

## MEMORANDUM

**TO:** Governing Board Members

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

**DATE:** February 22, 2010

**SUBJECT: Action Required**  
Authorization to file suit—  
Finca Vigia, LLC, and all other appropriate parties  
Enforcement Action for property located at 15511 CR 846, Sections 12 and 13, Township 47 South, Range 31 East, Hendry County, Florida 34142 (“Property”)

### **Background**

On October 6, 1988, the District issued Surface Water Management Permit Number 26-00116-S, which authorized the construction and operation of a water management system to serve 1,294 acres of agricultural lands on the Property. Of the 1,294 acres, 230.4 acres consist of wetlands. The permit authorized the construction of a surface water management system that consisted of 5 reservoirs, labeled as reservoirs A through E. Approximately 157.80 acres of wetlands were to be preserved by incorporation into reservoirs A through E. On June 8, 2005, this permit was transferred to the current property owner, Finca Vigia, LLC.

On August 7, 2006, District staff observed clearing and filling activities taking place in Reservoir B. Reservoir B contains 104 acres of forested cypress wetlands with marsh and open water habitat. Fill had also been placed in the upland preserve portion of Reservoir B. On February 1, 2007, District staff observed that fill had also been placed in and spread in Reservoirs A, C and E. Reservoir A contains 31 acres of wetlands, Reservoir C contains 47 acres of wetlands, and Reservoir E contains 96 acres of wetlands. On February 18, 2010, District staff observed that all of the berms constructed around Reservoirs A through E had been removed. The foregoing works were not authorized under the existing permit, which constitutes violations of Special Condition numbers 12, 17, and 18 of the original permit. The permit transfer states that all permit design specifications, special and general/limiting permit conditions, and other terms and requirements contained in the original permit shall remain in full force and effect.

District staff sent the Respondent a Notice of Violation, a Request for Response, an In Aid of Settlement Letter, and a Pre-litigation Demand. District staff met with a managing member of Finca Vigia, LLC, 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.

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

The subject property is located in Hendry County and impacts wetlands through the unpermitted works and alteration of wetlands in violation of the Respondent's permit, which affects the conservation and management of wetlands, and the District's regulation of the management and storage of surface waters.

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

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

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

The Governing Board should approve this item to enforce and/or remedy the non-compliance with surface water management permit number 26-00116-S, to resolve violations involving unauthorized filling in wetlands, and to take appropriate action against all responsible parties.

Please let me know if you have any questions, and contact me at x6976, or Alison Kelly at x2977.

SGW/AK