

**IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT OF
THE STATE OF FLORIDA IN AND FOR MANATEE COUNTY
CIVIL DIVISION**

FORTRESS 2020 LANDCO, LLC, a Delaware limited liability company, as assignee of Regions Bank, as successor in interest by merger of AmSouth Bank,

Plaintiff,

vs.

Civil Action No. 2020-CA-004459-AX

HRK HOLDINGS, LLC, a Florida limited liability company, ARSENAL GROUP, LLC, a Delaware limited liability company, WILLIAM F. HARLEY III, FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION, ARDAMAN & ASSOCIATES, INC., a Florida corporation, INTERNATIONAL SALT COMPANY, LLC, a Delaware limited liability company, MC WEIGHING SYSTEMS, LLC, a Florida limited liability company, 9079-8042 QUEBEC, INC., a foreign corporation,

Defendants.

**NOTICE OF FILING RECEIVER'S
MONTHLY PROGRESS REPORT FOR SEPTEMBER 2022**

HERBERT R. DONICA, as Receiver of the estate of HRK HOLDINGS, LLC, gives notice of filing of the Monthly Progress Report for September 2022 and states as follows:

On March 25, 2022, the conceptual closure plan (the “**Conceptual Plan**”) of the Piney Point Gypsum Stack System was submitted by the Receiver to the Florida Department of Environmental Protection (the “**Department**”). The Department issued its Order Approving Conceptual Closure Plan (the “**Order**”) to the Receiver on March 30, 2022.

Condition No. 11 of the Order requires “Receiver shall submit monthly progress reports to the Department including the status of planned closure activities, and a monthly updated water balance projection, including corresponding water removal rates for closure, and projected future

closure schedule dates.”

The Receiver’s engineering company, Ardaman & Associates, Inc., has prepared the Monthly Progress Report for September 2022 (the “**Report**”) to satisfy Condition No. 11 of the Order.

This filing includes the following documents:

Exhibit A - Monthly Progress Report for September 2022 prepared by Ardaman & Associates, Inc., and

Exhibit B - Receiver’s Supplement to Monthly Progress Report for September 2022.

Respectfully Submitted this 14th day of October 2022.

DONICA RECEIVERSHIP SERVICES, LLC.
238 East Davis Boulevard, Suite 209
Tampa, FL 33606
Telephone: (813) 878-9790
Facsimile: (813) 878-9746
e-mail: herb@donicalaw.com

By: /s/ Herbert R. Donica, Receiver
Herbert R. Donica

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 14, 2022, the undersigned has electronically filed the foregoing with the Clerk of the Court using the Florida Courts E-Portal which will provide a copy via email to counsel and parties of record.

/s/ Herbert R. Donica
Herbert R. Donica

EXHIBIT A

Monthly Progress Report for September 2022



Ardaman & Associates, Inc.

Geotechnical, Environmental and
Materials Consultants

October 14, 2022
File Number 21-13-0031D1

Donica Receivership Services, LLC
238 East Davis Island Blvd., Suite 209
Tampa, FL 33606

Attention: Mr. Herbert R. Donica

Subject: Monthly Progress Report for the Work Performed During the Month of September 2022, Related to the Approved Conceptual Closure Plan of the Piney Point Gypsum Stack System, Manatee County, Florida.

Dear Mr. Donica:

The conceptual closure plan (Conceptual Plan) of the Piney Point Gypsum Stack System was submitted by Mr. Donica of Donica Receivership Services, LLC (Receiver, DRS) to the Florida Department of Environmental Protection (Department) on March 25, 2022. The Department issued the Order Approving Conceptual Closure Plan (Order) to the Receiver on March 30, 2022.

Condition No. 11 of the Order requires “*Receiver shall submit monthly progress reports to the Department including the status of planned closure activities, and a monthly updated water balance projection, including corresponding water removal rates for closure, and projected future closure schedule dates.*”

Ardaman & Associates, Inc. (AAI), has prepared this monthly progress report to satisfy Condition No. 11 of the Order.

