MEMORANDUM

TO: Governing Board

FROM: George T. Reeves, Esq., Board Counsel

DATE: June 11, 2012

RE: Enforcement Status Report

ADMINISTRATIVE MATTERS WITHIN THE DISTRICT

Respondent	**Justin M. Fitzhugh**
Enforcement Number / County	**CE05-0046 / Columbia**
Violation	**Non-Functioning Stormwater Management System & Failure to Submit As-Builts**
Legal Counsel	**Brannon, Brown, Haley & Bullock**
Date Sent to Legal	**July 1, 2010**
Target Date	**Ongoing**
Legal Fees to date	**$2,111 (approximate)**

Counsel mailed a Notice of Violation to Justin Fitzhugh on July 22, 2010, regarding a non-functioning surface water management system and failure to submit as-built certification forms. After numerous contacts with Mr. Fitzhugh, a Compliance Agreement was executed by Mr. Fitzhugh and the District.

Staff performed a site inspection on March 15, 2011, and discovered that no work has been done to bring the pond into compliance with permit conditions. The Compliance Agreement specified a monthly payment schedule for the assessed penalty, administrative costs and attorney's fees. As of June 2, 2011, no payments have been received.

It has been discovered that the property at issue in this matter is in foreclosure. Columbia Bank now owns property. Staff and counsel have contacted the Bank regarding requirements to resolve violation. Staff was contacted by a general contractor working for the bank regarding resolution to this violation on October 6, 2011.

Counsel contacted Columbia Bank's attorney regarding the remedial work required. Columbia Bank's attorney will notify the bank that a contractor needs to be employed quickly, if not already done so, and the remedial work performed as soon as possible.

An adjoining landowner has contacted the District regarding a possible purchase of the subject property and modification of his permit to include and remedy the current non-functioning system located on the subject property.

The property at issue has been sold and the buyer has contacted the District regarding the remedial work needed. **No change since last report.**

Respondent	**Derrick Freeman**
Enforcement Number / County	**CE08-0043 / Suwannee**
Violation	**Unpermitted Structure in Floodway**
Legal Counsel	**Brannon, Brown, Haley & Bullock**
Date sent to Legal	**August 9, 2010**
Target Date	**Ongoing**
Legal Fees to date	**$667 (approximate)**

Counsel has attempted to notify Mr. Freeman repeatedly of the violation. Counsel has discovered that Mr. Freeman has been unavoidably detained in South Florida due to health issues.

Counsel has not received a response from Mr. Freeman, but has been informed by Express Legal Support Services that Mr. Freeman is still located in South Florida due to health concerns. Staff is working with counsel to determine an alternate legal party on behalf of Mr. Freeman. A complaint will be filed in the Circuit Court on or before November 30, 2011, along with a motion to place the case in abeyance until such time that Mr. Freeman is able to be served and defend the lawsuit or appoints a person to represent him.

Counsel spoke with the mortgage company's attorney and notified the company of existing violations on the property. Counsel is preparing and will send a formal letter to the mortgage company detailing the existing violations and remedies.

Mortgage Company put on notice of the outstanding violations existing on the property. Counsel was notified that Freeman has filed a Suggestion of Bankruptcy. As such, the finalization of the foreclosure matter is on hold until either the bankruptcy is resolved or the mortgage company is given authorization to proceed with the foreclosure. **No change since last report.**

Respondent	**Richard Oldham**
Enforcement Number / County	**CE10-0024 / Bradford**
Violation	**Unpermitted Pond & Deposition of Spoil Material**
Legal Counsel	**Brannon, Brown, Haley & Bullock, P.A.**
Date sent to legal	**October 13, 2011**
Target Date	**June 29, 2012**
Legal Budget / Legal Fees to date	**$5,000 / $2,473**

A Notice of Violation was sent to Mr. Oldham on April 13, 2010. After numerous attempts to correct this violation, the file was sent to counsel. Counsel notified Mr. Oldham twice regarding the action needed to remedy the situation.

In order to resolve this enforcement action, either the site needs to be restored to pre-existing conditions or the pond must be permitted and the spoil material removed from the flood-hazard area. Mr. Oldham had commenced corrective work but has stopped. On May 1, 2011, staff sent Mr. Oldham a Compliance Agreement for signature. He has not returned the signed agreement.

At the September 2011 Governing Board meeting, the Board authorized Counsel to seek resolution for failure to comply with District rules.

Administrative Complaint and Order ready to be signed by Executive Director and served on Oldham once approved by Board Counsel.

Counsel has received authorization from Board counsel to proceed with the Administrative Complaint. The Complaint will now be finalized and executed and served on Mr. Oldham.

