



AGENDA REPORT
August 14, 2018

Citizen Request/ James Zuhlke - Unjust Fines on Property (Parcel ID 24-36-30-00-253)

SUBJECT:

Unjust fines on property

DEPT/OFFICE:

Agenda Coordinator

REQUESTED ACTION:

Removal of unjust fines on property

SUMMARY EXPLANATION and BACKGROUND:

While maintaining roadway on property in 2016, I was accused of destroying wetlands.

1. Land was completely cleared in 1991. An EXISTING raised roadway was on the land before cleaning. (I believe this road is part of a roadway used before Cocoa Rockledge Drainage Authority put in the canal and road that is now Lake Drive in the years 1920-1921.)
2. Roadway has been maintained and used regularly since 1991. It was not and is not wet lands.
3. In 2016 Brevard County Natural Resources called in St. John's Water Management District to evaluate the situation. St. John's said that the road was pre-existing and presented a map show so and stated that no action needed to be taken.

Contact: James Zuhlke
clairez@aol.com

ATTACHMENTS:

Description

- ▣ **Original submitted agenda**
- ▣ **Zuhlke back up maps and letter**
- ▣ **Staff Report**



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Tammy.Rowe@brevardclerk.us

August 15, 2018

MEMORANDUM

TO: Tad Calkins, Planning and Development Director

RE: Item J.5., Citizen Request by James Zuhlke for Unjust Fine on Property – Tax Account No. 2423189

The Board of County Commissioners, in regular session on August 14, 2018, approved the citizen request made by James Zuhlke to waive the accrued fine on property located in Cocoa, for Tax Account No. 2423189, from \$15,274 to \$0.00.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe

Tammy Rowe, Deputy Clerk

/ds

cc: Clerk to the Special Magistrate
Finance
Budget

J.5.



Natural Resources Management Department

2725 Judge Fran Jamieson Way
Building A, Room 219
Viera, Florida 32940

BOARD OF COUNTY COMMISSIONERS

Staff Report

SUBJECT: Agenda Item J.5 – Citizen Request, James Zuhlke, Unjust Fines on Property
Tax Account No. 2423189, Cocoa, (D-2)

DATE: August 10, 2018

The purpose of this report is to provide the Board with some additional information regarding Mr. James Zuhlke’s request for the Board to remove fines imposed on the property as the result of enforcement action initiated in May 2016; when Environmental Resources Management (ERM) received a complaint regarding numerous dump trucks entering and leaving Mr. Zuhlke’s property.

- ERM’s investigation found approximately 0.4 acres of unpermitted fill, used for road construction through wetlands. In accordance with Comprehensive Plan, Conservation Element, Objective 5, and Section 62-3695(e), ERM opened a Code Enforcement case and issued Notice of Violation (NOV) on June 20, 2016.
- On August 4, 2017, the Special Magistrate issued the Findings of Facts, Conclusions of Law and Order and Lien for Costs. The property was found to be in violation of Section 62-3695(e), “...if an activity is undertaken which degrades or destroys a functional wetland, the person authorizing or performing such an activity shall be responsible for repairing and maintaining the wetland;” and ordered a compliance date of August 18, 2017, with a fine of \$250 per day to begin to accrue if not in compliance. Enforcement costs were assessed in the amount of \$550.
- Mr. Zuhlke’s Attorney filed a Notice of Administrative Appeal on September 1, 2017.
- On May 21, 2018, the Eighteenth Judicial Circuit Court affirmed the Special Magistrate’s Findings of Facts, Conclusions of Law and Order and Lien for Costs.
- On June 4, 2018, the property received a bona fide agricultural classification and thus came into compliance. Fines ceased to accrue on this date. Fines have accrued to a total of \$15,274.
- Mr. Zuhlke paid the enforcement cost (\$550) on August 8, 2018.

Pursuant to past Board action, the process for consideration of a fine reduction includes the following:

1. The site must be in compliance.
2. Enforcement costs must be paid.
3. A fine reduction may then be requested by the owner through the Special Magistrate.
4. The Special Magistrate's recommendation would then come before the Board for consideration.

Mr. Zuhlke has completed the first two steps, but has brought this matter before the Board without first making a request to the Special Magistrate, per step 3 of the County's fine reduction process.

Meeting Date
August 14, 2018



AGENDA	
Section	
Item No.	J-5.

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Unjust fines on property.
DEPT/OFFICE:	Brevard County Department of Natural Resources

Requested Action:
 Removal of unjust fines from property.

Summary Explanation & Background:

While maintaining roadway on property, in 2016, I was accused of destroying wetlands.

#1 Land was completely cleared in 1991. An EXISTING raised roadway was on the land before cleaning. (I believe this road is part of a roadway used before Cocoa Rockledge Drainage Authority put in the canal and road that is now Lake Drive, in the years 1920 and 1921).

#2 Roadway has been maintained, and used regularly, since 1991. It was not, and is not, wet lands.

#3 In 2016 Brevard County Natural Resources called in St. John's Water Management District to evaluate the situation. St. Johns said that the road was pre-existing and presented a map showing so. And that no action needed to be taken.

