

**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.

RECEIVER'S FIRST QUARTER 2022 STATUS REPORT

Receivership Activity from January 1, 2022, through March 31, 2022

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

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INTRODUCTION

Herbert R. Donica, the Court-appointed receiver (the “**Receiver**”) over the assets of HRK Holdings, LLC (the “**Receivership**” or “**Receivership Estate**”) files this Status Report for the First Quarter 2022, including activity for the period of January 1, 2022, through March 31, 2022¹ to inform the Court, creditors, and others interested in this Receivership of activities to date as well as the Receiver’s proposed course of action.

BACKGROUND

I. Procedure and Chronology

The Piney Point plant (the “**Facility**” or “**Piney Point Site**”) is an industrial site in Manatee County, Florida, and the location of a former fertilizer plant. The Facility holds stacks of phosphogypsum, a byproduct of fertilizer production, and pools of polluted water (the “**Stack System**”). The Stack System holds approximately 480 million gallons of process water. The owner of the Piney Point Site, HRK Holdings, LLC, is believed to be insolvent. In November 2020, FORTRESS 2020 LANDCO, LLC, the mortgage holder, initiated foreclosure proceedings on the site (the “**Foreclosure Case**”)², seeking to recover portions of the property not directly associated with the Stack System. HRK Holdings, LLC has effectively abandoned the Piney Point Site.

In March 2021, a portion of the Stack System began to fail, prompting evacuations on April 1, 2021, followed by the issuance of a state of emergency order on April 3, 2021, by the Governor of Florida. This episode required 221 million gallons of contaminated water to be discharged into Tampa Bay to prevent a collapse of the Stack System.

On August 25, 2021, in the Foreclosure Case, the Manatee Circuit Court entered an order (the “**Order**”) (**Doc. No. 77**) appointing Herbert R. Donica as a Receiver to take control of the Facility and oversee its expeditious closure. Pursuant to the Order, the Receiver is charged with “maintain[ing], manag[ing] and clos[ing] as efficiently and expeditiously as possible the Facility in accordance with all applicable State and Federal laws.” The purpose of the Receivership is to

¹ The Receiver will submit his next Status Report for the calendar quarter ending June 30, 2022, and subsequent reports will be filed within thirty days after the end of each calendar quarter.

² Fortress 2020 Landco, LLC v. HRK Holdings, Arsenal Group, William Harley, DEP, Ardaman and Associates, et al., Manatee Circuit Court foreclosure; Case No. 2020-CA-4459.

maintain, repair, and close the Stack System so that it is no longer a threat to public safety and the environment.

II. The Receivership Process

In late August 2021, counsel for the Florida Department of Environmental Protection (the “**Department**” or the “**FDEP**”) contacted Mr. Donica to determine his willingness to serve as Receiver in this matter. Mr. Donica informed the FDEP that he would discount the rates charged to clients in private commercial litigation to conserve resources and preserve the Receivership Estate. All the active parties in the Foreclosure Case entered into a stipulation to appoint a Receiver to take control of the property (**Doc. No. 75**). On August 25, 2021, the Court appointed Mr. Donica as Receiver (**Doc. No. 77**).

Although the FDEP recommended Mr. Donica’s appointment as the Receiver, the Receiver is an agent of the Court – not an agent or employee of the FDEP. To ensure that the Court is informed of the Receiver’s activities, the Order Appointing Receiver (**Doc. No. 77**) requires the Receiver to file Status Reports.

To ensure the activities of the Receiver and his professionals benefit the Receivership Estate or are otherwise appropriate, the Receiver first reviews all invoices and makes any necessary adjustments. The Receiver is required to submit his applications for the payments of fees and costs first to the FDEP for review and then to the Court for approval. The Receiver is in regular communication with his professionals and interested parties to ensure his activities benefit the Receivership Estate or are otherwise necessary.

The Receiver has engaged an engineering firm to design the work to close the Stack System. The engineering firm is assisting the Receiver with the development of bid packages for the work. The Receiver may employ consultants, engineering or construction professionals to assist in managing the project.

When the Receiver determines that the project is complete, the FDEP will evaluate the results to determine that the closure was performed in accordance with procedures of Rule 62-673.620, F.A.C. Upon determining compliance, the Department will issue a Closure Letter to the Receiver. The Closure Letter establishes the official date of closing and the beginning of the long-term care period pursuant to Rule 62-673.630, F.A.C.

After issuance of the Closure Letter, the Receiver will move the Court to close the Receivership along with a final report and an accounting.

The Receiver believes that these procedures and safeguards will allow him to close the Stack System in an efficient and cost-effective manner. Presently, the Receiver estimates the project to be completed by the end of 2024.

III. Overview of the Receiver's Findings and Actions Taken

The Order Appointing Receiver (**Doc. No. 77**) authorizes, empowers, and directs the Receiver to manage and undertake closure of the Facility. The Order Appointing Receiver (**Doc. No. 77**) also directs the Receiver to provide written notice of any actions materially affecting the Facility. The Receiver has formed preliminary conclusions based on his review of the Facility and discussions with service providers.