Respondent	**Scott McNulty**
Enforcement Number / County	**CE10-0045 / Levy County**
Violation	**Unpermitted Excavation & Road Construction**
Legal Counsel	**Robinson, Kennon & Kendron, P.A.**
Date sent to legal	**March 7, 2011**
Target Date	**Ongoing**
Legal Budget / Legal Fees to date	**$5,500 / $1,826.60**

District discovered that unpermitted excavation and road construction had occurred in the Cedar Key Heights Subdivision and may have occurred in jurisdictional wetlands within right-of-way. A violation letter was sent to Mr. McNulty via certified mail, which requires a response from him on or before April 10, 2011. Received letter April 8, 2011, from Respondent's counsel indicating that Mr. McNulty is not in violation of the District permitting process and does not intend to pay any fees or fines. At the May 2011 Governing Board meeting, the Board directed staff to hire counsel to develop a list of options for resolution and bring the options back to the Board for further consideration.

Staff contracted with Bruce Robinson of Robinson, Kennon & Kendron, P.A., to advise the Governing Board on resolution options. Mr. Robinson provided the options for resolution. These were discussed at the June Board meeting.

Staff met with Levy County on August 18, 2011, to discuss historic plats and how to work together to prevent situations like this. In addition, staff discussed a

possible resolution to this matter that would involve the District and the County taking corrective action.

Staff met with Board Counsel and Legal Counsel on December 20, 2011, to discuss resolution options. It was the wishes of Board Counsel that we proceed with an Administrative Complaint**.**

Administrative Complaint filed on March 13, 2012. Defendant served March 29, 2012. Notice of Appearance and Answer, Affirmative Defense and Request for Hearing filed on April 18, 2012, by Defendant's attorney, Edith Richman. The Request for Hearing filed by Attorney Richman was deficient in that it did not have all the requirements in it required by Title 28 of the Florida Administrative Code.

Defendant filed an Amended Petition for Referral to DOAH, and the matter is to be referred by the Board to DOAH for an Administrative Hearing.

Respondent	**Larry R. Sigers**
Enforcement Number / County	**CE08-0072 / Columbia**
Violation	**Unpermitted Dredge & Fill**
Legal Counsel	**Robinson, Kennon & Kendron, P.A.**
Date sent to legal	**October 5, 2011**
Target Date	**March 12, 2012**
Legal Budget / Legal Fees to date	**$7,500 / $ 8,023.79**

The District opened a compliance proceeding on December 16, 2008, when staff discovered unpermitted dredge and fill of approximately 13.5 acres within a forested wetland. After numerous meetings, Mr. Sigers applied for and was issued an Environmental Resource permit (ERP09-0244). While the permit was being processed, Mr. Sigers signed a Consent Agreement that was executed by the Board in March 2011. The Consent Agreement, upon final signature, became Final Order 11-0001.

As of August 15, 2011, Mr. Sigers has not fulfilled his obligations under the Final Order and the conditions of his ERP. This includes restoration, mitigation, land donation in lieu of penalty and payment of administrative costs and attorneys' fees currently totaling $2,252.99.

At the September 2011 Governing Board meeting, the Board authorized Counsel to seek resolution. Enforcement file sent to staff legal counsel on October 5, 2011, to resolve violation for failure to comply with District rules.

Defendant has been successfully served. On December 6, 2011, Defendant filed a Motion to Dismiss and a Motion for More Definite Statement. On December 8, 2011, Defendant filed an Amended Motion to Dismiss. The two motions have been set for hearing on March 12, 2012.

A mediation was held on May 10, 2012, and a tentative settlement agreement was reached whereby the Defendant would pay the sums required in the Consent Order and, based on the decision of the Board, would either convey the 31 acres to the Board, or pay the penalty set forth in the Consent Agreement.

The Governing Board executed the Final Order regarding Mr. Sigers and the conveyance of the 31 acres set forth in the Consent Agreement at its May 29, 2012 meeting. Legal to prepare deed to property.

Respondent	**Rodney O. Tompkins**
Enforcement Number / County	**CE11-0001 / Gilchrist**
Violation	**Unpermitted Water Use**
Legal Counsel	**Springfield Law, P.A.**
Date sent to legal	**October 3, 2011**
Target Date	**August 16, 2012**
Legal Budget / Legal Fees to date	**$4, 271**

The District's initial certified letters were returned unclaimed. Local law enforcement served a second NOV on February 11, 2011. The NOV stated that Rodney O. Tompkins Trustee must contact the District to resolve the matter by March 2, 2011. Ms. Tompkins contacted the District on February 18, 2011 and has spoken to District staff several times. Staff sent a certified letter on May 16, 2011 stating that an application must be submitted by May 31, 2011. There has been no response.

The Governing Board authorized enforcement proceedings at its June 2011 meeting. Staff has worked with Governing Board counsel to determine that specific action is needed to order the Respondent to cease water use until Respondent obtains a water use permit from the District.