Clerk to the Board instruction:

Exhibits Attached Letter from TFDO Exhibits Attached: Maps, St. John's Water Management email,

Contract /Agreement (If attached): Reviewed by County Attorney Yes No PR

County Manager Frank Abbate	Assistant County Manager Jim Liesenfelt	Department Director / Extension
	Assistant County Manager John Denninghoff	

From: Karen Garrett-Kraus <KGarrett-Kraus@sjrwmd.com>

To: 'gandz@aol.com' <gandz@aol.com>

Cc: Regulatory Compliance Data Submittal <ComplianceSupport@sjrwmd.com>; 'West, Brian' <brian.west@brevardcounty.us>; Marc Van Heden <mvanhede@sjrwmd.com>

Subject: Item 1306882

Date: Fri, Jun 3, 2016 2:39 pm

Dear Mr. Zuhlke,

Thank you for meeting with us on 5/25/16 to review the fill placed in wetlands. District staff has verified that you have a valid nursery registration with the Florida Division of Plant Industry. Based on our site visit and discussions, there are planted palms on the subject property, Tax Account 2423189, north of Cherry Laurel Avenue in Cocoa and you are actively selling these palm trees. It is the District's determination that the parcel is being managed for an agricultural activity and the placement of fill in the forested wetland was part of your agricultural activities that would likely be considered exempt.

The District will be closing this matter without enforcement action. If any future work is wetland is proposed, please contact the District for assistance in determining if any permitting is required. Thank you for your cooperation and please don't hesitate to contact me if you have any questions.