The following captures activities relating to closure of the OGS-S pond during the month of September 2022, as required by Condition No. 11 of the Order:

STATUS OF PLANNED CLOSURE ACTIVITIES

During the month of September 2022, the following activities were performed by Forgen (see attached photos of the construction activities):

Continued welding the 6-inch and the 18-inch HDPE pipes.

Continued welding the slotted 6-inch HDPE pipes.

Backfilled the sump area after cleaning and draining the water.

Completed exposing the old sacrificial liner along the southeastern and northeastern sections.

Continued working on hauling, placing, and compacting fill material over the coarse sediments area to establish positive drainage.

Received 203.95-tons of #7 gravel and 180.52-tons of #57 Gravel.

Continued building the perimeter ditches within the OGS-S area.

Some soft sediment materials excavated from the sump area were hauled and placed on the coarse sediments area.

Flint started sewing the woven high-strength fabric.

Continued maintaining the west berm as a working platform to sew the high-strength woven fabric.

Prepared the site for Hurricane Ian and either secured in place any material and equipment that could be blown away by strong winds or stored them in a safer location.

Incident report: Property Damage – September 7, 2022 – A Forgen equipment operator was grading the rim of the southeast corner of the OGS-S pond with a Caterpillar D5 dozer, and made contact with and tore a section of the old primary liner. The size of the tear was approximately 33 feet by 4 feet.

Incident report: September 7, 2022 - A Flint Technical Geosolutions (FTG) employee was in the process of pulling the woven fabric. The employee brushed his right hand on his pants to remove sand from his hand and was stung by a yellow jacket on the middle of his ring finger.

Incident report: September 12, 2022 – A truck driver was refueling his haul truck and also adding DEF fluid. While pouring it into his machine it splashed back going behind his safety glasses and making contact with his eye.

During the month of September 2022, DRS continued accepting the materials for the project as following:

Sand Tailings: As of September 30, 2022, the Receivership has stockpiled 79,686 cubic yards of sand tailings on site (64,872 yards from Ft. Green and 14,814 yards from Ft. Meade Sand Mountain). Due to shortage of sand tailings within the limits of the approved borrow area at the Ft. Green Sand Pit, Mosaic agreed to the expansion of the borrow area to the immediate north. A wildlife survey of the expansion area was completed on September 13, 2022. Following the relocation of a gopher tortoise that took place on September 20, 2022, Mosaic gave final approval for DRS to begin expanding the sand borrow area. DRS will continue hauling sand tailings from Ft. Green.

Soil/Overburden: As of September 30, 2022, the Receivership has stockpiled 26,155 cubic yards of soil/overburden fill on site (23,131 yards from Razorback pit, and 3,024 yards from Ft. Meade Sand Mountain). Anticipating a successful negotiation of the bond requirements from the County for hauling soil from two nearby soil borrow pits (Stonegate and Parish Lake), DRS directed AAI to perform engineering evaluations of Buckeye Road and Moccasin Wallow Road to document pre-/post- conditions of these haul roads .

High-Strength Woven Geotextile:

- DRS received 52 rolls on September 6, 2022.
- DRS received 66 rolls on September 16, 2022.
- DRS received 50 rolls on September 20, 2022.

60-mil Textured HDPE Liner:

- Completed production and testing is underway.

Biplanar Double-Sided Geocomposite: Completed production.

Geotextile (non-woven, 12-oz/yd²): Completed production.

HDPE Pipes (6-inch solid and slotted, 18-inch, 24-inch, and 36-inch):

All pipes are on site.

Looking ahead to the month of October 2022, the following activities will be performed:

By Forgen:

- Complete liner soil cushion layer installation over the coarse sediments area.
- Continue welding HDPE pipes.
- Continue dewatering.
- Complete grading the sump area.
- Finish sewing and start deploying the high-strength fabric.
- Construct anchor trench in preparation for high-strength fabric installation.