At September 2011 Governing Board meeting, the Board instructed staff to prepare a Final Order ordering Mr. Tompkins to cease water use until he obtains a water use permit from the District. Enforcement file sent to staff legal counsel on October 3, 2011, to serve Cease and Desist order.

The Cease and Desist Order was served on Tompkins on October 28, 2011. Mr. Tompkins requested an extension of time to respond which was approved by the District. Attorney Terrence Kann sent counsel a written response to the Cease and Desist Order on November 27, 2011. Staff requested Governing Board authorization on December 13, 2011, to file an administrative complaint in this matter.

On January 11, 2012, this matter was transferred from Staff Counsel Lindsey Lander to Staff Counsel, Jennifer Springfield. Staff Counsel is preparing an administrative complaint, which will be completed by February 10, 2012, and will initiate formal enforcement proceedings against Respondent. In the meantime, the District has received a second public records request (dated January 27, 2012) from Respondent's attorney and a second response letter (dated January 30, 2012) to the District's "Cease and Desist Notice." Respondent's attorney requested an in-person, on-site meeting.

The requested on-site meeting occurred on March 8, 2012; Jon Dinges and Staff Counsel attended for the District; Rodney and Rhonda Tompkins and attorney, Terry Kann, attended on behalf of the property/dairy owner. An action plan was orally agreed to by all persons present, which includes the owner submitting a water use application demonstrating that the current water use is as efficient as possible. Counsel has also been assisting staff in responding to public records requests from the property owner and from Mr. Steve Gladin. Counsel intends to draft a letter to the owner's attorney setting forth in writing the terms discussed on March 8, 2012, which will include a deadline to submit the application.

Staff counsel sent a certified letter to counsel for the property owner, Terry Kann, on March 9, 2012, which was received on March 12, 2012. The letter requested that a written response or permit application be provided to the District within ten days of its receipt. Counsel received a written response from Mr. Kann via electronic mail on March 14, 2012, regarding some of the details of the agreement. Staff counsel coordinated with staff to draft a written reply, which was finalized and sent to Mr. Kann on March 29, 2012. In its reply, District staff/counsel tried to explain some of the legal constraints applicable to all water uses/permit applicants in the District. Consequently, negotiations with the property owner are continuing, however, if the owner fails to submit an application within the next 30 days, Counsel intends to serve the administrative complaint.

Staff counsel completed drafting the Administrative Complaint on April 15, 2012 and provided it to staff for execution by the Executive Director. The next day, April 16, 2012, staff received a *copy* of an incomplete original application via facsimile transmission. Staff decided to treat the submittal as initiating the permit application process, even though basic information and technical data are missing, including an original signature, application fee, and water conservation forms. While staff are attempting to informally obtain some of the required information, if it is not received on or before May 7, 2012, staff will prepare a formal request for additional information. Also, subsequent to submittal of the application, staff counsel received another letter from Terry Kann, attorney for the property owner, on April 18, 2012, expressing continuing concerns regarding the details of any water use permit proposed by the District.

The property owner failed to submit any additional information or application fee prior to the District's deadline to request additional information. Therefore, on May 16, 2012, a RAI was sent to Mr. Tompkins as Trustee for the property owner, which provided an additional 90 days to submit the needed documentation and fee.

Respondent	**Cannon Creek Airpark**
Enforcement Number / County	**CE05-0031/ Columbia**
Violation	**Unpermitted Construction**
Legal Counsel	**Springfield Law, P.A.**
Date sent to legal	**February 2006**
Target Date	**In Permit Process**
Legal Fees to date	**$7,048.50**

This enforcement action has been on-going for a number of years. This involves work that was done within the subdivision to alleviate flooding. The work was done without a permit. Columbia County officials are working on a stormwater project that may alleviate the practical need to obtain compliance with the existing District permit, but instead would require that the permit be modified to reflect the system as constructed.

District staff is currently reviewing an ERP application to implement one phase of the County's master stormwater plan that includes the Cannon Creek area, which should address the remaining drainage problems for this project. The District is waiting for Columbia County to respond to the mitigation offer before taking further action on the permit application.

Columbia County responded to the request for additional information. Staff is reviewing the submittal in regards to the proposed wetland mitigation offer.

District staff met with Columbia County on February 28, 2012, to discuss outstanding RAI items and expect to soon receive additional information from the County. Columbia County proposes to "bundle" the wetland mitigation required for this project with mitigation being provided for a Home Depot project. Staff plans to discuss this approach with the District's Governing Board. **No change since last report.**

CIRCUIT COURT MATTERS

Respondent	**Charlie Hicks, Jr.**
Enforcement Number / County	**CE07-0087 / Madison County**
Violation	**Unpermitted Construction in Floodway**
Legal Counsel	**Brannon, Brown, Haley & Bullock, P.A**
Date sent to legal	**October 30, 2008**
Target Date	**April 3, 2012**
Legal Fees to date	**$21,536.50**

The violation consists of construction of a structure in the floodway, without obtaining a Works of the District permit. The case has been before this court several times.

