

MEMORANDUM

TO: Governing Board Members

FROM: Sheryl G. Wood, General Counsel

DATE: May 24, 2011

SUBJECT: Action Required
Authorization to file suit—
Creech Construction, Inc., and all other appropriate parties
Enforcement Action for property located at Section 16, Township 37
South, Range 35 East, Okeechobee County, FL (“Property”)

Background

On April 27, 2004, the District issued Environmental Resource Permit Number 47-00637-P (“Permit”), to Creech Construction, which authorized the construction and operation of a surface water management system to serve a 4.3 acre development known as Creech Homes.

The Respondent failed to construct the surface water management system as permitted. Specifically, the detention system was never constructed, the single family lots were not graded correctly, there are no swales in between the single family homes, and the outfall structure is not functioning as designed. Therefore, the construction completion certification that was submitted to the District on behalf of the Respondent cannot be accepted. Additionally, the Permit must be converted to the operation phase and transferred to an appropriate operating entity. To date, the Respondent has not submitted the necessary documents to the District, necessary to create the proposed operating entity, Creech Homes HOA, Inc., such as the articles of incorporation for the homeowners’ association. Additionally, several of the single family lot owners have constructed fences and sheds within the area that was designated for water storage in the Permit.

District staff sent the Respondent a Notice of Non-Compliance, Notice of Violation, a settlement letter, and two pre-litigation demand letters. The single family lot owners were copied on the most recent litigation demand letter. District staff met with Danny Creech, President of Creech Construction, Inc., his engineer, and several of the single family lot owners on several occasions to try to resolve this matter.

How this helps meet the District’s 10 year Strategic Plan

This effort directly supports the District’s regulation program.

Funding Source

This litigation will be handled by the District's Office of Counsel. Any costs associated with this litigation will be paid from budgeted ad valorem funds that may be subsequently recovered as part of the circuit court proceedings.

This Board item impacts what areas of the District, both resource areas and geography?

The subject property is located in Okeechobee County. The Permit non-compliance could have an adverse effect on water quality, quantity, and flooding, because the surface water management system was improperly constructed and certified. This could adversely affect the District's regulation of management and storage of surface waters.

What concerns could this Board item raise?

If this matter is not resolved, the Permit will remain out of compliance, and could result in adverse water quality, quantity, and flooding on on-site and adjacent properties.

Why should the Governing Board approve this item?

The Governing Board should approve this item to enforce and/or remedy the non-compliance with Environmental Resource Permit No. 47-00637-P, and to take appropriate action against all responsible parties.