation with FDEP and FDACS, submitted a Lake Okeechobee Protection Plan (LOPP) in 2004, laying out how water-quality standards would be achieved on a statutory timetable. South Florida Water Management District, Florida Department of Environmental Protection, and Florida Department of Agricultural and Consumer Services, Lake Okeechobee Protection Program, Lake Okeechobee Protection Plan (Jan. 1, 2004), available at [https://my.sfwmd.gov/portal/page/portal/pg\\_grp\\_sfwmd\\_watershed/portlet%20-%20okeechobee/tab1798077/loppreportposted123003.pdf](https://my.sfwmd.gov/portal/page/portal/pg_grp_sfwmd_watershed/portlet%20-%20okeechobee/tab1798077/loppreportposted123003.pdf)

Later, former Governor Jeb Bush established the Lake Okeechobee Estuary Recovery Plan (LOER Plan), which identified five construction projects north of the Lake designed for water-quality improvement—the Lake Okeechobee Fast Track Project (LOFT). SFWMD also had received funds for the Lakeside Ranch STA, approximately 2,700 acres to remove about 29-48 metric tons of phosphorus per year. In addition, the LOER Plan included acceleration of TMDL projects for Lake tributaries; implementation of mandatory fertilizer Best Management Practices (BMPs) in the Lake Okeechobee, St. Lucie, and Caloosahatchee Estuary watersheds; implementation of revised Environmental Resource Permit criteria for new development; implementation of growth management programs encouraging innovative land use; elimination of land application of wastewater treatment residuals; and full implementation of LOPP.

As these various plans show, over the years water managers in Florida have moved their restoration and control practices upstream from the EAA in order to reduce the phosphorus concentrations emanating from the EAA. Only by managing activities in the Kissimmee Valley north of the Lake, including a robust cattle industry, as well as discharges from the Lake to the east and west (along the St. Lucie and Caloosahatchee Rivers) can Florida achieve the lofty objectives of Everglades Restoration.

In 2008, Governor Charlie Crist proposed a \$1.7 billion buyout of one of the EAA’s largest sugar producers, with a long-term objective of converting a large portion of its fields from agricultural production into a water reservoir, wetlands, and the beginnings of a “flow-way” from the Lake to Everglades National Park. Though originally envisioned as a complete buyout of U.S. Sugar Corporation, a scaled-back purchase amounted to 180,000 acres in Palm Beach, Hendry, and Glades Counties. In 2008, about 150,000 of these acres were in sugarcane production, though portions of these acres had been subleased for the cultivation of vegetables, such as corn, beans, and watermelons. Given the economic crisis in

2009, the deal was further scaled back to an initial purchase of 72,500 acres on the southern rim of the Lake at a cost of about \$533 million, with a 10-year option to buy the remaining 107,000 acres. Then, in August 2010 the deal was even further scaled back to the purchase of 26,800 acres of land using \$197,396,088 in cash, with options to acquire approximately 153,200 acres over the next ten years.

During the interim period between acquisition and construction/land conversion, SFWMD is leasing the land back to U.S. Sugar Corporation. In early 2010, the Florida Supreme Court agreed to hear a challenge brought by the Miccosukee Tribe and U.S. Sugar Corporation's principal EAA rival, Florida Crystals, to SFWMD's plan to finance the purchase through issuance of "certificates of participation." The August 2010 amended agreement, however, scaled the project back enough that the need to use this financing was eliminated. SFWMD already has devised a set of BMPs for its lessee. SFWMD does not view these BMP requirements as regulatory or enforcement based (as opposed to any existing or future permit that might contain BMP requirements). Instead, it views the failure of any lessee to follow its BMP requirements as constituting a breach of its lease with SFWMD. The BMP requirements resemble the kind of terms that SFWMD would put in a BMP permit, were it a regulator rather than a lessor.

### *The EAA as Bellwether*

Controlling (or even eliminating) the use of fertilizers in the EAA or regulating (or even eliminating) agriculture in the EAA has had and would have far less impact than the public has or may envision. Even if EAA farmers are able to halve concentrations of phosphorus in their drainage water from that in the irrigation water they obtain from the Lake, conditions in the Lake continue to degrade. And even if Florida's heroic efforts to establish TMDLs and then to enforce a wasteload allocation of nutrients entering the Lake, the legacy of decades of prior discharges in Lake sediments puts its ecology at the mercy of hurricanes which can put the pollution of those decades back into the water column. Many other states lag Florida in their establishment of TMDLs, wasteload allocation, and even the monitoring of nutrient pollution. Florida's history signals that things may not work out as the Clean Water Act envisions.

The EAA experience with mandatory BMPs signals, however, that there can be positive surprises as well. Once farmers in the EAA, and their advisors with the IFAS, concentrated attention on monitoring and reduction of phosphorus loadings in water discharged from the EAA, the mechanisms of command-and-control regulation seem to have worked amazingly well. The EAA experience suggests that BMP requirements and permitting sometimes can achieve results through a conventional regulatory approach, primarily through permit conditions which SFWMD has the ability to monitor and enforce.

The EAA experience also suggests that regulation can be usefully supplemented through a "public works" approach. SFWMD's innovation of the taxpayer-financed, publicly-owned and managed STA to treat stormwater from the EAA destined for the Everglades Protection Area is probably more important, or at least as important, as BMPs in achieving improvements in water quality. CERP portends expansion of this technological innovation in a number of projects intended to alleviate or ameliorate harmful discharges from the Lake east to the Indian River Lagoon estuary and west to the Caloosahatchee estuary. Governor Crist's buyout and SFWMD's evolving plan for the ultimate conversion of agricultural lands to conservation uses may expand water storage and treatment capacity of the Lake and EAA water destined for Everglades National Park. This is a "public works" approach to meeting the same objectives as those that BMPs employ in a regulatory approach. Obviously, the sale/leaseback interim solution falls somewhere in between these two models.

Once established, the 10 ppb standard became the impetus for Florida's BMPs and the surrounding system for improving water quality through STA's and CERP projects. Setting a water-quality standard seems a crude way to force restoration, compared with a priori determination of technology-based or site-specific standards. But the water-quality standard does seem to have driven actual "real world" improvements in water quality in Florida, including development of the data and research needed to support those improvements. And these mandatory BMPs seem to have worked in reducing phosphorus concentrations in water leaving the EAA. In fact, phosphorus concentrations in water leaving the EAA are about half of the concentrations in irrigation water entering the region. Other regions of the country with significant nutrient pollution thus may be looking to Florida to find out how farmers can be part of the solution rather than part of the problem. Florida's BMP program in the EAA thus may be a bellwether for other states seeking to confront the challenges of nutrient pollution.

Moreover, Florida is likely to remain at the cutting edge of innovation in this area. Elsewhere in Florida, there are experiments exploring the viability of market-like programs that would pay farmers and ranchers for producing environmental services (beyond those that generate food and fiber) from working agricultural lands. For example, since 2005, a coalition of non-governmental environmental organizations, state and federal agencies, ranchers, and researchers have been developing a Pay-for-Environmental Services (PES) program that would compensate cattle ranchers in Florida's northern Everglades region for providing water storage and nutrient retention on private lands: the Florida Ranchlands Environmental Services Project (FRESP). See J. B. Ruhl, *Agriculture and Ecosystem Services Strategies for State and Local Governments*, 17 N.Y.U. ENVTL. L.J. 424, 446 (2008). Other states definitely should keep an eye on Florida. 🌳