On March 1, 2011, the Court granted the District's Motion for Appointment of the Madison County Sheriff or Other Neutral Party to Perform the Acts Required by the Court's June 8, 2010, Order. The Sheriff of Madison County is unable to accept appointment to perform the acts required the Court's June 8, 2010, Order due to a lack of finances, resources, equipment and personnel. Therefore, a neutral third party will be appointed by the Court to carry out the terms of the Court's Order.
Due to the Judge's unavailability on February 7, 2012, the trial has been rescheduled for March 12, 2012. The Judge had to reschedule again due to his unavailability on March 12, 2012.

The nonjury trial on damages was conducted on April 3, 2012. The Court entered its Final Judgment awarding the District a total amount of $31,794.07, which consisted of a $10,000 penalty, an award of attorneys' fees of $19,454.50, and legal and investigative costs totaling $2,339.57.

A conformed copy of the judgment has been recorded in the public records and counsel is prepared to execute on the Final Judgment. Counsel recommends the Board authorize counsel to proceed in executing on the Judgment, which will allow counsel to begin the sheriff's sale process.

Respondent	**Steven Midyette**
Enforcement Number / County	**CE07-0065 / Gilchrist County**
Violation	**Unpermitted Clearing & Filling of Wetlands & Unpermitted Construction**
Legal Counsel	**Brannon, Brown, Haley & Bullock, P.A**
Date sent to legal	**September 9, 2008**
Target Date	**Ongoing**
Legal Fees to date	**$9,190.00**

The is an ongoing enforcement case which involved clearing of wetland vegetation within a riverine wetland slough without a permit, filling in wetlands and constructing a boat ramp within a riverine wetland slough without a permit. Mr. Midyette eventually signed a Consent Agreement and Order on March 29, 2010. The Governing Board adopted Final Order 10-0010 on July 13, 2010, adopting the Consent Agreement.

Mr. Midyette failed to timely obtain a permit for his floating dock and submit a restoration plan as required by the Final Order.

A Complaint was filed with the Circuit Court of Gilchrist County and it was served on Mr. Midyette on March 30, 2011. We are awaiting his Answer to the Complaint, which is due on April 19, 2011.

A status conference was held with the Court on May 24, 2011, at which Mr. Midyette did not deny our allegation that he breached the Consent Agreement, but simply reiterated his ongoing financial difficulties. The court encouraged Mr. Midyette to get with District Counsel to resolve the issues as it would be less expensive for everyone involved. The Court set another status conference for July 22, 2011. Since Mr. Midyette denies breaching the Consent Agreement in his Answer, District counsel will initiate discovery prior to the next status conference. Received Works of the District application on July 13, 2011. Staff is reviewing the submittal.

Status conference conducted on December 30, 2011, where Midyette represented to the Court that remedial work was progressing. A follow-up status conference is scheduled in March 2012.

The majority of remedial work has been accomplished. The parties are currently negotiating the attorneys' fees and costs and penalty amount to be paid by Midyette. A status conference is set for April 20, 2012.

Status conference held May 25, 2012, new Judge (Judge McDonald) appointed to case. Judge requested a two week extension to try and reach resolution. If no resolution is reached, she will set trial date.

Respondent	**Paul Moody**
Enforcement Number / County	**CE10-0009 / Bradford County**
Violation	**Unpermitted Construction of a Water Well by an Unlicensed Contractor**
Legal Counsel	**Brannon, Brown, Haley & Bullock, P.A**
Date sent to legal	**February 18, 2010**
Target Date	**Ongoing**
Legal Fees to date	**$3,205**

Counsel was unsuccessful in negotiations with Mr. Moody in an attempt to resolve this matter. This violation was unpermitted construction of a water well by an unlicensed contractor. A complaint has been filed with the Clerk of Circuit Court of Bradford County.

A Process Server located and served Mr. Moody with the Complaint on March 2, 2011. As of March 29, 2011, Mr. Moody has not filed an answer to the Complaint. Counsel will file a Motion for Default in this matter on or before April 6, 2011.

On May 26, 2011, the Court entered a Final Judgment on Liability against Mr. Moody. Counsel will now move for the entry of an Injunction against Mr. Moody to prevent him from conducting any further well drilling without the required license and permit and for collection of a civil penalty, attorneys' fees and costs.

