

MEMORANDUM

TO: Governing Board Members

FROM: Tommy B. Strowd, Director
Operations, Maintenance and Construction Division

DATE: November 15, 2012

SUBJECT: Authorize a settlement regarding the District's recovery of possession of one occupied structure and declare the structure surplus to District needs

Background:

On July 8, 1994, the District acquired lands identified as Tract No. 18205-001 for the Kissimmee River Restoration and Headwaters Revitalization Project (hereinafter "Project") in Osceola County. At the time of the acquisition of the lands, District staff determined that certain fish camp structures occupied by individuals on a weekend basis were located outside of the boundary of the acquired lands. Consequently, the District did not pursue actions to secure possession and remove the structures at such time.

In June of 2010, the District was notified by the Code Enforcement Department of Osceola County that there were numerous code violations associated with these structures and that the District as owner of the property was responsible for ensuring code compliance. To ascertain whether the structures are located on District lands, the District obtained an Ordinary High Water Line survey relating to Lake Cypress and the land area where the structures were located. The results of the survey, which were reviewed and approved by the Florida Department of Environmental Protection, revealed that substantially all six of the structures are located above the Ordinary High Water Line and therefore on the District-owned lands. A portion of the structures located below the Ordinary High Water line are on State lands which are leased to the District for Project purposes.

The occupants maintain that they or their predecessors constructed the cabins under oral agreement with the prior landowner and have had use of the cabins for at least 30+ years. In November/December 2011, the District sought to negotiate voluntary settlements with the occupants but were not successful. In January, 2012, the District's Governing Board approved authorization to initiate the appropriate legal proceedings to recover possession. The District has since sent notices to the cabin occupants to vacate the premises.

At the March 15, 2012 meeting, the District's Governing Board approved settlements with the occupants of three of the six structures pursuant to Resolution No. 2012-303. At the April 12, 2012 meeting and at the August 9, 2012, meeting the District's Governing Board approved settlements with the occupants of two of the remaining three structures pursuant to Resolution No. 2012-409 and Resolution No. 2012-805.

Subsequently, the District has closed on all four of those approved settlements. Subsequently, discussions with the attorney representing the cabin occupants has led to the proposed settlement providing compensation for one (1) remaining occupied structure plus attorney's fees and a right of occupants at their own costs to remove the structure and contents prior to closing.

<u>Structure No.</u>	<u>Structure Owner</u>	<u>Structure Appraised Value</u>	<u>Settlement Amount</u>	<u>Atty. Fees</u>
1820E-029	James H. Dansby Donald J. Dansby	\$56,000	\$81,000(+43%)	\$2,500

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

The underlying lands are required for District's Kissimmee River Restoration and Headwaters Revitalization Project, a joint federal/state project that will reestablish the hydrologic regimes in the old Kissimmee River and headwaters region representative of historic conditions and will improve the quantity and quality of lake littoral zone habitat in Lakes Kissimmee, Hatchineha, Tiger, and Cypress. When most project components are in place, the current water regulation schedule from the Upper Kissimmee Basin will be replaced with a new schedule, which will better simulate pre-channelization hydrologic conditions in the restoration area. That new Headwaters Revitalization schedule is scheduled for implementation in 2014 when all Project construction features are projected to be completed. Prior to implementation of the Project, as the lands are within the Upper Kissimmee Basin flood plain adjacent to Lake Cypress, the lands must be unoccupied.

Funding Source:

All costs associated with the settlement are to be funded through ad valorem funds (Capital Projects Okeechobee).

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

The lands are located in Osceola County and are managed by the Land Management Section of the Land Resources Bureau within the Operations, Maintenance and Construction Division.

What concerns could this Board item raise?

There are no concerns regarding this Board item

Why should the Governing Board approve this item?

This proposed settlement represents the final settlement with occupants of certain structures that are located on District lands and must be removed prior to implementation of the Kissimmee River Restoration and Headwaters Revitalization Project.