The review is ongoing as conditions change at the site. The Receiver believes that the matters reported below are supported by the evidence considered to date. Below are the Receiver's observations:

- 1) The Stack System holds approximately 400 million gallons of water in three ponds. The Receiver is using multiple methods to dispose or evaporate water.
- 2) The FDEP has issued a permit to Manatee County to construct a deep injection well which, when operational, is the most expedient method of draining the water in the Stack System. The deep injection well is currently being drilled and is on schedule. It should be operational in October 2022.
- 3) The Receiver continues to review alternative methodologies to remove water from the Stack System until the deep well is operational.
- 4) The Receiver has continued to work with an engineering firm, Ardaman and Associates, Inc. ("Ardaman"), to prepare a Conceptual Closure Plan which was submitted to the FDEP for approval on March 2, 2022. The plan was approved by the FDEP on March 30, 2022. Ardaman is presently preparing design drawings and specifications and bid packages.
- 5) On April 1, 2022, the Receiver ran ads in several newspapers of general circulation in Central Florida of its Invitation to Bid for the permanent closure of the Old Gyp Stack– South (the "OGS-S") compartment within the Stack System. A pre-bid meeting is scheduled for April 15, 2022; bids are due April 29, 2022. The Receiver has received active interest from several potential bidders.

IV. Funding the Receivership

The FDEP has agreed to provide funding to the Receiver to perform his duties under the Order (**Doc. No. 77**) from funds appropriated by the Florida Legislature. Accordingly, the FDEP and the Receiver have entered into a Maintenance and Funding Agreement (the

“**Agreement**”) that outlines the activities to be undertaken by the Receiver and identifies the projects to be managed.

The total anticipated funding of the Agreement is \$81,740,367. The State of Florida's performance and obligation to pay under the Agreement is contingent upon an annual appropriation by the Legislature. The Agreement is not a commitment of future appropriations.

V. Actions Taken by the Receiver

The First Status Report for the period of August 25, 2021, through October 31, 2021 (**Doc. No. 92**) was filed on November 2, 2021 and covered the first 10 weeks of the Receivership. The Receiver filed his Second Status Report (**Doc. No. 117**) on January 10, 2022, and covered the period of August 25, 2021, through December 31, 2021. The activities of the Receiver detailed in the First and Second Status Reports are incorporated by reference herein. All the Receiver's actions have been done pursuant to the Order Appointing Receiver (**Doc. No. 77**).

On March 2, 2022, the Receiver submitted a Conceptual Closure Plan to the FDEP for approval. The plan was approved by the FDEP on March 30, 2022. Ardaman is presently preparing design drawings and specifications and bid packages.

The Receiver has advertised an invitation for bids to initiate closure of the OGS-S and expects to be reviewing bids before the end of April 2022. Several contractors have expressed interest in bidding.

The Receiver has also met with the mortgage holder Plaintiff, Fortress 2020 Landco LLC to discuss status of the project and the Conceptual Closure Plan submitted to the FDEP. The Conceptual Closure Plan includes Hydrologic and Hydraulic Evaluations that illustrates how storm water will be managed post-closure.

Overview of Significant Activities During This Reporting Period

Several significant and notable goals were successfully achieved during the first quarter of calendar year 2022, in addition to the efficacious resolution of an urgent and unanticipated environmental threat and continued routine operations to move toward closure of the Facility as expeditiously as possible.

A Stay Was Entered in the Federal District Court Case:

On March 29, 2022, the U.S. District Court judge presiding over the lawsuits filed against FDEP by several environmental groups last year, entered an Order issuing a stay against any further action in that litigation for a period of six months. The Court, recognizing that the Receiver

has made significant progress, referring to the First and Second Status Reports (**Doc. Nos. 92 and 117**) filed in this Court, determined that a six month stay of the federal district court litigation was warranted. The Court directed the parties to file status reports every 60 days. In mandating a “pause” in further litigious actions for six months, the Court stated that there was no evidence that either FDEP or the Receiver were not acting in good faith. The Court further stated that “[T]he state-court receiver has already taken over daily operations of the site and is working to assemble a team of experts. His reports will shed light on the scope of the alleged environmental damage, as well as the best ways to remediate it.”

The FDEP Issued its Order Approving the Receiver’s Conceptual Closure Plan:

On March 30, 2022, FDEP issued an Order approving a conceptual closure plan that was submitted by the Receiver and prepared under his supervision by various experts, including engineers, scientists, contractors, and employees having long-term knowledge of and experience with the Facility. The DEP’s March 31 press release leads off with the headline: *State Takes Milestone Step Toward Final Closure of the Former Piney Point Facility*. The phased approach adopted in the closure plan will result in final closure of the Facility by December 2024. The Receiver’s closure plan includes a design that will protect ground waters and surface waters. The ponds will no longer hold water. Rainwater will be managed by a storm water management system designed to safely discharge incoming water volumes. A copy of the FDEP’s March 31 press release is attached as **Exhibit A**.

The FDEP’s Order approving the conceptual plan permits the Receiver to proceed with implementing the next steps towards final closure. Accordingly, on April 1, 2022, the Receiver published his Invitation to Bid, soliciting contractors to submit bids to close the Old Gyp Stack South. The ad was run in four newspapers of general circulation in 19 counties in Central Florida. The Receiver has received several inquiries of interest in this part of the project. A pre-bid meeting is scheduled on-site for April 15, 2022, and bids are due on April 29, 2022.