Pursuant to the Final Judgment on Liability, Counsel will seek entry of an injunction against Mr. Moody and will assess the viability of seeking a money judgment against him. **No change since last report.**

Respondent	**Bill McCans / Sonic Drive-In**
Enforcement Number / County	**CE08-0037 / Bradford**
Violation	**Non-Function Pond with Off-Site Impacts**
Legal Counsel	**Brannon, Brown, Haley & Bullock, P.A**
Date sent to legal	**July 1, 2010**
Target Date	**In permit process**
Legal Fees to date	**$3,906**

The violation consists of failure to fix a non-functioning surface water management system that poses off-site impacts to the water resources and it is a public safety concern. Also, Mr. McCans has failed to submit as-built certification forms. After numerous attempts to resolve this matter, a complaint was filed in the Circuit Court of Bradford County. Sonic Restaurants, Inc. was served on February 24, 2011, and Mr. McCans was served on February 22, 2011. An Answer to the Complaint was served by Mr. McCans on March 25, 2011. Sonic Restaurants, Inc. was served on February 24, 2011, and a Motion to Dismiss was served by Sonic on March 25, 2011. However, Mr. McCans has employed the services of an engineering firm to either bring the pond into proper functioning condition under the terms of the original permit, or submit plans for a permit modification if necessary to bring the pond into proper functioning condition. By April 17, 2011, District counsel to contact Mr. McCans Counsel to discuss settlement agreement.

Counsel is drafting a proposed Settlement Agreement to resolve the outstanding violations. Once completed and agreed upon by the parties, the Settlement

Agreement will be presented to the Board for approval or denial. McCans is reviewing the proposed settlement agreement.

Revisions made to proposed Settlement Agreement and sent to McCans attorney for review.

A status conference was held on March 15, 2012. This matter has been scheduled for trial on July 9, 2012. The parties are continuing to negotiate a settlement.

The parties have reached a settlement whereby Mr. McCans has agreed to perform the remedial work necessary to bring the system into proper functioning status and pay the District a penalty of $4,000, administrative costs of $2,170.90 and attorneys' fees of $3,000. Mr. McCans has signed the Stipulated Settlement Agreement, which will be filed with the Court upon execution by the District.

The Settlement Agreement is being filed with the Court along with a Motion to Adopt the Settlement Agreement. Once the Court enters its Order adopting the Settlement Agreement and retaining jurisdiction to enforce the Agreement, this matter will be removed from this Report.

Respondent	**El Rancho No Tengo, Inc.**
Enforcement Number / County	**CE05-0017 / Columbia**
Violation	**Unpermitted Construction**
Legal Counsel	**Springfield Law, P.A.**
Date sent to legal	**January 2006**
Target Date	**April 30, 2012**
Legal Fees to date	**$251,759**

This enforcement matter has been ongoing since 2006. After multiple court hearings, and in accordance with Court rulings, a Notice of Sheriff's Sale was sent to the parties by certified mail.

The Sheriff's Sale of Defendant's real property pursuant to two writs of execution occurred on May 3, 2011. The Executive Director and Counsel were present at the sale. After an opening bid by Jeffrey Hill of ten dollars, Mr. Still bid $390,000, which was also the highest bid. Twenty-two minutes prior to the sale, Jeffrey Lance Hill, Sr., filed a chapter 12 case with the U.S. Bankruptcy Court in Jacksonville, Florida. Counsel has since consulted with Lance Cohen, a bankruptcy attorney in Jacksonville, whom the District retained in 2008 when El Rancho No Tengo, Inc., filed a bankruptcy case. Mr. Cohen is of the opinion that because Mr. Hill filed for bankruptcy prior to the Sheriff's Sale, the District's interest in quieting title would best be served in bankruptcy court. Therefore, Staff has directed Counsel to work with Mr. Cohen again to efficiently and expeditiously secure title to the land in the District.

Bankruptcy counsel filed a motion to dismiss the first week of June 2011. Staff attended the creditors' meeting on June 11, 2011, at which Jeffrey Hill was placed under oath and questioned by the court-appointed Trustee, District staff, and an IRS representative. Mr. Hill's responses failed to reveal much, but the meeting did serve to educate the Trustee regarding the District's interest in the bankruptcy proceeding. Bankruptcy counsel attended a preliminary hearing on July 6, 2011.

Staff inspected the property on July 5, 2011, and found no apparent environmental problems. Staff is contracting with a firm for a detailed phase one environmental audit.

The hearing on July 6, 2011, was merely a pretrial conference with the Bankruptcy Judge at which counsel for the District indicated that it was ready for trial and would need only 30 minutes; only the District's bankruptcy counsel attended this hearing and Jeffrey Hill. The Court stated that it would set the matter for trial and allow two hours. On July 22, 2011, Jeffrey Hill served a request to produce on the District asking for verbatim transcripts of two past Governing Board meetings – February 14, 2006 and May 19, 2011. District counsel is assisting bankruptcy counsel in responding to this request and in preparing for the final hearing scheduled for September 12, 2011.

Columbia County Sheriff Office served a Summons of Civil Action from Jeffrey and Linda Hill on the District on August 3, 2011.

