

**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.

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

HERBERT R. DONICA, as Receiver of the estate of HRK HOLDINGS, LLC, gives notice of filing of the Monthly Progress Report for October 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 October 2022 (the “**Report**”) to satisfy Condition No. 11 of the Order.

This filing includes the following documents:

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

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

Respectfully Submitted this 12<sup>th</sup> day of November 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](mailto:herb@donicalaw.com)

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

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on November 12, 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 October 2022**



Ardaman & Associates, Inc.

Geotechnical, Environmental and  
Materials Consultants

November 11, 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 October 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 October 2022, as required by Condition No. 11 of the Order:

### **STATUS OF PLANNED CLOSURE ACTIVITIES**

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

- Continued the installation of the high-strength woven geotextile installation over the portion of the compartment containing soft dredged marine sediments.
- Worked on repairing the high-strength fabric in accordance with the specification's requirements.
- Started excavating the anchor trench for the high-strength fabric installation.
- Completed liner soil cushion layer installation over the coarse sediments area.
- Continued the dewatering activities in OGS-S to allow the construction to be conducted in a dry environment.
- Continued mobilization of all required equipment, labor and materials.

- Continued maintaining the sand tailings and the soil stockpiles.
- Maintained adequate construction equipment on site.
- Maintained adequate construction material on site.
- Received 366.05 -tons of #7 gravel and 180.52 -tons of #57 Gravel.

During the month of October 2022, DRS continued accepting the materials for the project as follows:

- Sand Tailings: As of October 31, 2022, the Receivership has stockpiled 112,932 cubic yards of sand tailings on site (98,118 yards from Ft. Green and 14,814 yards from Ft. Meade Sand Mountain).
- Soil/Overburden: As of October 31, 2022, the Receivership has stockpiled 35,774 cubic yards of soil/overburden fill on site (23,131 yards from Razorback pit, 3,024 yards from Ft. Meade Sand Mountain, and 9,619 yards from Stonegate).
- High-Strength Woven Geotextile:
  - DRS received 200 rolls of high-strength fabric, which Forgen unloaded and stored at the staging area. Forgen used 195 rolls, with the remainder stored in the staging area.
- 60-mil Textured HDPE Liner:
  - DRS received 99 rolls of HDPE liner, and Forgen unloaded 99 rolls of HDPE liner to date (88% of total rolls). The liner rolls are being stored in the staging area.
- Biplanar Double-Sided Geocomposite: Completed production.
  - DRS received 94 rolls of double-sided geocomposite rolls, and Forgen unloaded 92 rolls of HDPE liner (98% of total rolls) to date. The double-sided geocomposite rolls are being stored in the staging area.
- Geotextile (non-woven, 12-oz/yd<sup>2</sup>):
  - DRS received 23 rolls of non-woven geotextile, and Forgen unloaded 23 rolls of HDPE liner (100% of total rolls) to date. The non-woven geotextile rolls are being stored in the staging area.
- HDPE Pipes (6-inch solid and slotted, 18-inch, 24-inch, and 36-inch):
  - DRS received all pipes, which are stored in the staging area.

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

- By Forgen:
  - Continue dewatering.
  - Continue the stockpile operation for sand tailings and soil cover.
  - Finish the deployment of the high-strength fabric.
  - Repair the damages to the deployed high-strength fabric.
  - Backfill the anchor trench for the installed high-strength fabric.
  - Start the excavation of the outlet structure.
  - Start placing the layer of sand tailings on top of the woven geotextile over the approximately 14-acre area containing soft dredged marine sediments.

- By the Receiver:
  - Continue working with AAI and the fill suppliers to ensure that the daily delivered fill quantity meets or exceeds Forgen's originally anticipated usage rate. DRS and AAI will continue working with the fill material supplier to address the quality of the material procured to the site.
  - Receive other materials (i.e., HDPE liner, geotextile materials, etc.)
  - Continue performing CQA oversight and testing by the Receiver's engineer (AAI).

### **SAFETY**

- At the beginning of each workday, a safety meeting is held by Forgen. The daily safety meetings are attended by Forgen's personnel working on-site, where various safety topics are discussed in addition to site-specific safety considerations.
- DRS is continuously working with Forgen and RIPA to ensure that all truck drivers abide by DRS's safety policies.

