



LAKE OKEECHOBEE BACKPUMPING FACT SHEET

- Lake Okeechobee has a surface area of 730 square miles and is the second largest freshwater lake wholly within the United States.
- The Lake has been classified by the Florida Department of Environmental Protection as a Class I Drinking Water source, which requires strict standards allowing only small amounts of pollution.
- The Lake is the sole source of drinking water for several small towns on the south rim of the Lake and one of the sources of drinking water for West Palm Beach, Fort Myers, and the entire Lower East Coast metropolitan area.
- The region south of the Lake, known as the Everglades Agricultural Area (“EAA”), contains over a half million acres of former Everglades that have been diked and drained to make them suitable for urban and agricultural development. Most of the land is in sugar cane cultivation.
- Three companies own 87% of the land within the EAA. One of those companies is the United States Sugar Corporation which owns 104,000 acres in the EAA, much of it in the area directly south of Lake Okeechobee.
- Polluted water is pumped off the sugar cane fields and collected in large District-owned canals.
- At the north ends of these canals, the District owns and operates three pumping stations, S-2, S-3, and S-4, which are built into the Herbert Hoover Dike that surrounds Lake Okeechobee.
- Each of these pumping stations has either three or four very large pumps each powered by a diesel engine about four times the size of a semi trailer engine. When all the pumps in a pump station are operating, the discharge is equivalent to the flow of a medium size Florida river.

- The flow from the pumps creates a highly visible “plume” of dark (sometimes even black) colored water that can reach nine miles out into Lake Okeechobee.
- The plume contains high levels of nutrients (phosphorus and nitrogen) and high levels of dissolved organic materials that come from agricultural and urban wastes.
- One of the largest pump stations is within 2 and ½ miles of the drinking water intake of South Bay, one of the small towns on the south rim of the Lake that uses the Lake for drinking water.
- Earthjustice brought this lawsuit against the South Florida Water Management District in 2002 on behalf of the Florida Wildlife Federation.
- The case is a Clean Water Act “citizen suit” which sought a declaration from the court that the District had to obtain federal Clean Water Act “point source” permits for its pump station discharges.
- As “point sources,” the discharges from the pumping station must meet pollution limits applicable to Lake Okeechobee.
- The Miccosukee Tribe of Indians entered the lawsuit in support of the environmental groups.
- The United States Sugar Corporation entered the case in support of the District.
- The Environmental Protection Agency and the U.S. Army Corps of Engineers entered the case on the side of the polluters - the District and U.S. Sugar - in early 2005. This was the first occasion in the 33 year history of the EPA that it entered a water pollution case on the side of a polluter.
- No EPA witness testified at the trial and no EPA witnesses were provided for depositions.
- Florida Wildlife Federation argued that when the District collects and then moves water in a way that harms the receiving water body (here Lake Okeechobee) it is responsible for cleaning up the pollution in the same way a

city is responsible for cleaning up sewage it collects in its sewage system before it discharges its wastewater.

- On average, the S-2, S-3, and S-4 pumping stations discharge 32 billion gallons of water into Lake Okeechobee each year.
- Today, on average, the pumps contribute the equivalent of 60,000 one hundred pound bags of phosphorus to the Lake each year.
- Because of this excessive fertilization, the Lake now chronically suffers from toxic blue-green algae blooms, including one in 2005 that generated toxin levels in Lake Okeechobee 65 times greater than the World Health Organization's safe drinking water guidelines.
- Blue-green algae toxins can affect the liver, nervous system and skin and have been linked to increases in liver cancer, chronic fatigue illness, skin rashes, abdominal cramps, nausea, diarrhea and vomiting, as well as deaths of dogs and cattle. The toxins are not removed by chlorination or boiling and algacides (which kill the algae) result in the release of the toxins into the environment.
- Phosphorus pollution levels in the Lake have risen continuously from about 40 parts per billion in 1960 to 240 parts per billion last year – an all time high. Phosphorus is a main ingredient in fertilizer and is an important component of animal waste and sewage.
- The state and EPA have recently determined that the maximum allowable level of phosphorus pollution is 40 parts per billion.
- In 1976, the Florida Department of Environmental Protection contended that backpumping into Lake Okeechobee from the pumping stations should be stopped. At trial, the Florida Department of Environmental Protection reversed position and sided with the District in contending that no Clean Water Act permit was necessary.
- After the trial was completed but before a decision was issued, EPA proposed an administrative rule that would exempt all water transfers from permitting under the Clean Water Act. The South Florida Water

Management District – the defendant in the backpumping case – explained that the rule is “expressly designed” for the backpumping lawsuit.

- Thirteen states and the Canadian province of Manitoba filed comments in opposition to the proposed EPA rule as did over 50 national conservation organizations.
- Earthjustice will take the EPA to court to challenge the legality of the new water transfers exemption rule when it is adopted by EPA. The theory of the case will be that EPA may not legally exempt any polluters from the Clean Water Act’s permitting requirements.