

MEMORANDUM

TO: Governing Board Members

FROM: Sheryl G. Wood, General Counsel

DATE: August 25, 2008

SUBJECT: Authority to Bring Suit (Cross-Claims in a Quiet Title and Adverse Possession Action)

Background

Case Name: David Davis and Helen Webb vs. SFWMD

Case Number: 2008-CA-362

Type of Case: Quiet Title and Adverse Possession Action

District Project Name: Lemkin Creek Okeechobee Project

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

Authority to bring suit (Cross-Claims in a Quiet Title and Adverse Possession Action) is necessary to effectively defend the District from the allegations in the above-referenced case that the District did not receive good and marketable title when it purchased land for the Lemkin Creek Okeechobee Project from Gagbee, Inc. The authority requested helps meet the District's plan by effectively defending the District's interests in the property it purchased for the Lemkin Creek Okeechobee Project.

Funding Source: This litigation will be handled by the District's Office of Counsel and attorneys hired by the District's title insurer, The Attorneys' Title Insurance Fund, Inc. Any costs associated with this litigation should be covered by The Attorneys' Title Insurance Fund, Inc. pursuant to their obligation to insure the District.

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

The requested authorization allows the District to bring suit, including cross-claims, against Gagbee, Inc., to effectively defend the District from allegations that the District did not receive good and marketable title when the District purchased land for the Lemkin Creek Okeechobee Project from Gagbee, Inc.

What concerns could this Board item raise?

If the District does not effectively defend itself (which may require the bringing of suit and necessary cross-claims against the party responsible for providing good and marketable title for the land purchased by the District and any other necessary parties), the District could be exposed to an adverse judgment affecting its property interest and awarding costs to the Plaintiffs.

Why should the Governing Board approve this item?

The District needs authority to bring suit (cross-claims in a quiet title and adverse possession action), as may be necessary to effectively defend itself from claims in the above-referenced case.

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

SGW/ela