A chapter 12 confirmation hearing in federal bankruptcy court was held on September 12, 2011. This is an evidentiary hearing at which the District's motion to dismiss was heard, as well as Jeffrey Hill's Amended Motion for Sanctions against District counsel and co-counsel in the El Rancho No Tengo case. Mr. Still and Mr. Dinges, who were under subpoena, were briefly questioned by Mr. Hill. The District did not present any testimony, but offered a number of exhibits, which were admitted. The Court took the matter under advisement.

Because six months have passed without a ruling from the Bankruptcy Court on the District's motion to dismiss, Staff Counsel suggested and the Executive Director agreed to request the District's bankruptcy attorney, Lance Cohen, to file a motion to have the automatic stay modified to allow the District to take action to perfect its title in the real property. Mr. Cohen is preparing to file such a motion.

On March 22, 2012, the Bankruptcy Court granted the District's motion to dismiss the Chapter 12 bankruptcy case filed by Jeffrey Hill. On March 28, 2012, District staff recorded the Sheriff's deed with the Columbia County Clerk's Office. Staff is

considering further action to remove a possible cloud on the title, which may require Governing Board approval.

Staff counsel, in coordination with Governing Board counsel and staff, have been working on developing a recommendation regarding whether further legal action is necessary to vest good title to Defendant's property in the District as satisfaction of the District's two final judgments awarding civil penalties, costs, and attorney's fees to the District; and, if so, what action would be most efficient and certain. Governing Board counsel will be making a recommendation to the Board regarding this matter on May 8, 2012.

Jeffrey Hill filed a Motion for Rehearing and Clarification with the Bankruptcy Court on April 2, 2012, which was denied on May 3, 2012. On May 16, 2012, Mr. Hill filed a Notice of Appeal of the Bankruptcy Court's May 3rd Order. The District's bankruptcy counsel, Lance Cohen, is responding to the appeal. Staff presented a recommendation to the Governing Board on May 29, 2012, regarding the real property title issue. The Governing Board requested that additional information be provided at its Workshop scheduled for June 12, 2012. Staff is preparing for the June 12th workshop.

Plaintiff	**Jeffrey L. Hill, Sr. and Linda P. Hill**
Enforcement Number / County	**CE11-0045 / Columbia**
Violation	**NA**
Legal Counsel	**SRWMD Insurance Legal Counsel**
Date sent to legal	**August 2011**
Target Date	**Ongoing**
Legal Fees to date	**$9,550**

This is not a District enforcement matter, but appears to have been prompted by one. This matter concerns a circuit court complaint recently filed against the District by Jeffrey and Linda Hill arising out of the District's enforcement litigation against El Rancho No Tengo, Inc. In summary, the Complaint alleges that the District has violated Plaintiffs' personal and property rights, acted with recklessness and malice, taken Plaintiffs' personal and property, forced Mr. Hill into bankruptcy, and caused Plaintiffs psychological and emotional harm, The request for relief includes returning all real and personal property taken, permanently enjoining the District from taking Plaintiffs' property, damages in the amount of $1,000,000.00, renewal and reinstatement of a writ dated August 4, 1991, and costs and attorney's fees. District Counsel has responded by filing a motion to dismiss, strike and for more definite statement. Counsel is currently researching whether a judgment on the merits may also be available at this stage of the proceeding. In any event, Counsel will soon request a hearing on the District's motion(s).

On October 20, 2011, Plaintiffs served an Amended Complaint to which Counsel responded by serving an Amended Motion to Dismiss and Strike. Counsel also provided a draft Motion to Award [§57.105, F.S.] Attorney's Fees to Plaintiffs on November 17, 2011. Counsel attended a hearing on the District's amended motion to dismiss and strike the amended complaint on December 9, 2011. The Court dismissed three counts of Hills' amended complaint and struck three more, but also gave the Hills 30 days from the date the order is signed to file a second amended complaint.

Counsel drafted and delivered an order to the Hills for review and comment on December 19, 2011. Comments on the draft order are due from the Hills to Counsel on December 22, 2011, at which time Counsel will send a proposed order to Judge Parker. Once a second amended complaint is filed by the Hills, Counsel will prepare an answer with affirmative defenses.

Rather than commenting to Staff Counsel on the District's draft proposed order, Plaintiff's filed their "Objection to Proposed Order," but not before Staff Counsel submitted the District's proposed order to Judge Parker on December 26, 2011. Thereafter, the District's proposed order was entered and Plaintiffs filed a timely motion for rehearing. On January 25, 2012, this case was transferred from Staff Counsel Jennifer Springfield to Staff Counsel Lindsey Lander. **No change since last report.**

Respondent	**Linda Fennell**
Enforcement Number / County	**CE06-0107 / Lafayette**
Violation	**Unpermitted Construction in Floodway**
Legal Counsel	**Brannon, Brown, Haley & Bullock, P.A**
Date sent to legal	**July 2009**
Target Date	**Ongoing**
Legal Fees to date	**$13,610**

The Governing Board denied the permit application in June 2007 for lack of information. The Respondent filed a second application and variance request in January 2008. The Governing Board denied the second application in May 2008 for lack of information. Staff referred this matter to counsel after many attempts to resolve the violation and Counsel initiated litigation in July 2009. Service of process took quite some time as Respondent was difficult to locate.