By the Receiver:

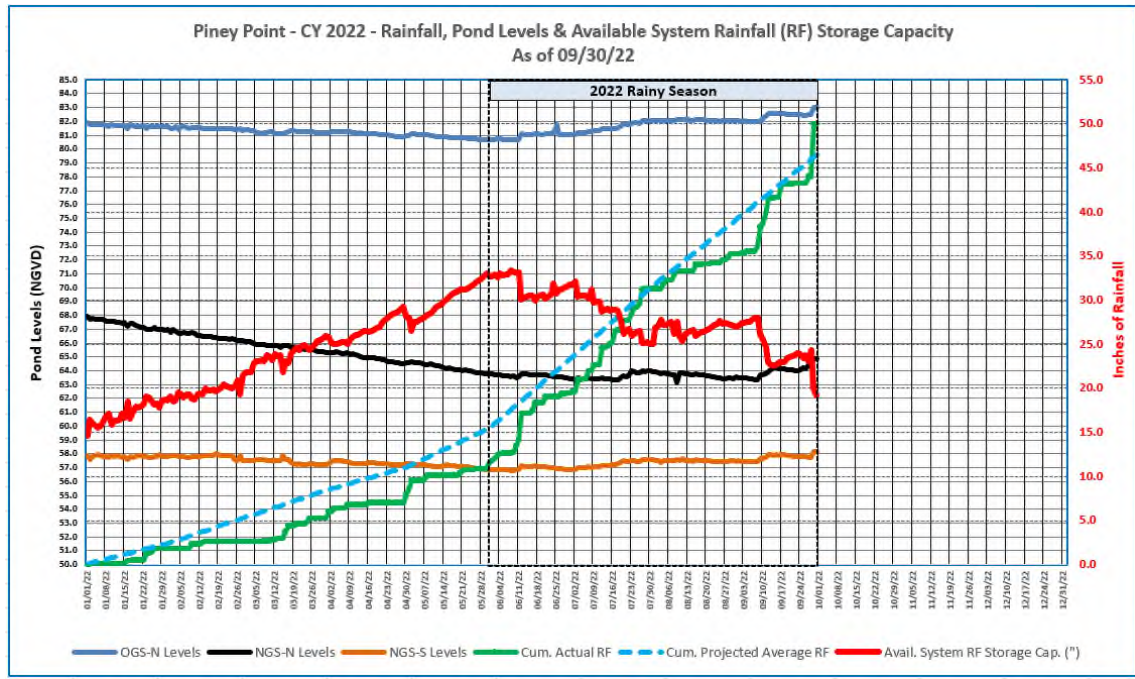
- Soil: Finalize contract obligations with RIPA (RIPA and Associates) for two nearby soil borrow pits (Stonegate and Parish Lake) and bonding requirements with Manatee County.
- Receive other materials (i.e. HDPE liner, geotextile materials, etc.)
- Continue performing CQA oversight and testing by Receiver's engineer (AAI).

WATER BALANCE AND MANAGEMENT

Rainfall and Pond Levels:

As of September 30, 2022 (end of the 2022 rainy season) the facility has received 50.0 inches of rainfall, which is 3.5 inches above the average rainfall of 46.5 inches for the same period.

The chart below shows year-to-date pond level readings, rainfall, and available system storage capacity.



