



# Everglades Law Center, Inc.

*Defending Florida's Ecosystems  
and Communities*

**Shepard Broad Law Center  
Nova Southeastern University**  
3305 College Avenue  
Ft Lauderdale, Florida 33314  
Phone: (954) 262-6140  
Fax: (954) 262-3992

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## EVERGLADES LAW CENTER Annual Report for 2009

### Message from Executive Director Richard Grosso

The ELC is a not-for-profit law firm dedicated to representing the public interest in environmental and land use matters, with four attorneys located in Ft. Lauderdale, North Palm Beach, and Winter Haven. Since 1995, our work as lawyers and advocates has focused on restoring the Everglades and the Keys and preventing growth from ruining special places like Martin County. Our mission is to advocate, negotiate, and when necessary, litigate to protect and restore the South Florida ecosystem.

The ELC is governed by a seven member Board of Directors and represents clients either “pro bono” or for very reduced fees. Our work is funded through individual contributions, foundation grants, and in some cases through limited client – paid fees. Our goal is to level the playing field so that environmental and growth management interests are supported by competent legal counsel and representation. We depend on grants and contributions from organizations and individuals to support our work as lawyers and advocates. Our administrative and overhead costs are very low - we are a “no frills” law firm, yet we regularly take on the biggest, toughest issues and our accomplishments rival those of much larger law offices. We are a small organization, but we make a big impact, - so even modest contributions go a long way in directly funding legal help for Florida's special places. This is a critical time for Florida's future, and the need for public interest legal representation for the environment has never been greater.

2009 was another litigation intensive year at a time when we were required to cut expenses, but we had significant successes. We achieved two major legal victories in challenges to urban expansion towards the Everglades. Maintaining the land use planning boundaries, tiers or other mechanisms in county comprehensive plans to prevent urban sprawl into rural and sensitive areas is a key focus of environmental and growth management advocates, and a primary area of our expertise. In Palm Beach County, in the first proposed change under the County's new “tier system” designed to halt the piecemeal march of suburbia into its ecologically important western reaches, our victory sets the precedent for future planning decisions and protects the Loxahatchee region that is so important to the

Northern Palm Beach County Everglades Restoration Project. We also won a major victory upholding Miami-Dade County's Urban Development Boundary – the central feature of the County Comprehensive Plan's policy to prevent urban sprawl, which is consistently under pressure from builders seeking cheaper land in the County's rural areas.

As always we are thankful to our supporters, clients and teammates for the opportunity to make a difference for Florida's environment in 2009.

Contributions to the Everglades Law Center are tax deductible, and can be sent to:

**Everglades Law Center, Inc.**  
**c/o Richard Grosso, Executive Director**  
**Shepard Broad Law Center**  
**Nova Southeastern Univ.**  
**3305 College Avenue**  
**Ft. Lauderdale, FL 33314**

For more information about the ELC, visit us at [www.evergladeslaw.org](http://www.evergladeslaw.org)

*A copy of the official registration and financial information may be obtained from the Division of Consumer Services by calling toll-free within the state at 1-800-435-7352. Registration does not imply endorsement, approval, or recommendation by the state.*

## **2009 ACCOMPLISHMENTS OF THE EVERGLADES LAW CENTER**

### **Major Victories Halting Urban Expansion**

Maintaining the land use planning boundaries, tiers or other mechanisms in county comprehensive plans to prevent urban sprawl into rural and sensitive areas is a key focus of environmental and growth management advocates, and a primary area of our expertise. In 2009 we had two major legal victories in challenges to urban expansion.

#### **Palm Beach County Suburban Tier Cases**

These two land use changes were the first under County rules revised in 2006 and are thus a crucial test and precedent for the integrity of the County's urban tier approach, which is key to preventing urbanization in the remaining wilderness areas of the County. When the County ignored those rules, and the state failed to enforce them, we stepped in on behalf of a local citizen, Rosa Durando, and the state-wide growth management watchdog 1000 Friends of Florida, took the cases to trial and prevailed.

In late January 2009, an Administrative Law Judge issued a Recommended Order in our favor and ruling against the two urban tier expansions. One proposal would have re-designated the 98 acre "Balsalmo" parcel in Northlake region of the County, adjacent to the Vavrus Ranch, which contains wetlands critical to the Loxahatchee River, and is part of the connected system of sensitive and rural lands that include Mecca Farms and other parcels connected to the Corbett Wildlife Management Area, the Loxahatchee Slough, Hungryland Slough and other natural areas. The law judge ruled that the proposed ten - fold increase in residential densities was not needed to meet projected growth demands and otherwise violated the comprehensive plan's criteria for allowing the conversion of rural lands to suburban uses.

The second proposed change would have converted a 26 acre parcel, known as the "Lantana Farms" site, from the Rural to the Urban/ Suburban Tier, and similarly encroached into one of the few remaining rural areas in the County at a time when the existing supply of urban land to meet the county's projected growth needs is more than adequate. The law judge ruled in our favor on the same grounds. After the Recommended Order was entered, the Department of Community Affairs issued a determination of non-compliance and forwarded the case to the Governor and Cabinet which upheld the decisions and entered a Final Order of non-compliance.