Counsel recently held informal settlement discussions with the Respondent's attorney. Counsel was informed that Respondent is willing to raise the structure above the 100-year flood elevation but unwilling to move the residence outside of the 75-foot setback. Therefore, it appears litigation in this matter will need to continue so this case can be resolved by the Court. Counsel is coordinating with Respondent's attorney to schedule the trial.

Staff attended the Lafayette County Board of County Commissioners (BOCC) meeting on June 27, 2011, and requested that the County engage its code enforcement process. The BOCC indicated that they will provide support to the District in order to resolve the violation, but that the District should continue to take the lead.

Counsel was informed by her attorney that Ms. Fennell is willing to raise the structure above the 100-year flood elevation; however, Ms. Fennell is unwilling to remove the structure to a location outside of the 75-foot setback. Therefore, it appears litigation in this matter will need to continue so this case can be resolved by the Court. Counsel is coordinating with Ms. Fennell's attorney to reschedule the trial.
Staff is sending a settlement proposal to Fennell's attorney to require removal of the dock, raising the home above the 100-year flood level, payment of the District's costs and attorneys' fees, and application of a deed restriction or similar instrument allowing the home to stay within the 75-foot setback for the duration of Fennell's ownership. The settlement proposal, if acceptable to Fennell, will be brought to the Governing Board for action. A hearing on Ms. Fennell's Motion to amend Answer and demand a jury trial was heard by the Court on December 1, 2011. The Court took the Motion under advisement and will issue a ruling within a few weeks.

Staff Counsel in discussion with Fennell's counsel, regarding settlement and mediation if necessary.

The Court entered an Order allowing Defendant's amendment to her Answer but denied Defendant's demand for a jury trial. Counsel has provided Defendant with a settlement offer but has yet to receive a response. **No change since last report.**

Respondent	**Jeffrey Hill / Haight Ashbury Subdivision**
Enforcement Number / County	**CE04-0003 / Columbia**
Violation	**Not Built in Accordance with Permitted Plans**
Legal Counsel	**Springfield Law, P.A.**
Date sent to legal	**May 2006**
Target Date	**June 30, 2012**
Legal Fees to date	**$13,176**

This enforcement activity has been ongoing for several years. At the most recent hearing (January 31, 2011), the Court granted the motion for summary judgment in this case. The judge's order requires Mr. Hill to comply with the corrective actions specified in the District's final order, imposes a civil penalty, and awards the District its costs and attorney's fees. The order, which was reduced to writing

on February 15th, also sets a date for a case management conference with Judge Parker on April 25, 2011, for the purpose of determining compliance.

District staff discussed the corrective actions needed to bring the stormwater management system into compliance with the permit with a contractor, Sam Oosterhoudt, on March 15, 2011, and Mr. Oosterhoudt is going to complete the work prior to the case management conference on April 25, 2011.

Respondent has failed to perform the corrective action District staff was expecting to be completed prior to April 25, 2011. Neither Respondent nor Mr. Oosterhoudt contacted District staff after the site meeting on March 15, 2011. At the case management conference with Judge Parker on April 25, 2011, Respondent and Counsel for Columbia County both stated it was their understanding that the work was completed towards the end of March/beginning of April. However, when District staff inspected the property on April 21st, no work had been done.

Judge Parker ordered the parties to appear at a second case management conference set for July 18, 2011, to confirm that the repairs to the pond have been made.

District staff has been regularly inspecting the site to determine whether the repairs are in progress and/or completed. Thus far, no work has been done to comply with the District's final order or the Court's directives.

District staff again inspected the site on July 14, 2011, in anticipation of the second case management conference with Judge Parker and observed that no work had been accomplished. Counsel attended a case management conference with Judge Parker July 18, 2011. Respondent, Jeffery Hill failed to attend the hearing. The Court directed counsel for the District to draft and file a motion requesting that an order to show cause why Respondent should not be held in contempt because Mr. Hill did not show for Court and did not repair the pond as ordered.

