

MEMORANDUM

TO: Governing Board
FROM: George T. Reeves, Esq., Board Counsel
DATE: November 9, 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)

This violation is for a non-functioning surface water management system and failure to submit as-built certification forms.

The property at issue has been purchased by a new owner, who has cleared the pond.

Leroy Marshall will conduct a site inspection to determine what, if any, remedial work remains to be done to bring the system into full compliance. If it is determined by District staff that the pond is now functioning properly and no further remedial work is necessary, this matter will be removed from the enforcement 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)

This violation is for construction of a structure in the floodway.

Mortgage Company is aware of the outstanding violations existing on the property. Freeman has filed a Suggestion of Bankruptcy and 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.

Counsel is awaiting status report from mortgage company attorney.

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 / \$10,989.50

This matter, involving an unpermitted excavation and road construction in the Cedar Key Heights Subdivision, caused the Suwannee River Water Management District to file an Administrative Complaint. Immediately prior to the Administrative Hearing of August 17, 2012, the Respondent, Scott McNulty, executed a Consent Agreement, which was adopted as Final Agency Action by the Suwannee River Water Management District. Therefore, if Respondent does not comply with the Consent Agreement, which will need to be monitored by staff, then an action will need to be brought against Respondent in the Circuit Court of the State of Florida to enforce the Final Agency Action.

Respondent has not yet paid pursuant to the Consent Agreement. A letter has been written to his counsel advising them that if payment is not received by November 16, 2012, that staff will recommend that action be brought against Respondent in the Circuit Court of the State of Florida to enforce Final Agency Action.

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 / \$7,457

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.

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. The reporting requirements in the Consent Agreement now must be monitored by staff to ensure compliance. The payment by Mr. Sigers has already been made, and transmitted to the District on June 12, 2012.

Staff is monitoring the project in accordance with the Consent Agreement. This item will be removed upon completion of the required monitoring reports.

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	September 11, 2012
Legal Budget / Legal Fees to date	\$4,800/\$4,627

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. Deadline for RAI submittal was August 14, 2012.

The Governing Board authorized the Executive Director to file an Administrative Complaint at its September Board meeting.

Staff and staff counsel are attempting to serve the District's administrative complaint on Mr. Tompkins.

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. A permit for this project was issued on August 6, 2012. Staff is still working with Columbia County on the associated Interlocal Agreement. **No change since last report.**

CIRCUIT COURT MATTERS

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	Ongoing
Legal Budget / Legal Fees to date	\$5,000 / \$2,473

This violation is for construction of a pond without a permit and deposition of spoil material in a flood area.

Richard Oldham and Diana Nicklas were served with an Administrative Complaint and Order and the time for filing a petition for hearing lapsed.

Counsel has filed a Petition for Enforcement in the Circuit Court for Bradford County and will have Oldham and Nicklas personally served upon receipt of the summons from the Clerk.

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	Ongoing
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.

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.

Counsel is proceeding in executing on the judgment.

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.

A Complaint was filed with the Circuit Court of Gilchrist County and it was served on Mr. Midyette on March 30, 2011. There have been several status conferences with the latest being October 30, 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 and the procedure for payment of the agreed upon amount.

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

This violation was unpermitted construction of a water well by an unlicensed contractor. A complaint was filed in the Circuit Court of Bradford County. A Final Judgment on Liability has been entered by the Court against Mr. Moody.

Counsel will assess the viability of seeking a money judgment against him.

Respondent	EI 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	\$251,879

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 EI 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. At the June 12th workshop, the Governing Board deferred the discussion of this matter to a later date. Staff was directed to meet with the newer Board members individually to bring them up to date and after this was done to schedule a meeting with Mr. Hill, Mr. Williams and Mr. Reeves to discuss possible settlement.

The parties have met and negotiations are ongoing.

The District's bankruptcy counsel, Lance Cohen, filed an Answer Brief on September 10, 2012, in Jeffrey Hill's appeal of the Bankruptcy Court's dismissal of his Chapter 12 case. The case is now fully briefed and, therefore, either oral argument or a written decision should occur or be issued before the end of the year. **No change since last report.**

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. In February, this case was transferred to the District's Insurance Claim Services.

A hearing was set for October 5, 2012, regarding the Plaintiffs Motion for Rehearing on the Court's order dismissing and striking the amended complaint and allowing Plaintiffs 30 days leave to file a second amended complaint. **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

This violation is for construction of structures within the regulatory floodway without a works of the district permit. This matter is ongoing in the Lafayette County Circuit Court.

Staff Counsel is negotiating a settlement proposal with Fennell’s attorney, which would require removal of the dock, 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 accepted by Fennell, will be brought to the Governing Board for approval.

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	Ongoing
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.

Columbia County Attorney, Marlin Feagle, has reviewed the draft interlocal agreement and County managers are still interested in pursuing this approach. **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.

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 resulting 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 the amount of the District's costs

and attorney's fees, all of which have already been awarded. Counsel and staff have been preparing the District's presentation concerning these amounts.

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.

Columbia County Attorney, Marlin Feagle, has reviewed the draft interlocal agreement and County managers are still interested in pursuing this approach. **No change since last report.**

PENDING COMPLIANCE MATTERS:

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