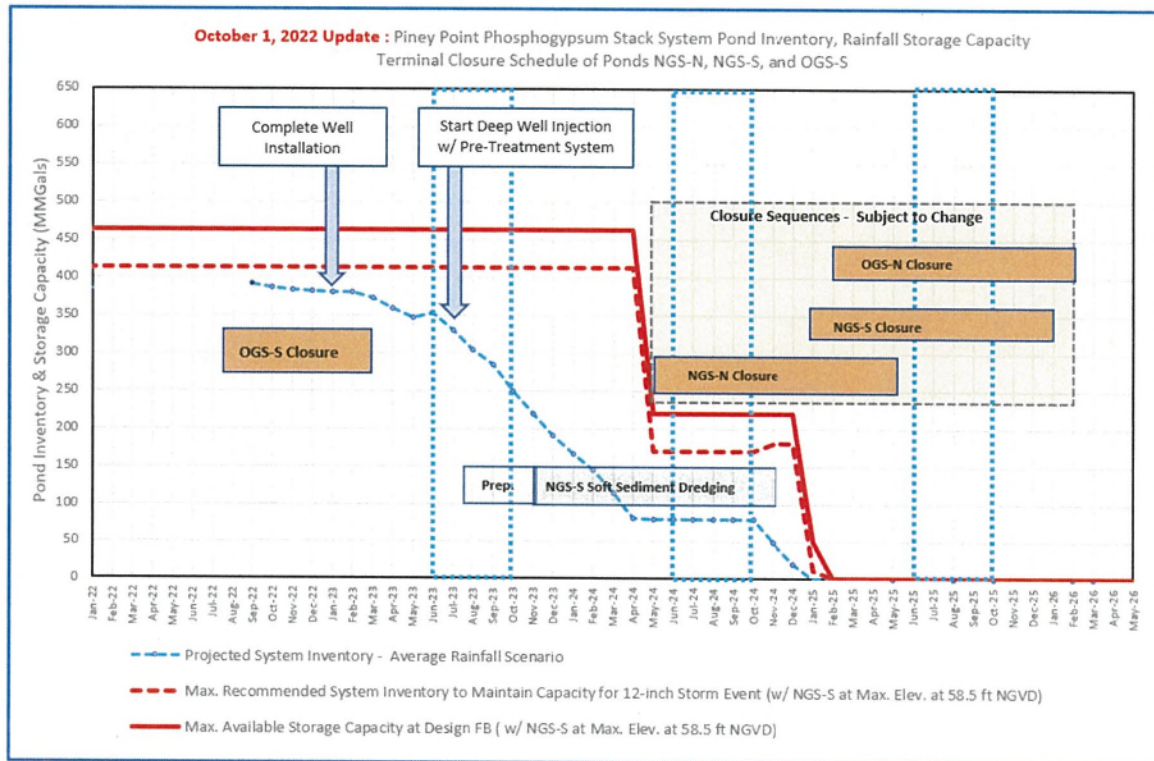
Water Balance Projection & Projected Future Closure Dates:

See below an updated version of “Figure 10 - Water Balance Projection and Anticipated Closure Timeline of the approved Conceptual Plan”.

The projected system inventory reflects measured pond level readings as of September 30, 2022 (end of 2022 rainy season).


Please note that the seepage rate has been adjusted to 130 GPM due to recent actual data for Structure #1.

Future closure dates reflect the new expected startup date (July 2023) of the pre-treatment system of the Deep Well Injection Project.

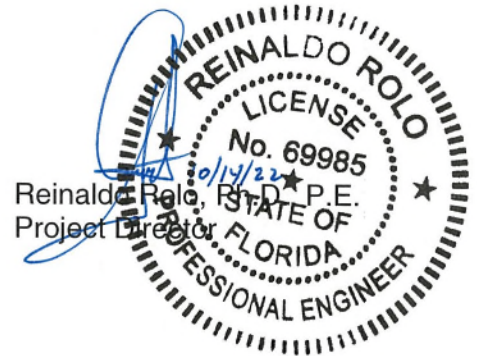


We believe the above information meets the requirements of Condition No. 11 of the Order. Please contact us if you have any questions or need any additional information.

Very truly yours,

FOR 
 Khalddun Allaz
 Construction Manager

for 
 Phong Vo
 Senior Consultant



Cc: Mohamad Al-hawaree, P.E.(AAI)
 Jeff Barath (DRS)