District counsel filed a motion for an order to show cause why Jeffrey Hill should not be held in contempt on August 8, 2011, and a hearing was set for October 12, 2011. Counsel immediately withdrew this motion and cancelled the hearing upon receipt of Mr. Hill's Amended Motion for Sanctions on August 12, 2011, which alleged that counsel's actions were in violation of the automatic stay that resulted from Mr. Hill's bankruptcy filing. Counsel intends to re-file the motion and reset the hearing immediately following a decision by the bankruptcy court on September 12, 2011 (see above discussion under Suwannee River Water Management District v. El Rancho No Tengo, Inc.). Counsel will not charge any fees to the District for actions necessitated by the filing of this motion, which may have violated the automatic stay.

Once the bankruptcy Court rules on the District's motion to dismiss and Mr. Hill's motion for sanctions, Counsel intends to ask the Court to schedule another case management conference, as well as a hearing to determine the civil penalty amount and amount of the of the District's costs and attorney's fees, all of which have already awarded. Counsel and staff have been preparing the District's presentation concerning these amounts.

Staff Counsel and Governing Board Counsel met with Columbia County Attorney, Marlin Feagle, to discuss the possibility of the county performing the necessary corrective action and assuming the long-term operation and maintenance responsibility under the District's permit. Property access issues were also discussed. Thereafter, Mr. Feagle discussed staff's proposal with the County Engineer, Public Works Director, and County Manager. Discussions are ongoing between District staff and County staff.

Staff Counsel is drafting an agreement between the District and the County setting forth the County's offer to obtain the necessary legal access and perform the correction action required on the stormwater management system. Thereafter, the District will transfer the permit to the County as the perpetual operation and maintenance entity. In exchange for the County's assistance, and other actions agreed to by the County to help the District resolve two other long-standing ERP violations, the District contemplates donating an approximate 42-acre parcel of land on Alligator Lake that adjoins County-owned property.

Staff counsel prepared an initial draft of an Interlocal Agreement with the County needed to further the negotiations. Prior to providing the proposed agreement to the County Attorney, counsel sent it to District staff on March 7, 2012, for their review and comment. Since the Bankruptcy Court's automatic stay is no longer in effect due to the dismissal of Jeffrey Hill's Chapter 12 case, in the event this recent attempt to resolve the violation fails, counsel will reschedule the District's motion for an order to show cause why Jeffrey Hill should not be held in contempt and set a hearing on the amount of the civil penalty award and the amount of the costs and attorney's fees award. **No change since last report.**

Respondent	**Jeffrey Hill / Smithfield Estates-Phase 1**
Enforcement Number / County	**CE04-0025 / Columbia**
Violation	**Not Built in Accordance with Permitted Plans**
Legal Counsel	**Springfield Law, P.A.**
Date sent to legal	**May 2006**
Target Date	**June 30, 2012**
Legal Fees to date	**$13,176**

This enforcement activity has been ongoing for several years. At the last hearing (January 31, 2011), the Court granted the motion for summary judgment in this case. The judge's order requires Mr. Hill to comply with the corrective actions

specified in the District's final order, imposes a civil penalty, and awards the District its costs and attorney's fees. The order, which was reduced to writing on February 17th, also sets a date for a case management conference with Judge Parker on April 25, 2011, for the purpose of determining compliance.

District staff met with a contractor, Sam Oosterhoudt, at the site on March 15, 2011, to review the corrective actions needed to bring the stormwater management system into compliance with the permit. Staff agreed with Mr. Oosterhoudt that there are physical obstacles. Therefore, staff also agreed to allow Mr. Oosterhoudt two weeks to explore with the Columbia County Engineer the possibility of modifying the permit.

Mr. Oosterhoudt failed to contact District staff as expected on or about March 29, 2011, to provide additional information concerning a possible permit modification. Neither Respondent nor Mr. Oosterhoudt contacted District staff after the site meeting on March 15, 2011. District staff inspected the property on April 21, 2011, and no work had been done. A case management conference with Judge Parker was held on April 25, 2011, at which both Respondent and Counsel for Columbia County stated that a meeting between Respondent and the County occurred within the two-week period. Respondent also stated that since that meeting, the County has performed survey work within the subdivision.

Judge Parker ordered the parties to appear at a second case management conference set for July 18, 2011, to confirm that an application to modify the permit has been submitted.

Following the Case Management Conference on April 25, 2011, District staff provided information to Columbia County that was requested by the County at the conference; however, no response from the County has been received. To date, no application to modify the existing permit has been received by the District.

District staff again inspected the site on July 14, 2011, in anticipation of the second case management conference with Judge Parker and observed that no work had been accomplished. Neither has the District received an application to modify the existing permit. Counsel attended Case Management Conference with Judge Parker July 18, 2011. Respondent, Jeffery Hill failed to attend the hearing. The Court directed counsel for the District to draft and file a motion requesting that an order to show cause why Respondent should not be held in contempt because Mr. Hill did not show for Case Management Conference and did not repair the pond as ordered.

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PENDING COMPLIANCE MATTERS:

For a list of pending compliance matters, please see the Compliance Report in current Board materials.