The Receiver’s Team Located, Stopped and Repaired a Leak at the Bottom of NGS-South:

In early January 2022, a seepage was detected on the outside wall of the OGS-South. Dive teams were engaged to locate the source of the leak. The Receiver and his team took immediate steps to control the leak. The ongoing response of the Receiver and his team during this period included the location of an underwater liner tear and successful repair of the resulting seepage along the south wall of the NGS-South reservoir, prior to the seepage creating an additional

environmental hazard to the area. A dive crew was engaged and repaired the leak in the liner at the bottom of the pond in late March.

The Receiver Has Taken Steps to Control Potentially Harmful Wildlife at the Site:

During the time covered by this First Quarter 2022 Status Report, site personnel observed a family of wild hogs and several alligators at the site. The hogs “root” for food and in doing so, damage the liner adjacent to the ponds. The liner must be kept intact because it acts as a barrier to keep rainwater from coming into contact with gypsum material. If rainwater comes into contact with gypsum, the water becomes infiltrated with nutrients and toxic substances in the gypsum and is no longer eligible for discharge as storm water. The water must be sequestered and treated. Site management contacted Florida Fish and Wildlife to engage a licensed trapper. The trapper successfully removed the hogs.

Alligators tend to migrate around the site searching for food. When traversing up and down the sidewalls of the stacks, the alligators use their claws for traction. The alligators’ claws tear the liner on the sidewalls of the stacks causing the need for expensive repairs.

During March 2022, seven alligators were successfully caught by the trapper engaged by Florida Fish and Wildlife. After two alligators approached the divers while working in the NGHS-South reservoir, the trapper was authorized to use lethal force to eliminate the alligators, if necessary. Fortunately, the trapper, by using patience and due care, was able to capture all seven alligators alive. The alligators were transported to an alligator farm to live out their lives in luxury.

The Receiver Has Taken Steps to Enhance Safety Conditions at the Site:

The issuance of the approval of the closure plan will result in site visits by contractors and additional activity at the site. In response, the Receiver has implemented heightened safety protocols. All on-site personnel have been provided reflective safety vests and hard hats. The site manager conducts daily safety meetings with on-site personnel. The Receiver deemed these steps to be prudent because the site will experience more traffic with the arrival of contractors performing remediation activities. The Receiver has instituted the policy of providing written notice of the hazardous nature of the site to all visitors and requiring a written release of liability and acknowledgement of hazardous conditions as a requirement of obtaining access to the site.

Additionally, during the time covered by this First Quarter 2022 Status Report, the Receiver and his professionals engaged in the following activities:

- On March 29, 2022, the Receiver participated in a panel discussion at the Alexander L. Paskay Seminar sponsored by the American Bankruptcy Institute on “Allocating Precious Resources in the Face of Disaster.” The panel discussion was moderated by Robert Furr and included Michael Goldberg and Paul Singerman who are managing the settlements relating to the collapse of the Champlain Tower South. Jeffrey Warren also participated and discussed the asbestos settlement trust related to the Celotex bankruptcy
- A water level transducer system has been installed that uses radar to remotely measure water levels in the stack system, sending the results via a wireless connection. The system provides highly accurate readings and saves hours of time per month that would otherwise be devoted to physical water level readings
- Revised work assignments with Ardaman to reflect current needs
- Site visits including numerous meetings with Site Manager and on-site personnel
- Prepared monthly operating budgets and filed Notices of Filing budgets with the Court (**Doc. Nos. 130 & 144**)
- Prepared outlines of procurement requirements and bidding procedures as related to proposed repair/construction activities
- Prepared written responses to requests for information
- Reviewed Analytical Test Reports
- Prepared and filed Second Status Report with the Court (**Doc. No. 117**)
- Responded to media inquiries
- Conducted meetings with contractors interested in providing services
- Attended meetings with engineers, DEP executives and contractors concerning construction, operation, and support of deep injection well program
- Attended meetings and reviewed numerous proposals by contractors proposing water management methods
- Performed all necessary accounting tasks including bank account reconciliations, payroll management, payables management, tracking and recording payment of expenses and arranging for auto payment of utilities and cell service
- Prepared monthly financial reports
- Conducted meetings with Site Manager and engineers regarding procurement issues and site repairs
- Summarized procurement regulations to assist engineers with designing procurement strategy and contractor bid packages for site construction/repairs
- Conferred with special counsel regarding proposed procurement strategy
- Conducted meetings with developer of innovative evaporation system and contractor for installation of demonstration unit. Demonstration unit was installed

and operational in February 2022

- Participated in meetings with deep injection well engineers, drilling company executives, Manatee County authorities and FDEP executives regarding need for water treatment facility and support for injection well program
- Prepared year-end 2021 report and accounting
- Performed extensive administrative tasks relative to day-to-day operations
- Attended meetings with the Secretary of the FDEP and the Department's executive team in connection with developing a stack closure strategy
- Met with Manatee County officials in connection with discussions concerning deep injection well and treatment of water for disposal in the County's treatment plant
- Met with engineering firms and other prospective service providers, reviewed proposals
- Prepared budget requests for distributions from the Long-Term Care Escrow Fund managed by the FDEP for the monthly operating budgets
- Participated in weekly meetings with engineers and service providers
- Prepared and submitted an engineering and construction budget and formal request for first-quarter 2022 draw from funds earmarked for closure of the Stack System
- Continued to run the day-to-day operations of the property including management of eight employees, several service providers, and contractors.

