

## MEMORANDUM

**TO:** Governing Board Members

**FROM:** Sheryl G. Wood, General Counsel

**DATE:** August 25, 2008

**SUBJECT: Action Required**  
Authorization to file suit—  
Todd McLendon and Shire McLendon and all other appropriate parties –  
Enforcement Action for a property Located at 3481 D Road, Section 17,  
Township, 43, Range 41, Loxahatchee, Palm Beach County, Florida

### **Background**

This is a request to file suit to resolve violations involving filling in wetlands without an environmental resource permit (ERP) to construct aviaries, cages and similar facilities. The property owners, Todd McLendon and Shire McLendon, are operating a commercial aviary business on the Property under the corporate name Palm Beach International Aviary, Inc. The violation was discovered due to a neighbor complaint about the unauthorized filling in wetlands. The neighbor is alleging that the unauthorized fill has altered surface water flows and has resulted in surface water being directed onto the neighbor's property. Numerous attempts have been made by District staff resolve the violation following issuance of the Notice of Violation, including the mailing of a pre-litigation demand letter, e-mail correspondence and a meeting with Todd McLendon on May 13, 2008.

### **How this helps meet the District's 10-year Strategic Plan:**

This effort directly supports the District's land resources mission.

### **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.

### **This Board item impacts what areas of the District, both resource areas and geography:**

The subject property is located in Palm Beach County and impacts wetlands through the unpermitted works and alterations of wetlands without a permit affecting the District conservation and management of wetlands.

### **What concerns could this Board item raise?**

If this matter is not resolved, the unauthorized and unpermitted filling of wetlands and the adverse impacts and/or construction could continue. Additionally, the McLendons'

neighbors, Maureen and Lawrence Lefkowitz, are concerned about the alteration of surface water onto their property and are represented by counsel.

**Why should the Governing Board approve this item?**

The Governing Board should approve this item to resolve recent violations of unauthorized alteration of wetlands without the required permit and to take appropriate action against all responsible parties.

If you have any questions, please do not hesitate to call me at extension 6976.

SGW/ALK