

MEMORANDUM

TO: Governing Board Members
FROM: Sheryl G. Wood, General Counsel
DATE: February 28, 2008

SUBJECT:

Action Required

Authorization to file suit—David Feltenberger, and all other parties – Enforcement Action for a Portion of Property Located at Section 32 – Township 37 S – Range 35 E. Okeechobee County

Background

This matter involves the unpermitted and unauthorized dewatering discharges into Limpkin Creek without a permit for a portion of the property located at Section 32, Township 37 South, Range 35 East, in Okeechobee County.

On January 5, 2007, Mr. Feltenberger met with District staff to discuss his intentions to dewater and fill an old exist pit just east of Limpkin Creek. Mr. Feltenberger was advised by District staff that he needed to discuss his plans with a water use permit reviewer to decide if he would meet the thresholds of a no-notice permit.

On January 8, 2007, District staff and DEP staff discussed the project and it was confirmed that a dewatering permit was necessary for discharging offsite.

On or about February 1, 2007, District staff discovered Mr. Feltenberger had begun dewatering for a portion of the property located at Section 32, Township 37 South, Range 35 East, in Okeechobee County.

On February 2, 2007, District staff called Mr. Feltenberger to reiterate that if any offsite discharging was to occur and he did not obtain a dewatering permit he would be in violation and enforcement would be taken. District staff again recommended that Mr. Feltenberger discuss the matter with a water use permit reviewer.

On February 20, 2007 District staff conducted a ground inspection of the site, Mr. Feltenberger was told to close off the discharge point and obtain a permit if offsite discharges were necessary to complete his project

On March 2, 2007 a Notice of Violation/ In Aid of Settlement Letter was issued to Mr. David Feltenberger.

On March 15, 2007, a revised Notice of Violation/ In Aid of Settlement Letter was issued to Mr. David Feltenberger. As a result of meeting with Lisa Feltenberger and District staff.

On May 4, 2007, a dewatering permit was issued to Mr. David Feltenberger. Permit Number 47-00803-W. However, conditions for settlement of the matter included payment of fines and penalties resulting from the unpermitted dewatering activity. Mr. Feltenberger failed or refused to pay any fines or penalties toward resolution of the violation.

On June 12, 2007, a Pre-Litigation Demand Letter was sent to Mr. David Feltenberger. On July 9, 2007 the Pre-Litigation Demand Letter was returned to the District unclaimed.

As of the date of this memorandum, numerous attempts to resolve this matter have been unsuccessful.

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

This effort directly supports the District's regulatory 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 Okeechobee County and impacts the District through the unpermitted offsite dewatering without permit affecting the District conservation and management of land.

What concerns could this Board item raise?

If this matter is not resolved, the unauthorized and unpermitted offsite dewatering and its adverse impacts and/or construction will continue.

Why should the Governing Board approve this item?

The Governing Board should approve this item to enjoin and/or remedy the unpermitted works and offsite dewatering without a permit and take appropriate action against all responsible parties.