

MEMORANDUM

TO: Governing Board Members

FROM: Sheryl G. Wood, General Counsel

DATE: February 26, 2009

SUBJECT: Action Required
Authorization to file suit—
Unauthorized dredging and filling on
property owned by Kenneth Hyatt,
Section 2, T 31 S, R 31 E, Osceola County

Background

In 1996 Kenneth Hyatt conducted unauthorized works on his farm in Osceola County, including altering approximately 30 acres of land, excavating ditches and channels, and filling wetlands that are part of the Kissimmee River floodplain. On April 16, 1997, the District entered into a consent agreement with Mr. Hyatt, requiring Mr. Hyatt to pay \$11,219.95 in penalties and costs, backfill and plug a ditch and a canal, apply for the appropriate permits for the entire farming operation, determine the location of the wetland jurisdictional boundary on the property, and transfer the lands waterward of the wetland jurisdictional line to the District. Mr. Hyatt partially satisfied the 1997 consent agreement but has not ever obtained the required permits, has not had the location of the jurisdictional wetland line determined, and has not transferred the land waterward of the wetland jurisdictional line to the District. In August of 2007, the District discovered more unauthorized work taking place on the property, including spreading of fill, construction of a boat canal, and clearing and adding ditching to 44 acres of sovereign lands immediately west of Mr. Hyatt's property. After sending Mr. Hyatt a Notice of Violation on September 5, 2007, the District staff has not been able to resolve the matter and the property remains unpermitted and no restoration of the impacted property or wetlands has taken place.

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 Osceola County and impacts the District's water resources by adversely impacting wetland functions, including wetland habitat and flood storage capacity.

What concerns could this Board item raise?

This matter should not raise any concerns other than concerns from the violators.

Why should the Governing Board approve this item?

The Governing Board should approve this item to address clear violations of the District's environmental resource permitting requirements. The actions of the violators have adversely impacted wetland habitat and have potentially increased flooding on adjacent properties. The violators have not agreed to resolve the matter and therefore must be brought before the courts to address the matter fairly and promptly.

SGW/dhm