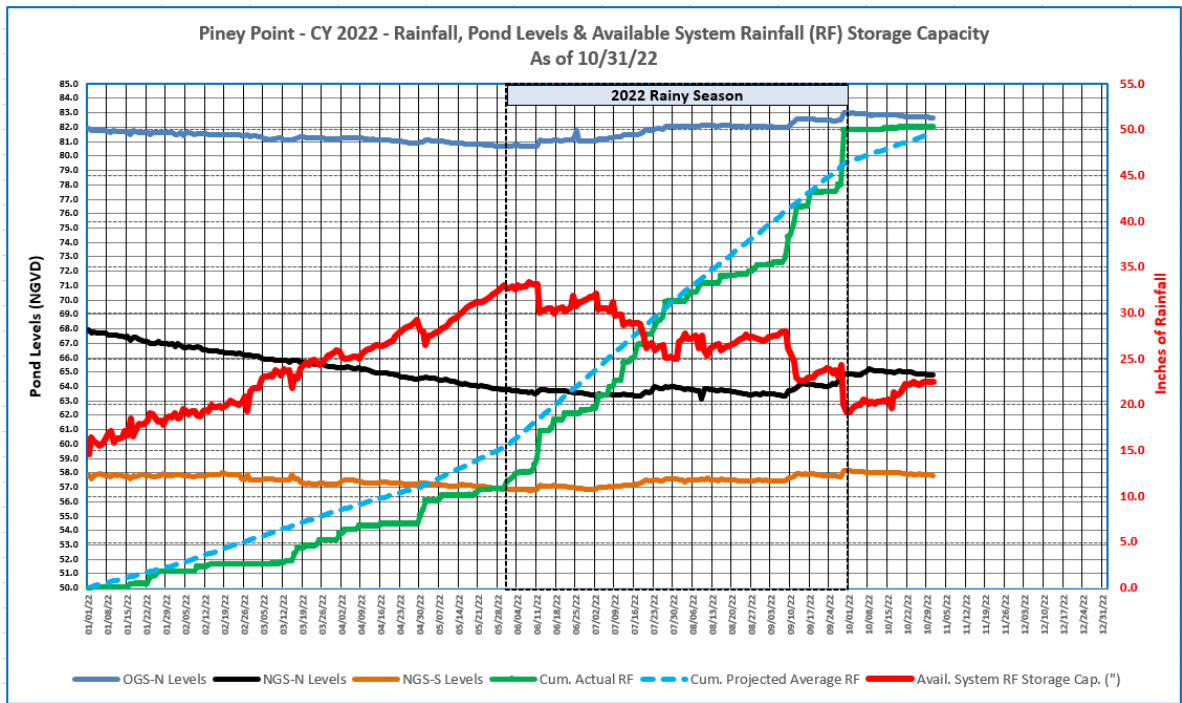
### **CONSTRUCTION QUALITY ASSURANCE (CQA)**

- AAI monitored the installation of the high-strength fabric and provided comments and observations to Forgen. Sewn seam samples were collected and sent to AAI's lab for CQA testing.
- AAI also monitored
- and performed CQA testing for the placement of the soil fill on the coarse sediment area.
- Ardaman performed a visual inspection of the deployed woven fabric and marked damages that occurred during the deployment.