Besides the on - the - ground impact, these cases are significant for us as they represent the first time we have ever won a case against the Florida Department of Community Affairs under the "fairly debatable" standard which governs challenges to that agency's decisions under the Growth Management Act. These cases are difficult to win.

## **Miami- Dade County Urban Development Boundary Cases**

The central feature of the Miami-Dade County Comprehensive Plan's urban sprawl prevention policy is its Urban Development Boundary (UDB), which is consistently under pressure from builders seeking cheaper land in the County's rural areas. When the County Commission voted to move the UDB for two development projects, over the objections of its own planning staff, Mayor, and the state, we joined the Florida Department of Community Affairs in a legal challenge. This spring, the law judge ruled in our favor and against a 50 acre proposed "Lowe's Home Improvement" proposal on the basis that it would constitute a gratuitous conversion of rural and wetlands to a commercial use that could easily be accommodated within the current UDB. The law judge recommended that the UDB expansion for the 42 acre "Brown" parcel be found to comply with the law due to a projected deficit of farmland in the relevant sub-area of the County prior to the year 2014, and based on a narrow set of facts that distinguish it from those applicable to most other farmland in Miami-Dade County.

On July 28, the Governor and Cabinet entered a Final Order upholding these findings and setting forth very favorable interpretations of the Growth Management Act and the Dade County plan that will be strong precedent for years to come against future Urban Development Boundary expansion proposals. With a number of similar proposals pending before the County, one of them a proposed "new town", the final rulings in these cases will be crucial to the future integrity of the UDB in Miami-Dade County. Maintaining that line in the southern Everglades of Miami-Dade County (including Water Conservation Areas, Everglades National Park, Shark River Slough, the Biscayne Bay Coastal Wetlands and other areas) is one of the most important tasks necessary to restore the Everglades, and the primary focus of our work with the *Hold the Line* Coalition of community and environmental organizations.

In the coming year, the focus of our growth management work in the County will be to oppose at the local level several current applications to expand the UDB, and to be involved in two planning processes. First, the federal Environmental Protection Agency is studying the County's planning program, and we will attempt to steer that study towards recommendations to strengthen the County's comprehensive plan. Second, the County is preparing its own evaluation and update of its Comprehensive Plan, and we will be actively working to see changes made to the plan which reflect our views of how it should better protect the Everglades, Biscayne Bay, and public drinking water sources.

## **Palm Beach County Solid Waste Authority Landfill**

Our advocacy to convince Palm Beach County not to site a solid waste landfill within the Everglades Agricultural Area, directly adjacent to the Loxahatchee National Wildlife Refuge and an Everglades Stormwater Treatment Area was successful when the County Commission rejected that proposal and directed its staff to work with the state to identify an acceptable land –swapping arrangement that could allow the new landfill to be placed in an acceptable location. The County has now moved to expand its waste to

energy program, significantly extending the lifespan of its existing landfill and making acquisition of a new site in the EAA unnecessary at the present time.

### **Palm Beach County Inland Port Proposal**

The so - called “Inland Port” is a proposed 3,500 acre land - based cargo, warehousing and distribution center that could connect up to five seaports in southeast and southwest Florida. Depending on where such a facility is sited, impacts could include interference with Everglades restoration, promotion of sprawl type development patterns, with the potential to result in the development of a “new city” within the EAA. This proposed land use has major implications for the restoration planning that is still in progress. In 2009, we engaged in significant research and advocacy on this issue and opposed the siting of the facility within areas in the EAA that could interfere with the still developing restoration plans. We represent 1000 Friends of Florida as an intervenor into the Florida Department of Community Affairs legal challenge to the Palm Beach County land use plan change that would allow the facility to be sited in the Okeelanta region of the EAA.

### **Mining in the Everglades Agricultural Area**

We are representing several environmental groups in opposing large scale commercial mining in the EAA, which has the potential to cause very serious environmental impacts, including water quality and quantity impacts, and impede the restoration of water flows. The lion’s share of our work has been in litigating three mining approvals granted in 2008 by Palm Beach County. We also submitted a comment letter under the Clean Water Act, opposing the requested federal wetland permits for these mines.

### **Southern Everglades**

In the southern Glades, we have done significant work on major policy issues and on site-specific planning and permitting decisions. We submitted Clean Water Act and state wetland permit comment letters opposing the 4-laning of Krome Avenue in western Dade County. We have been engaged with the permitting agencies and with the Fla. Department of Transportation in an effort to abandon the 4- laning proposal, which could open up the western farm and Everglades lands in the County to suburban development – in favor of the “Krome Avenue Action Plan”, a series of intersection, shoulder and median improvements that will meet safety needs without inducing urban sprawl.