Yours,

Karen Garrett-Kraus

Karen Garrett-Kraus

Regulatory Scientist I

Bureau of Environmental Resource Regulation

St. Johns River Water Management District

Palm Bay Service Center

525 Community College Parkway, S.E. • Palm Bay, FL 32909

Office: (321) – 473-1329

Email: kgarrett@sjrwmd.com

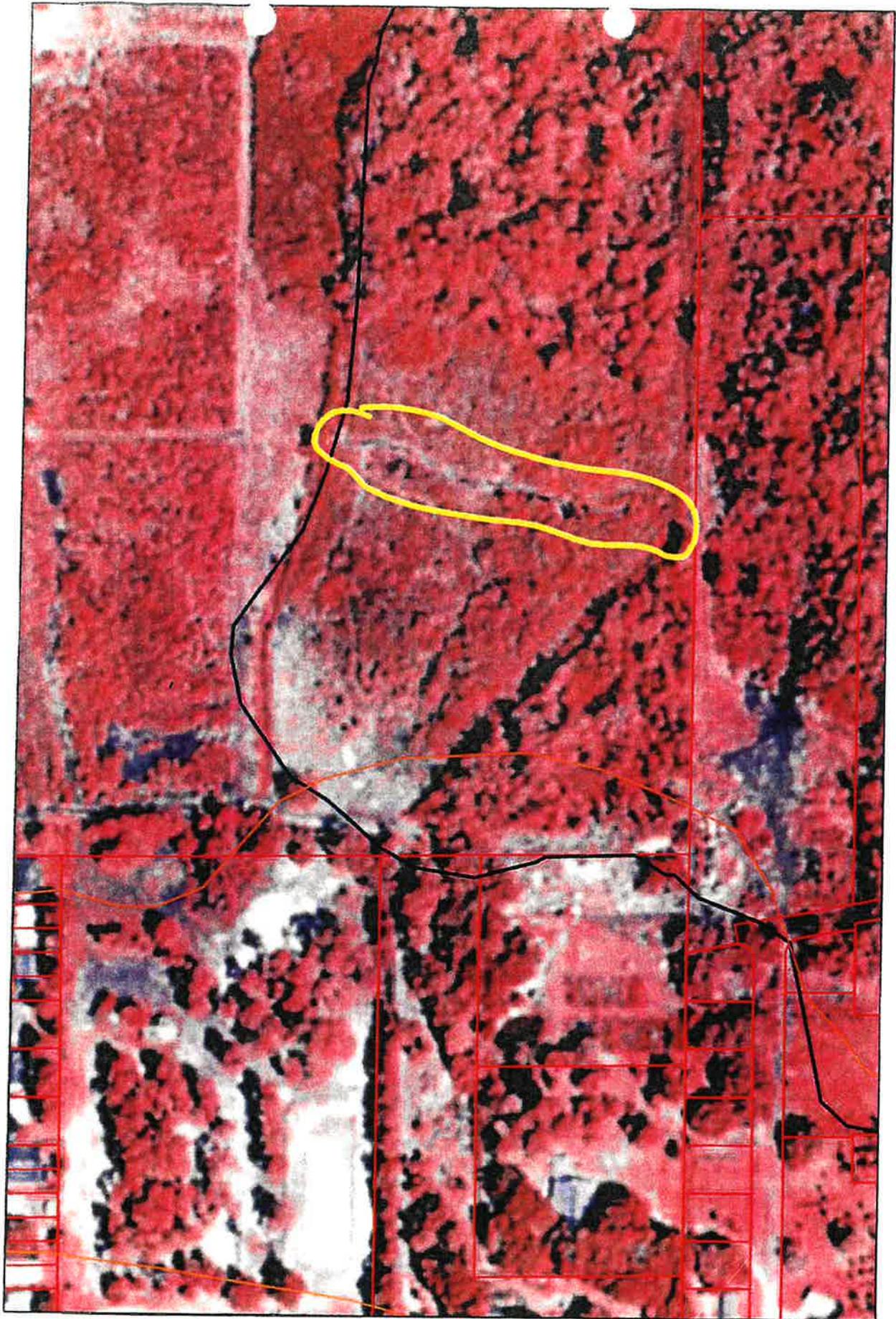
Website: www.sjrwmd.com

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We value your opinion. Please take a few minutes to share your comments on the service you received from the District by clicking this [link](#)

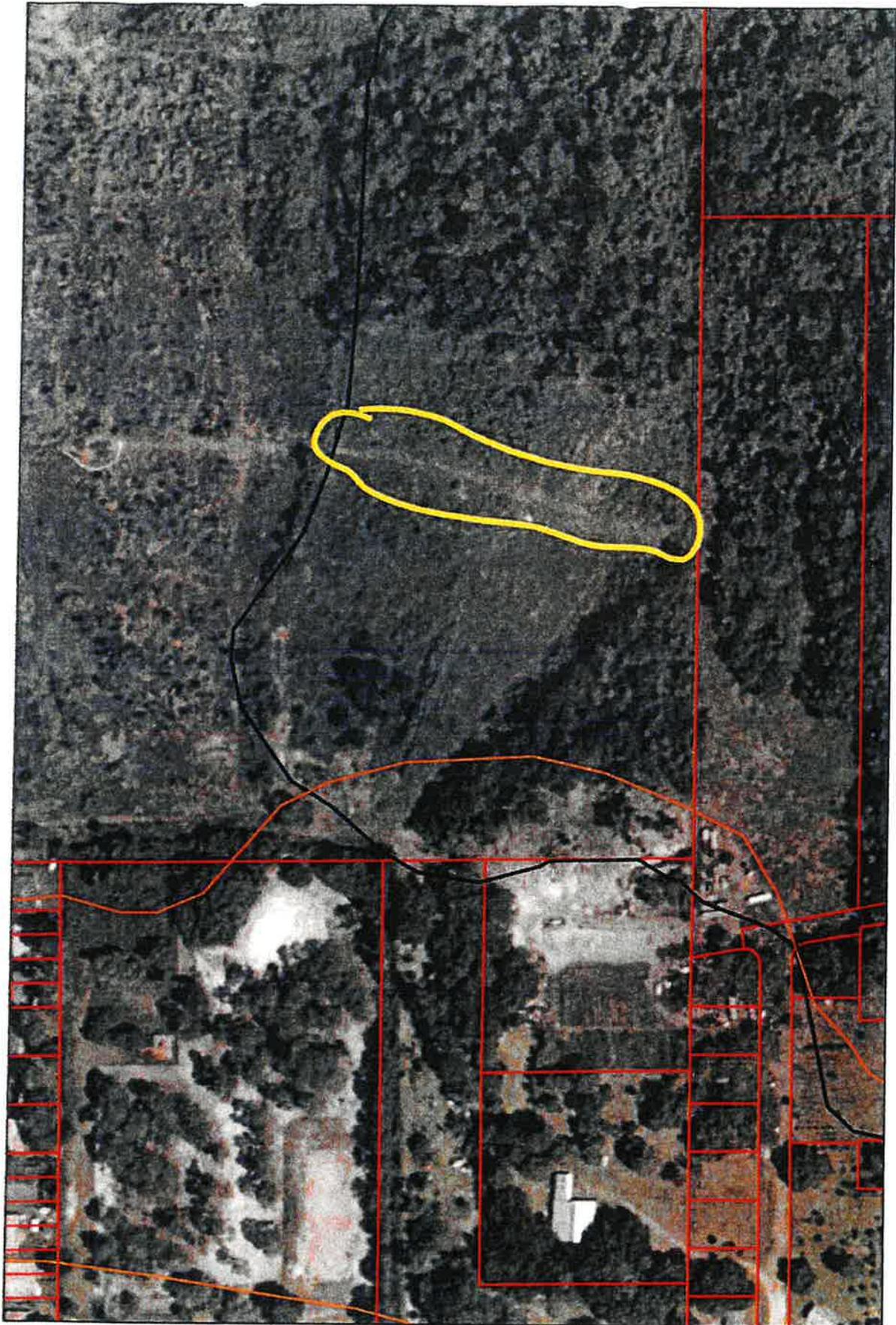
Notices

- Emails to and from the St. Johns River Water Management District are archived and, unless exempt or confidential by law, are subject to being made available to the public upon request. Users should not have an expectation of confidentiality or privacy.
- Individuals lobbying the District must be registered as lobbyists (§112.3261, Florida Statutes). Details, applicability and the registration form are available at <http://www.sjrwmd.com/lobbyist/>



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