

MEMORANDUM

TO: Governing Board Members

FROM: Sheryl G. Wood, General Counsel

DATE: November 17, 2005

SUBJECT: Action Required
Authorization to file suit–
Sunny Grove Landscaping and Nursery, Inc., MBW Holdings, Inc.,
and Mallard-Alico, LLC, and any and all other necessary parties

Background

This matter involves violations of an environmental resource permit and a consumptive use permit, and unauthorized works on land located in Lee County, S 9/Twp. 46S/Rge. 26E ("Property").

In January 1998, District staff discovered unpermitted construction on the Property. Off-site dewatering was also observed. The Property owner, Sunny Grove Landscaping and Nursery, Inc. ("Sunny Grove"), entered into a Consent Agreement with the District to resolve the violations. The Consent Agreement required that Sunny Grove obtain both a consumptive use and an environmental resource permit. Sunny Grove obtained both the required permits.

In March 2003, District staff discovered that Sunny Grove was in violation of its environmental resource permit. On February 28, 2005, the Sunny Grove, in violation of District rules, allowed its consumptive use permit to lapse. At some point in time the Property was sold from Sunny Grove to MBW Holdings, Inc., and Mallard-Alico, LLC. All three companies have the same person as its principal, Mark Williamson. The above referenced parties constructed works without a permit and operated a surface water management system without a permit on the Property. Additionally, they have not obtained a consumptive use permit.

The District has attempted to aid the Property owners in resolving their outstanding violations; however, the Property owners have not been responsive.

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

This action will enforce the provisions of the District's permit, statutes, and rules. This effort directly supports the Regulatory Program in Water Resources.

Funding Source

Budgeted ad valorem funds will be used.

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

The subject property is located in Lee County and relates to the Regulatory Program in Water Resources.

What concerns could this Board item raise?

If the matter is not resolved, an unpermitted works and alteration of wetlands will exist.

Why should the Governing Board approve this item?

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