VI. Management of the Receivership Estate

At the time the Receiver was appointed, there were six employees on site managing the Stack System and related property. The Receiver has increased staff to eight full time on-site employees to continue to oversee and maintain the property.

The Receiver has negotiated agreements with key service providers and suppliers.

As part of ongoing water management activities, the Receiver has continued to use the services of a contractor providing an innovative water treatment process. The process requires a substantial amount of chemicals. The Receiver has negotiated pricing and delivery of the chemicals that rate significantly lower than what was previously being paid.

The innovative water treatment process has reduced the levels of nitrogen and phosphorus ("nutrients") in the New Gyp Stack South (NGS-S) by over 95%. By reducing the nutrient levels in the water in the NGS-S, the risk of causing or exacerbating algae and/or red tide outbreaks is substantially reduced if the water is discharged into the bay.³

³ The Receiver does not plan to discharge water into the bay unless exigent circumstances require consideration such as an imminent tropical storm, hurricane, or a heightened possibility of a Stack sidewall failure.

The Receiver is performing all accounting, payroll, and administrative activities. The Receiver believes that the current staffing is adequate to support the activities of the Receivership, but additional employees may be needed as construction activities are started.

VII. Retention of Professionals

In the Court’s initial Order Appointing Receiver (**Doc. No. 77**), the Court allowed the Receiver to employ independent legal counsel to furnish legal advice to the Receiver. The Receiver has employed the Standley Law Office, P.A., (**Doc. No. 107**) and Fox Rothschild LLP (**Doc. No. 109**). The Standley Law Office will assist in filing routine pleadings. Fox Rothschild LLP is a law firm with expertise in complex commercial litigation, insolvency matters, regulatory proceedings, construction law, and federal procurement matters. Fox Rothschild will primarily assist the Receiver with respect to procurement, contract and potential litigation issues.

The Receiver has engaged consulting engineers on an as needed basis to review and comment on water management issues and methods. The consulting engineers will be used in other capacities such as contractor evaluations and related matters on an as needed basis.

The Receiver is considering the engagement of an independent program manager to coordinate efforts of the various contractors that will be performing construction activities and to provide advice as to logistical issues that will arise.

VIII. Receiver’s Accounting

Prior to the appointment of the Receiver on August 25, 2021, HRK Holdings, LLC had two bank accounts at TD Bank. One of HRK’s TD Bank accounts was funded by the HRK Long Term Care Fund for the purpose of maintaining site operations. The other account was used to fund maintenance of common areas used by HRK and neighboring property owners. The Receiver closed the TD Bank accounts in November 2021. Financial activity of the TD Bank accounts was included in the Receiver’s December 31, 2021, financial report.

The Receiver established the Receivership bank account (account # 0017) at Axos Bank on August 30, 2021, for deposit and disbursement of funds received from the HRK Long Term Care Escrow Fund.

The Receiver's Axos Bank account # 0017 has been funded as follows:

January 25, 2022 – Parts refund	\$ 69.42
January 25, 2022 – Rent received	\$ 5,092.00
February 28, 2022 - distribution from the HRK Long-term Care Fund:	<u>\$ 30,431.86</u>

Total deposits into the Receiver's Axos Bank account # 0017

From January 1 through March 31, 2022:

\$ 35,593.28

The Receiver's Axos Bank account # 0017 was used to fund \$42,999.55 of day-to-day maintenance and operations from January 1, 2022, through March 31, 2022. An analysis of the Axos Bank account # 0017 is attached as **Exhibit B**.

On October 22, 2021, the Receiver received a draw for the 3rd Quarter of 2021 from funds earmarked for closure of the Stack System. This initial draw in the amount of \$17,095,067.00 was deposited into a separate interest-bearing account with Axos Bank, account # 0025, and is to be used to fund closure of the Piney Point site. A second draw in the amount of \$10,769,847.21 was deposited into Axos Bank, account # 0025. The Axos bank account # 0025 earned \$2,331.03 of interest in the First Quarter of 2022. During the First Quarter of 2022, ending March 31, 2022, \$7,168,587.49 had been disbursed from account # 0025, primarily for site maintenance and water management activities. An analysis of the Axos Bank account # 0025 is attached as **Exhibit C**.

Funding and disbursement activities for accounts numbered 0017 and 0025 will be accounted for separately. The Receiver's comprehensive accounting incorporating the activity of all accounts from January 1, 2022, through March 31, 2022, is attached hereto as **Exhibit D**.

IX. Pending and Contemplated Litigation

A. Pending Litigation.

The Receivership is not currently involved in any litigation. At the time that the Receiver was appointed, there were four pending cases involving HRK Holdings, LLC. The receivership is not a party to any of the cases. These matters were discussed in the Receiver's First Status Report (**Doc. No. 92**).

The Manatee Circuit Case No. 2020-CA-4459, *Fortress 2020 Landco, LLC v. HRK Holdings, Arsenal Group, William Harley, DEP, Ardaman and Associates, et al.*, is a foreclosure case brought by the mortgage holder, Fortress 2020 Landco, LLC against HRK. On August 24, 2021, the parties stipulated to the appointment of the Receiver (**Doc. No. 75**). The case has been informally stayed pending a proposal to permit Fortress to foreclose on selected parcels after an engineering plan is approved that will also determine the Receiver's ingress and egress needs.