CONSTRUCTION PHOTOS

September 2022



Photo 1 –Placing the Woven High-Strength Fabric



Photo 2 – Deploying the Woven High-Strength Fabric



Photo 3 – Sewing the Woven High-Strength Fabric



Photo 4 – Sand Tailings Stockpile



Photo 5 – Welding the 18-inch HDPE pipes



Photo 6 – Welding the Slotted 6-inch HDPE Pipes



Photo 7 – Dewatering Pump - Sump Area



Photo 8 – Dewatering Pump - Sump Area



Photo 9 – Grading Coarse Dredge Material on the East Side of OGS-S Pond



Photo 10 – Hauling Soil from the Stockpile to Place 1-foot Thick Layer of Soil



Photo 11 – Placement and Compaction of a 1-foot Thick Layer of Soil



Photo 12 – Placement and Compaction of a 1-foot Thick Layer of Soil



Photo 13 – Temporary Repair of the Primary Liner Tear



Photo 14 – Completed Exposing the Old Secondary Liner on the East Dike



Photo 15 – Excavating and Grading the Sump Area



Photo 16 - Site Preparation for Hurricane Ian

EXHIBIT B

Supplement to Monthly Progress Report for September 2022

SUPPLEMENT TO MONTHLY PROGRESS REPORT FOR SEPTEMBER 2022

Overview of Significant Activities for September 2022

During the month of September 2022, the Receiver made progress on several fronts toward the eventual closure of the Piney Point facility in addition to the management and resolution of on-going issues related to the continued operation of the facility pending its eventual closure.

Significant Activities

- Negotiated pavement bond with County
- Attended weekly project meetings
- Investigated technology available to measure road conditions
- Scheduled and attended meetings for NPDES permit application
- Drafted and recorded Receiver's Certificate
- Engaged Kleinfelder to conduct wildlife survey at Fort Green sand pit
- Prepare for and attend Agency on Bay Management meeting, present status of Piney Point project
- Reviewed weekly progress reports prepared by engineers and contractor
- Drafted motion to approve Service Agreement and modify easement; make notes regarding proposed edits
- Drafted modification to access easement
- Communicated with consulting engineers re analysis of environmental remediation proposals
- Prepared a due diligence package for local state house representative
- Corresponded with Mr. Rachal of the Audubon Society regarding possible future use of site and discuss Stormwater Management Plan
- Reviewed draft of Plan of Study of Groundwater Quality Assessment prepared by ECT for NPDES permit application
- Reviewed Monthly Progress Report for August 2022 provided by Ardaman & Associates. Draft supplement and file with the court

- Organized accounting records and drafted Funding Request for August - September construction expenditures
- Conducted multiple conference calls with site manager, DEP and Ardaman re methodologies to protect materials at site during hurricane and discussion with Forgen re same
- Multiple telephone calls and emails with various media outlets regarding site status and preparation for storm
- Reviewed storm preparedness checklists
- Multiple telephone calls and emails with various media outlets regarding condition of site after storm

Additional Activities

During September 2022, the Receiver and his professionals engaged in the following additional activities:

- Made site visits and attended video conference meetings with Site Manager and on-site personnel
- Conducted meetings with Site Manager and engineers regarding procurement issues and site repairs
- Performed extensive administrative tasks relative to day-to-day operations
- Participated in weekly meetings with engineers and service providers
- Continued to run the day-to-day operations of the property including management of eight employees, several service providers, and contractors
- Performed all necessary accounting tasks including bank account reconciliations, payroll management, payables management, tracked and recorded payment of expenses and arranged for auto payment of utilities and cell service
- Prepared filed Receiver's Third Quarter 2022 Status Report with the Court (**Doc. No. 181**)
- Prepared and filed Receiver's Monthly Progress Report for August 2022 (**Doc. No. 176**)
- Prepared monthly financial reports
- Prepared budget requests for distributions from the Long-Term Care Escrow Fund managed by the FDEP for the monthly operating budgets
- Prepared and submitted funding requests and construction budgets for draws from funds earmarked for closure of the Stack System; responded to requests by FDEP for changes to funding requests and for the production of additional information

and documentation

The Receiver's Contractor, Forgen, LLC, has Continued to Perform Site Activities

The Receiver attended weekly project meeting with site personnel, Ardaman & Associates, Inc. personnel, and Forgen personnel to ensure compliance with all safety protocols. The meetings provided information necessary to coordinate efforts and to maintain the agreed upon schedule. Despite the loss of five days due to the approach of Hurricane Ian, the project is on schedule. Some of the more significant activities that have been completed or are in progress are:

- A. Backfill and compact geotextile anchor trench – in progress
- B. Sewing geotextile to cover soft marine sediments - in progress
- C. Fusion weld 6” and 18” HDPE pipe - completed