

**From:** AQUATHIN TECH SUPPORT [mailto:techsupport@aquathin.com]

**Sent:** Wednesday, June 10, 2009 4:55 PM

**Subject:** BAD BOY REPORT: THIS TIME IT'S THE COURTS!

Dear Aquathin Dealer OnLine;

It is this type of thinking as to why the water treatment industry exists and will continue to grow. Lake Okeechobee is the largest "freshwater" lake (visible to astronauts' naked eye) in the United States and serves as a reservoir for drinking water, agriculture, while double-timing as a quality area for recreation, fishing and hunting. Throughout Florida, there is a network of canals created to prevent flooding and enhance irrigation. The canals are fed by the Everglades, but mostly rain runoff including agricultural as well as street run off containing oil residue, squished critters, heavy metals, asphalt residues (that liquid rainbow you see running down street gutters during a rainstorm). Parking lot drainage is not permitted to flow back to water treatment plants for drinking water purposes...it goes to sewer. So, a few years ago, a smart judge agreed that its wrong to back pump canal waters laden with pollutants into pristine lake Okeechobee. That's a no brainer...but overruled as you will read. aaaaaaaAND, this is coming to your neighborhood, because it is now a ruling until the Supreme Court changes it...out of common sense...if they choose that path.

I LOVE MY AQUATHIN ! AND REMEMBER, THE NEXT BEST THING TO OWNING AN AQUATHIN IS RECOMMENDING ONE TO A FRIEND !!

Let me know what you AquathinK !

Warmest regards to all...as well, your comments are always welcome and very much appreciated.

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*Alfie*

Alfred J. Lipshultz  
President & CEO

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# The Miami Herald

Posted on Fri, Jun. 05, 2009

## **Court rejects Lake Okeechobee backpumping ban**

BY WALTER PUTNAM  
Associated Press

A federal appeals court on Thursday reversed a Miami judge's ruling that Florida water managers violated the Clean Water Act by pumping contaminated water from farmland into Lake Okeechobee.

The decision hinged on what a three-judge panel of the 11th U.S. Circuit Court of Appeals termed the "ambiguous" language of the federal anti-pollution law. The judges said they had no choice but to accept the Environmental Protection Agency's interpretation that transferring polluted water from one navigable body to another does not require a permit.

The decision overturned a 2006 ruling by U.S. District Judge Cecilia M. Altonaga of Miami, who concluded that the South Florida Water Management District had failed to obtain the necessary permits for backpumping operations.

David Guest, an attorney for one of the environmental groups that had sued to stop the pumping, said the full 11th Circuit Court would be asked to reconsider the decision.

The district has pumped water from canals along sugar-growing lands into Lake Okeechobee since the 1970s, both for flood control and to maintain water levels in the lake during times of drought.

The canal water contains what Circuit Judge Ed Carnes in Thursday's opinion called "a loathsome concoction of chemical contaminants," including nitrogen, phosphorous and ammonia.

Friends of the Everglades, the Florida Wildlife Federation and other groups filed suit in 2002 to stop the pumping. The suit was joined by the Miccosukee Tribe of Indians, which considers the 730-square-mile lake and the Everglades part of its ancestral home.

They maintained -- and Altonaga agreed -- that the pumping constituted a "discharge of a pollutant" under the Clean Water Act and required a National Pollution Discharge Elimination System permit. The water district appealed the ruling, concerned that it could complicate necessary movements of water and add costs to a broader effort to restore the Everglades.

### **ALL WATERS ONE**

The EPA, siding with the district, argued that all navigable waters within the United States

are one -- a view called the "unitary waters theory." The agency adopted a new regulation, which became final June 13, 2008, to ``clarify that water transfers are not subject to regulation under the National Pollution Discharge Elimination System permitting program."

The appellate panel said that due to ambiguity of wording in the Clean Water Act, arguments on both sides of the question could be considered reasonable.

"The EPA's regulation adopting the unitary waters theory is a reasonable, and therefore permissible, construction of the language," Carnes wrote. ``Unless . . . the EPA rescinds or Congress overrides the regulation, we must give effect to it."

The water district called it ``a landmark case of national significance that has implications not only for Lake Okeechobee but also for water management throughout Florida and beyond."

The district released a statement saying that moving water is necessary for flood control, water supply and environmental restoration, and that Florida already ensures that water management complies with standards of the Clean Water Act.

### **HOPING FOR REVIEW**

Guest, who represents the Florida Wildlife Federation, said the issue was important enough to have the full appeals court hear it, and possibly the Supreme Court.

"Certainly, there's a split," Guest said, noting that the 2nd U.S. Circuit Court of Appeals found no ambiguity in the law and reached the opposite conclusion in another case.

He also questioned whether the Bush administration rule will stand.

"These pumps convey highly polluted water from the canals up into the lake. That's not in dispute," Guest said. ``We would hope that to contaminate public drinking water sources is something the Obama administration will not be too enthusiastic about."