B. Potential Litigation.

The Receivership has disputed a payment demand by a contractor engaged to assist it in finding a leak in the NGS-S. The Receiver has paid a portion of one of five invoices submitted by

the contractor but has not been able to resolve the dispute over the remaining balance claimed. Efforts to resolve the matter are ongoing.

A former employee has engaged counsel and has demanded payment for a claim of overtime hours. After reviewing timecards submitted by the employee, the Receiver has determined that the claim is without basis. As of this date the former employee has not filed a lawsuit.

X. The Next Ninety Days.

During the next 90 days, the Receiver will continue to collaborate with engineers to develop the Stack System Closure plan and bids for the related construction work. The Receiver will also continue to review and employ methods to decrease the water levels in the Stack System until the deep injection well project commences operation. The Receiver will provide a more definitive time estimate as his analysis progresses.

XI. Conclusion.

The Receiver has received an enormous number of emails and telephone inquiries regarding the status and future plans for the Piney Point site and has had to expend significant resources to address them. The Receiver continues to encourage individuals or entities having information helpful in closing the Stack System to email him at herb@donicalaw.com.

RESPECTFULLY SUBMITTED this 22nd day of April 2022.

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 22, 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, Receiver



FOR IMMEDIATE RELEASE: March 31, 2022

CONTACT: DEP Press Office, 850-245-2112, DEPNews@FloridaDEP.gov

State Takes Milestone Step Toward Final Closure of the Former Piney Point Facility

~ Conceptual closure plan lays framework for ensuring the site's potential threat to the environment and surrounding community is eliminated permanently ~

TALLAHASSEE, Fla. – The Florida Department of Environmental Protection (DEP) announces the issuance of an [order](#) approving the [conceptual closure plan](#) for the former Piney Point facility that was prepared at the direction of the site's court-appointed receiver. Last year, Governor Ron DeSantis directed the development of a long-term closure plan to ensure that the potential threat to the environment and surrounding community is eliminated permanently. This responsibility was assumed by the court-appointed receiver upon his appointment in August 2021.

"Nearly one year ago, in order to prevent a catastrophic collapse of the NGS-South compartment at the site, DEP issued an emergency final order requiring that HRK Holdings, LLC take immediate action and implement all necessary steps to ensure the integrity of the stack system and its lined impoundments and prevent an uncontrolled discharge," **said DEP Secretary Shawn Hamilton.** "Today, as a result of ongoing efforts on the part of DEP, Manatee County and the court-appointed receiver, we are in a significantly better place than we were then, and this approval marks a key milestone in ensuring this is the last chapter in the long history of Piney Point."

On April 3, 2021, Governor DeSantis declared a local state of emergency that allowed the state and local officials to act quickly by ensuring access to resources for response and recovery. The threat of an immediate catastrophic collapse of the NGS-South compartment was abated, and the prior emergency discharges ceased on April 9, 2021.

Since that time, DEP has maintained stringent regulatory oversight of ongoing activities at the site, including work by the court-appointed receiver that has focused on advancing water management, on-site repairs and cleanup work, site maintenance and long-term preparations for closure. To date, these actions have included:

- Performing geotechnical work to evaluate site conditions and prepare for the ultimate closure of Piney Point.

EXHIBIT A

- Continuing various on-site water management activities, including the removal of water, as provided below, which is critical to site closure.
 - Trucking and piping of water to nearby wastewater facilities.
 - Using an integrated system of floating spray nozzles to mist water in the lined NGS-North compartment to accelerate evaporation. A secondary evaporation system was installed at the site to aid in water removal efforts.
- Implementing innovative technology to treat water onsite in order to reduce nutrients.
- Repairing the east wall of the NGS-South compartment to stop the concentrated seepage and leaking of pond water in April 2021.
- Repairing the liner tear on the south end of the NGS-South compartment that had caused the seepage discovered in January 2022.
- Issuing the permit to Manatee County for its planned underground injection control well for Piney Point to eliminate the water onsite and enable the ultimate closure of the facility once and for all.

DEP has also worked to ensure that HRK is held accountable. On Aug. 5, 2021, DEP filed a complaint in the 12th Judicial Circuit Court in Manatee County initiating enforcement action against HRK. This action enforces compliance with the state's environmental laws and all of HRK's existing authorizations, orders and agreements with the department. HRK did not timely file a responsive pleading with the court and, as a result, DEP filed a motion for entry of clerk's default on Oct. 4, 2021. The clerk for the 12th Judicial Circuit Court in Manatee County subsequently entered a default against HRK on Oct. 12, 2021. DEP is seeking the maximum allowable penalties and recovery of costs and damages under existing laws and regulations and will continue to pursue all avenues to ensure accountability.

The receiver's approved plan addresses the environmental protection requirements for the closure work. It includes a timeline and strategy for continued water management at the site that is essential to eliminate the current process water from the reservoir areas, as well as details on construction of a closed system that protects both ground waters and surface waters in the area. The closure plan outlines a phased approach to closure and puts the facility's anticipated date for final completion of closure by December 2024, with interim dates for closure of each of the reservoirs as water is eliminated from the site. DEP will continue to work with the receiver to ensure that progress toward closure is done as expeditiously as possible.