Another major focus of our work has related to the proposed expansion of the Turkey Point Nuclear facility on the shores of Biscayne Bay. We have intervened into the state’s Power Plant Siting process, and are raising the legal and policy issues created by the proposal’s expected impacts on water quantity, quality and habitat. The project has the great potential to compete with Biscayne Bay restoration for water (the plant’s cooling towers would use an enormous amount of water), to create a major saltwater intrusion problem (which would threaten the drinking water supply for all of the keys and

several cities in Miami-Dade County), and to compromise wetland restoration efforts and harm wildlife habitat. We were successful in securing the withdrawal by FP&L of a planning amendment request that would have allowed mining in the Biscayne Bay Coastal Wetlands.

Also in the Southern Everglades, we have provided legal and policy advice to our partners on the south Dade canal drawdowns (we are trying to convince the South Florida Water Management District to stop or limit the practice), wetland permitting within the Biscayne Bay Coastal Wetlands Project footprint, the proposed F.P. & L land swap with Everglades National Park, and the Tamiami Trail / Mod Waters “Next Steps” project. Our advocacy against the southern Glades canal drawdowns has resulted in a SFWMD study of whether it can stop or limit the drawdowns.

### **Rural Planning**

Important to the Kissimmee Valley, Heartlands and Southwest Fla. regions, our advocacy on the Dept. of Community Affairs Rural Lands rule resulted in a very good rule that was recently upheld against a legal challenge brought by development interests.

### **Wetland Permitting Reform**

We are working to bring about reform in how the South Florida Water Management District performs its wetland regulation functions. Based on our strongly held view that the District grants wetland permits too liberally and fails to zealously enforce legal requirements to reduce wetland impacts as much as practicable and to require mitigation which truly and fully offsets permitted losses, we have prepared legal analysis and met with staff to advocate for better overall wetland protection.

### **Martin County Rural Lands**

Our advocacy and litigation relative to the Martin County rural lands comprehensive plan amendment resulted in a legal ruling upholding the amendment based on legal interpretations of the amendment that could prevent many of its most troubling potential impacts. We are currently appealing the ruling, based on the lack of clarity in the development rules approved by the state and the potential that these rules would allow scattered suburban development throughout the County’s agricultural area with little or not offsetting public benefits. Over the next year, our work will focus on an appeal of the rural lands plan amendment approval and monitoring the initial approvals under that amendment. We will also be providing legal and policy advocacy against additional plan changes that would remove the few protections that were included in that amendment and adopt a series of other changes that will open up western lands to development. Our focus will be on the protection of the western lands necessary to support the Indian River Lagoon Restoration Project and the protection of the St. Lucie Estuary / Loxahatchee River watershed.

Also, in Martin County, our advocacy resulted in the adoption of a much less damaging two-lane road alternative for the Green River Parkway, and the State's acquisition of an additional 70 acres of conservation lands to add to the existing Haney Creek Watershed Project. Had the state not acquired that land, the owner would have likely developed the property into 300 apartment units and 21 homes. This less intrusive design alternative and the State's acquisition helps protect the water quality in the St. Lucie River.

### **Florida Keys**

We successfully improved the draft updated habitat mapping that will serve as the basis for the updated habitat – based zoning maps for Monroe County which are required as a result of a lawsuit we won in 2007. Throughout the year, we played an important role in the planning for a technical “Working Group” that was established, at our urging, to make recommendations for improvements to the zoning maps necessary to fully implement the Florida Keys Carrying Capacity Study.

### **Our Supporters**

We gratefully acknowledge and thank our major 2009 supporters:

#### ***Our Foundation Supporters***

Everglades Foundation	Fla. Keys and Everglades Program Grant of \$162,750
Tsunami Foundation	Fla. Keys and Everglades Program Grant of \$30,000
Elizabeth Ordway Dunn Foundation	Fla. Keys Program Grant of \$20,000

#### ***Organizational Program Support***

Clear Water Fund	\$40,000.00 for Biscayne Coastal Wetlands project
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#### ***Individuals***

##### ***\$5000-10,000***

Francis W. Hatch  
Sally O'Connell  
Anonymous

##### ***\$1,000-\$4,999***

Guardians of Martin County  
Martin County Conservation Association.  
Big Pine Key Civic Assoc.  
Charles Causey  
Rosa Durando  
Donna Melzer

Nathaniel Pryor Reed

***\$100-999***

Clear Water Action

Elvis Cruz

Dirck Holscher

Barbara Lange

Isaac Walton League

Key Deer Protection Alliance

Last Stand

Nelson Mead

Donna Melzer

Alicia Putney

Paul Shidel

Robert Skinner

George Skokan

**Everglades Law Center, Inc**  
**STATEMENT OF ACTIVITIES**  
For the Year Ended December 31, 2009

<b>Income</b>		
Clients		\$ 9,177
Individual Contributions		44,257
Grants		263,017
Honoraria & Other Income		1,834
<b>Total Income</b>		<b>318,285</b>
<b>Expenses</b>		
Accounting & Finance		13,423
Staff Salaries, Benefits, Prof. Dues		297,236
Litigation & Program Expenses		42,119
Office & Organizational Overhead		28,940
<b>Total Expenses</b>		<b>381,057</b>
<b>Net Change in Assets</b>		63,433

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