

MEMORANDUM

TO: Governing Board Members

FROM: Sheryl G. Wood, General Counsel

DATE: April 29, 2009

SUBJECT: Action Required

Authorization to file suit—

Dry Lake Developments, Inc., Latha Venkatesh, Salvador Bortone, Hope Anderson, Clement Lue, Rudolph Dixon, Bruce Goldstein, and Diamond Touch, LLC., Gary Plunge, Alicia Hal, Lee Rough, Adeel Muhtar, Arif Wajid, Jawad Baig, Pamela Goldstein, Vyacheslav Ginzbur, Yevgeny Ginzbur, Siranush Khachatryan, Paul Breytman, Ram Venkatesh, Lusik Apkaria, Avedis Apkarian, Suren Tumasyan, Karapet Paronyan, RKS & SKS Properties, LLC., Daniel Sanovei, Margaret Lue, The Okeechobee Group, LLC., Charles & Susan Rucks, Dry Lake Dairy, and all other appropriate parties. Enforcement action for property located in Okeechobee County

Background

This matter involves non-compliance with permit conditions on land for a proposed residential development located in Okeechobee County (“Property”).

In 2007, Dry Lake Developments, Inc., Latha Venkatesh, Salvador Bortone, Hope Anderson, Clement Lue, Rudolph Dixon, Bruce Goldstein, and Diamond Touch, LLC., (“Permittees”) applied for and received Environmental Resource Permit No. 47-00751-P (the “Permit”) for a proposed low-density residential development on a 1203.5-acre parcel in central Okeechobee County. The proposed community was to consist of 94 residential “ranchettes” each ranging in size from 5 to 82 acres. The master storm water management system (“SWMS”) was to consist of four lakes and dry swales, to provide water quality treatment and storm attenuation for the entire project, while off-site flows were to be routed around the property in by-pass ditches.

Portions of construction was commenced and completed, but construction has now ceased, leaving only portions of the SWMS completed. Failure to complete an offsite mitigation area required by the Permit and failure to build correctly and/or complete the construction of the SWMS has caused adverse onsite and offsite impacts.

Numerous other requirements of the Permit have also not been complied with and include, but are not limited to: (1) copies of recorded documents as to wetland preservation/mitigation areas and conservation easements have not been provided; (2) as-built drawings, signed and sealed by a licensed surveyor, as to the SWMS have not been provided; and (3) recorded deed restrictions have not been provided.

Subsequent to the issuance of Permit Gary Plunge, Alicia Hal, Lee Rough, Adeel Muhtar, Arif Wajid, Jawad Baig, Pamela Goldstein, Vyacheslav Ginzbur, Yevgeny Ginzbur, Siranush Khachatryan, Paul Breytman, Ram Venkatesh, Lusik Apkaria, Avedis Apkarian, Suren Tumasyan, Karapet Paronyan, RKS & SKS Properties, LLC., Daniel Sanovei, Margaret Lue, The Okeechobee Group, LLC., Charles & Susan Rucks and Dry Lake Dairy became owners in the residential development and failed to obtain modification of the Permit reflecting their ownership as required by Special Condition 14 and General Condition 16 of the Permit. As such, they are owners without any permit in connection with the residential development.

On December 9, 2008, a Notice of Violation was sent to the Permittees with copies to all property owners. The violations continue despite requests by District staff to correct the deficiencies.

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 Okeechobee County and affects the District's conservation and management of wetlands.

What concerns could this Board item raise?

If this matter is not resolved, non-compliance of the permit and alteration of wetlands will exist.

Why should the Governing Board approve this item?

The Governing Board should approve this item to enforce the District's statutes and rules, and to take appropriate action against all responsible parties.

If you have any questions, please do not hesitate to contact me at Ext. 6976.

SGW/mjc/pm