Once all water is removed from the reservoir areas, the stacks will receive fill material and new liners as needed, and a 2-foot-thick soil and vegetative cover system that will be sloped to ensure runoff of clean, non-contact rainwater into the existing stormwater management system. "Notches" will be incorporated into the walls of the reservoirs so

EXHIBIT A

that the reservoir areas, once closed, will no longer build up water and will only function to provide stormwater management and control stormwater discharge rates. This closure design will be integrated into the site's existing stormwater management system.

DEP will continue its stringent regulatory oversight of the facility during construction activities. The order requires the receiver to submit monthly progress reports and detailed closure design plans for approval by the department to ensure compliance and continued progress.

More information on the site status and ongoing response activities can be found on [ProtectingFloridaTogether.gov/PineyPointUpdate](https://protectingfloridatogether.gov/PineyPointUpdate).

About the Florida Department of Environmental Protection

The Florida Department of Environmental Protection is the state's principal environmental agency, created to protect, conserve and manage Florida's environment and natural resources. The department enforces federal and state environmental laws, protects Florida's air and water quality, cleans up pollution, regulates solid waste management, promotes pollution prevention and acquires environmentally sensitive lands for preservation. The agency also maintains a statewide system of parks, trails and aquatic preserves. Visit the department's website at FloridaDEP.gov.

<https://content.govdelivery.com/accounts/FLDEP/bulletins/311386e>

PINEY POINT RECEIVERSHIP - AXOS SUMMARY ACCT 0017**JANUARY 1, 2022 TO MARCH 31, 2022**

Row Labels	Sum of Disbursement
ACE HARDWARE	48.92
AMAZON	877.26
AMAZON HOSE TAMPA	1,484.92
Amazon Marketplace	1,339.02
AMAZON.COM	140.05
Atlantic Supply Dept	910.41
Circle K	713.61
Coast Pump Water Tech	308.16
EBAY	276.86
Everglades - Palmetto	341.54
GATOR PIPE AND SUPPLY	467.83
INDEED	780.00
Instruments Direct	2,998.00
NORTHERN TOOL	67.93
OFFICE DEPOT	1,238.45
PALMETTO AUTO WAREHOUSE	391.61
TAMPA RUBBER & GASKET	1,267.21
The Home Depot	5,990.89
THE UPS STORE	86.53
TRACTOR SUPPLY	677.48
Wal-Mart	120.55
WAWA 5198	50.00
WEATHERTECH	231.89
Rogers Mobile Repair	3,598.42
APOLLO RENTAL CENTER	41.33
Murphy 7444 at Walmart	95.05
Palmetto Hardware	118.71
JOHNNY NELSON TIRE PARRISH	84.53
TWISTED METAL RECYCLING	58.85
JOHNNY NELSON TIRE	902.91
POPI'S PLACE III	56.00
PRIMAX USA INC	66.75
TRADEWINDS POWER	1,242.20
LINDER T&T - BRADENTON	276.23
Genuine Parts	70.60
PODS	391.99
MYFLORIDACOUNTY.COM	93.51
HARBOR FREIGHT TOOLS	48.36
BASS PRO STORE	333.23
APERA INSTRUMENTS	35.41
BIG LOTS STORES	75.24
RANDY'S AREA RUGS	76.09
SQ DOLLAR STORE	38.52

EXHIBIT B

IKEA	420.24
WAL-MART SUPER	61.17
USPS PO	8.95
DIRECT TOOLS	192.54
EXAXOL CHEMICAL CLEARWATER	206.95
84 LUMBER COMPANY #134	215.97
WALMART	9.21
Miss Empanadas	5.35
Advance Auto Parts	32.17
LINDER T&T	195.18
PUBLIX SUPER MART	71.91
Quebec Inc.	-
State of Florida	-
VZWRLSS	276.08
Amazon Prime	39.24
AMAZON.COM	46.72
ATT BILL PAYMENT	396.84
FULCRUMAPP.COM	124.98
HP Instant Ink	38.49
NeoCloud Consulting	2,250.00
WWW.SPENDWISE.COM	74.85
YAHOO SMALL BUSINESS	124.90
Willscot Mobile Mini	332.04
Big Earth Landscape	1,682.35
Publix Super Market	85.14
Thompson Tractor Company	571.96
AT&T Mobility EPay	203.42
SEFFNER ROCK AND GRAVE	1,271.65
COAST PUMP WATER TECHN	146.51
RAINMANWEATHER	322.67
Wal-Mart Super Center	61.36
C & A Country Store	40.01
SUNOCO	43.21
COUNCIL OXFORD	1,688.54
TRIST PALMETTO	393.18
Benchmark EnviroAnalytical, Inc.	1,471.80
Peterson Environmental, Inc.	1,311.50
Grand Total	42,930.13

EXHIBIT B

PINEY POINT RECEIVERSHIP - AXOS SUMMARY ACCT 0025

JANUARY 1, 2022 TO MARCH 31, 2022

Row Labels	Sum of Disbursement
Construction	41,776.00
Capitol Construction Company	41,776.00
Employee Wages	129,447.30
Christopher Brown	1,156.52
NATIONAL EMPLOYEE	128,290.78
National Employer Services	0.00
Engineering	115,343.29
Ardaman & Associates, Inc.	101,084.79
JBM&R Engineering, Inc.	1,633.50
Survtech Solutions, Inc.	6,125.00
Woolpert	6,500.00
Interest Income	0.00
Axos Bank	0.00
Legal Costs & Expenses	550.00
Manatee County Clerk of Court	550.00
Legal Fees	24,068.00
FOX ROTHSCHILD LLP	23,193.00
Standley Law Office, P.A.	875.00
Maintenance & Repairs	4,364,800.24
Ardaman & Associates, Inc.	7,548.00
BANK OF AMERICA	0.00
Carver Maritime Manatee, LLC	372.75
Comanco Environmental Corporation	103,204.95
Core & Main	10,911.50
DIVECOM SERVICES, LLC	163,962.22
DL Marvin W. Shumate	29,818.00
DL Tetra Tech, Inc	73,574.50
ECHO OCEAN SCIENCE LLC	19,500.00
Fleetwing Corporation	5,195.48
FLORIDA BC HOLDINGS, LLC	64,287.22
GARNER ENVIRONMENTAL SERVICES	3,544,487.26
Horne & Willis, Inc.	3,731.00
ISCO INDUSTRIES. INC.	7,904.82
J & D Welding, Fabrication and Repair, LLC	150.89
J&D WELDING, FABRICATION & REP	13,085.94
LINDER INDUSTRIAL MACHINERY CO	36,140.64
Live Oak Family Feed, LLC	300.00
PREFERRED DRILLING SOLUTIONS	14,425.00
Seffner Rock & Gravel	9,603.60
SOLMAX GEOSYNTHETICS LLC	1,907.06
Synergy Equipment	2,418.31
TRADEWINDS POWER CORP	4,366.25
Underwater Engineering Service	247,904.85
Monitoring-Analytical	8,570.50

Benchmark EnviroAnalytical, Inc.	8,570.50
Receipts	0.00
Herb Donica Trustee	0.00
Receiver Expenses	1,850.00
A-C-T Environmental & Infrastructure, Inc.	1,850.00
Receiver Fees	235,988.56
Donica Receivership Services, LLC	235,988.56
Utilities	72,748.92
MANATEE COUNTY U	48,554.89
FPL	24,194.03
Water Management	2,141,611.56
NOVALYNX CORPORATION	5,806.00
PHOSPHORUS FREE WATER SOLUTION	2,122,417.82
Vega America, Inc.	1,087.35
VEGA AMERICAS, INC.	12,300.39
Office Expenses	31,833.12
A-C-T Environmental & Infrastructure, Inc.	3,700.00
Donica, Herbert R	526.24
MCGRATH RENTCORP	17,366.90
Mobile Modular	8,633.13
MOBILE MODULAR WEB	<u>1,606.85</u>
Grand Total	<u>7,168,587.49</u>

PINEY POINT RECEIVERSHIP - AXOS SUMMARY ACCT 0017 & 0025

JANUARY 1, 2022 TO MARCH 31, 2022

Row Labels	Sum of Receipt	Sum of Disbursement
Construction	0.00	4,185,216.06
Capitol Construction Company	0.00	41,776.00
Comanco Environmental Corporation	0.00	53,268.80
DIVECOM SERVICES, LLC	0.00	163,962.22
FLORIDA BC HOLDINGS, LLC	0.00	64,287.22
GARNER ENVIRONMENTAL SERVICES	0.00	3,544,487.26
ISCO INDUSTRIES. INC.	0.00	7,904.82
J&D WELDING, FABRICATION & REP	0.00	13,085.94
LINDER INDUSTRIAL MACHINERY CO	0.00	36,140.64
SOLMAX GEOSYNTHETICS LLC	0.00	1,907.06
Survtech Solutions, Inc.	0.00	6,125.00
TRADEWINDS POWER CORP	0.00	4,366.25
Underwater Engineering Service	0.00	247,904.85
Employee Wages	18,025.32	179,609.04
BANK OF AMERICA	18,025.32	0.00
Christopher Brown	0.00	1,156.52
MANATEE COUNTY U	0.00	48,554.89
MOBILE MODULAR WEB	0.00	1,606.85
NATIONAL EMPLOYEE	0.00	128,290.78
Engineering	0.00	109,218.29
Ardaman & Associates, Inc.	0.00	101,084.79
JBM&R Engineering, Inc.	0.00	1,633.50
Woolpert	0.00	6,500.00
Interest Income	2,331.03	0.00
Axos Bank	2,331.03	0.00
Legal Costs & Expenses	0.00	550.00
Manatee County Clerk of Court	0.00	550.00
Legal Fees	0.00	875.00
Standley Law Office, P.A.	0.00	875.00
Maintenance & Repairs	69.42	122,445.28
84 LUMBER COMPANY #134	0.00	215.97
ACE HARDWARE	0.00	48.92
Advance Auto Parts	0.00	32.17
AMAZON	0.00	877.26
AMAZON HOSE TAMPA	0.00	1,484.92
Amazon Marketplace	0.00	1,339.02
AMAZON.COM	0.00	140.05
APERA INSTRUMENTS	0.00	35.41
APOLLO RENTAL CENTER	0.00	41.33
Ardaman & Associates, Inc.	0.00	7,548.00
Atlantic Supply Dept	0.00	910.41
BASS PRO STORE	0.00	333.23
BIG LOTS STORES	0.00	75.24
Carver Maritime Manatee, LLC	0.00	372.75

Circle K	0.00	713.61
Coast Pump Water Tech	0.00	308.16
Comanco Environmental Corporation	0.00	49,936.15
Core & Main	0.00	10,911.50
COUNCIL OXFORD	0.00	794.96
DIRECT TOOLS	0.00	192.54
EBAY	0.00	276.86
Everglades - Palmetto	0.00	341.54
EXAXOL CHEMICAL CLEARWATER	0.00	206.95
Fleetwing Corporation	0.00	5,195.48
GATOR PIPE AND SUPPLY	0.00	467.83
Genuine Parts	0.00	70.60
HARBOR FREIGHT TOOLS	0.00	48.36
Horne & Willis, Inc.	0.00	3,731.00
IKEA	0.00	420.24
INDEED	0.00	780.00
Instruments Direct	0.00	2,998.00
J & D Welding, Fabrication and Repair, LLC	0.00	150.89
JOHNNY NELSON TIRE	0.00	902.91
JOHNNY NELSON TIRE PARRISH	0.00	84.53
LINDER T&T	0.00	195.18
LINDER T&T - BRADENTON	0.00	276.23
Live Oak Family Feed, LLC	0.00	300.00
Miss Empanadas	0.00	5.35
Murphy 7444 at Walmart	0.00	95.05
MYFLORIDACOUNTY.COM	0.00	93.51
NORTHERN TOOL	0.00	67.93
OFFICE DEPOT	0.00	1,238.45
PALMETTO AUTO WAREHOUSE	69.42	461.03
Palmetto Hardware	0.00	118.71
PODS	0.00	391.99
POPI'S PLACE III	0.00	56.00
PRIMAX USA INC	0.00	66.75
PUBLIX SUPER MART	0.00	71.91
RANDY'S AREA RUGS	0.00	76.09
Rogers Mobile Repair	0.00	3,598.42
Seffner Rock & Gravel	0.00	9,603.60
SQ DOLLAR STORE	0.00	38.52
Synergy Equipment	0.00	2,418.31
TAMPA RUBBER & GASKET	0.00	1,267.21
The Home Depot	0.00	5,990.89
THE UPS STORE	0.00	86.53
TRACTOR SUPPLY	0.00	677.48
TRADEWINDS POWER	0.00	1,242.20
TRIEST PALMETTO	0.00	393.18
TWISTED METAL RECYCLING	0.00	58.85
USPS PO	0.00	8.95

EXHIBIT D

Vega America, Inc.	0.00	1,087.35
WALMART	0.00	9.21
Wal-Mart	0.00	120.55
WAL-MART SUPER	0.00	61.17
WAWA 5198	0.00	50.00
WEATHERTECH	0.00	231.89
Miscellaneous	1,156.52	151.06
Amazon Prime	0.00	26.16
National Employer Services	1,156.52	0.00
YAHOO SMALL BUSINESS	0.00	124.90
Monitoring-Analytical	0.00	12,247.38
Benchmark EnviroAnalytical, Inc.	0.00	10,042.30
COUNCIL OXFORD	0.00	893.58
Peterson Environmental, Inc.	0.00	1,311.50
Office Supplies	0.00	10,081.52
A-C-T Environmental & Infrastructure, Inc.	0.00	1,850.00
Amazon Prime	0.00	13.08
AMAZON.COM	0.00	46.72
AT&T Mobility EPay	0.00	203.42
ATT BILL PAYMENT	0.00	396.84
Big Earth Landscape	0.00	1,682.35
C & A Country Store	0.00	40.01
COAST PUMP WATER TECHN	0.00	146.51
Donica, Herbert R	0.00	526.24
FULCRUMAPP.COM	0.00	124.98
HP Instant Ink	0.00	38.49
NeoCloud Consulting	0.00	2,250.00
Publix Super Market	0.00	85.14
RAINMANWEATHER	0.00	322.67
SEFFNER ROCK AND GRAVE	0.00	1,271.65
SUNOCO	0.00	43.21
Thompson Tractor Company	0.00	571.96
Wal-Mart Super Center	0.00	61.36
Willscot Mobile Mini	0.00	332.04
WWW.SPENDWISE.COM	0.00	74.85
Receipts	10,805,371.07	0.00
Herb Donica Trustee	10,800,279.07	0.00
Quebec Inc.	5,092.00	0.00
Receiver Expenses	0.00	12,333.13
A-C-T Environmental & Infrastructure, Inc.	0.00	3,700.00
Mobile Modular	0.00	8,633.13
Receiver Fees	0.00	235,988.56
Donica Receivership Services, LLC	0.00	235,988.56
Utilities	0.00	24,470.11
HRK HOLDINGS LLC DIP	0.00	24,194.03
VZWRLSS	0.00	276.08
Water Management	0.00	2,318,401.61

EXHIBIT D

DL Marvin W. Shumate	0.00	29,818.00
DL Tetra Tech, Inc	0.00	73,574.50
ECHO OCEAN SCIENCE LLC	0.00	19,500.00
FOX ROTHSCHILD LLP	0.00	23,193.00
MCGRATH RENTCORP	0.00	17,366.90
NOVALYNX CORPORATION	0.00	5,806.00
PHOSPHORUS FREE WATER SOLUTION	0.00	2,122,417.82
PREFERRED DRILLING SOLUTIONS	0.00	14,425.00
VEGA AMERICAS, INC.	0.00	12,300.39
Grand Total	10,826,953.36	7,211,587.04

EXHIBIT D