### **WATER BALANCE AND MANAGEMENT**

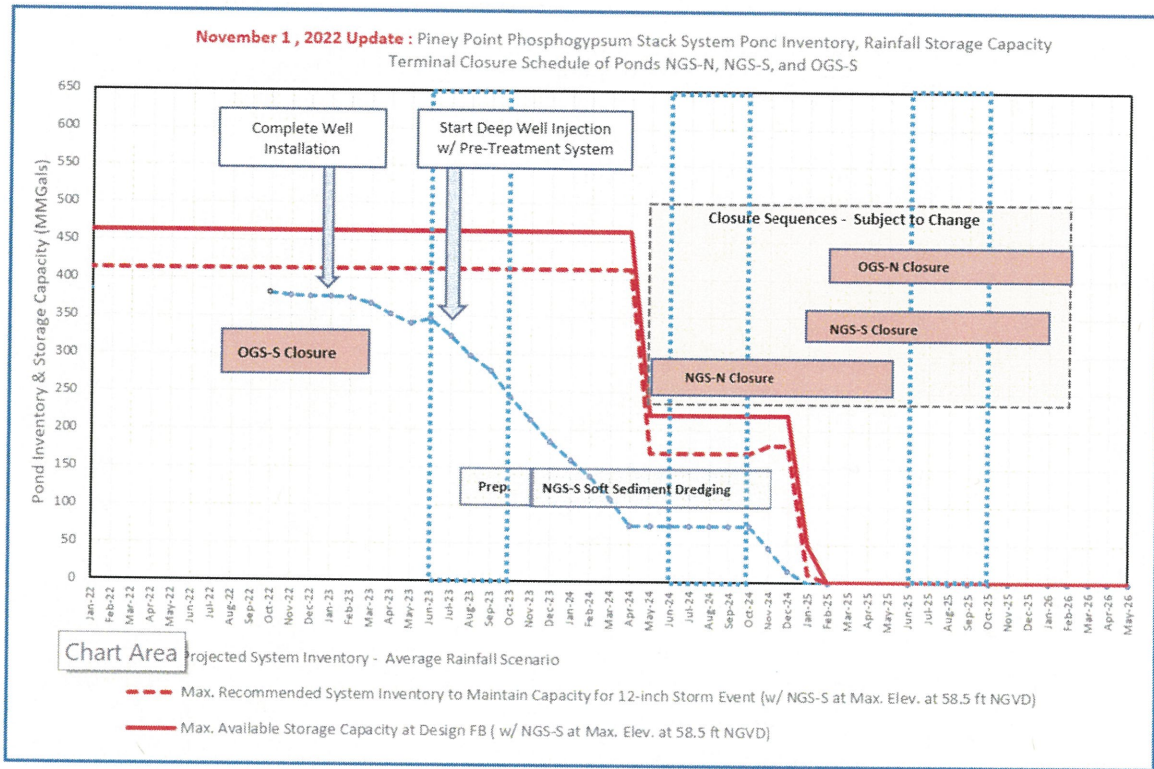
#### **Rainfall and Pond Levels:**

- As of October 31, 2022, the facility has received 50.3 inches of rainfall, which is 0.7 inches above the average rainfall of 49.6 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 October 31, 2022.
- 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*   
 Khaldoun Allaz  
 Construction Manager

  
 Reinaldo Rolo, Ph.D. P.E.  
 Project Director

*FOR*   
 Phong Vo  
 Senior Consultant

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



# CONSTRUCTION PHOTOS

## October 2022



Photo 1 – Construction Equipment in Laydown Area



Photo 2 – Construction Equipment in Laydown Area



Photo 3 – Fill Material Stockpile



Photo 4 – Sand Tailing Material Stockpile



Photo 5 – OGS-S Area Prior of Placing the Woven Fabric



Photo 6 – Started the Deployment of the Woven High-Strength Fabric (5:00 AM)



Photo 7 – Deployment the Woven High-Strength Fabric



Photo 8 – Deployment the Woven High-Strength Fabric



Photo 9 – Locating the Two Existing HDPE Between OGS-S and OGS-N



Photo 10 – Volumetric Scanner for Fill Material



Photo 11 – Completed Placing and Compacting 1-foot Thick Layer of Soil



Photo 12 –Dewatering Activities in OGS-S



Photo 13 – Material Delivery of Non-Woven Rolls



Photo 14 – Material Delivery of Double-Sided Geocomposite Rolls





Photo 15 – Staging Area (Liner, Non-Woven Fabric, and Geocomposite)



Photo 16 – Anchor Trench for the High-Strength Fabric Installation

**EXHIBIT B**

**Supplement to Monthly Progress Report for October 2022**

## **SUPPLEMENT TO MONTHLY PROGRESS REPORT FOR OCTOBER 2022**

### **Overview of Significant Activities for October 2022**

During the month of October 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**

- Conducted post-hurricane site visit and meeting with site manager. Surveyed effects of Hurricane Ian and took pictures.
- Prepared and filed Receiver's Third Quarter 2022 Status Report with the Court (**Doc. No. 184**).
- Reviewed September Progress Report provided by engineers, review and revise Receiver's Supplement and file with the Court.
- Reviewed and approved contractor's change order.
- Prepared construction funding request and related exhibits and worksheets.
- Reviewed contractor's progress payment worksheet.
- Prepared materials and attended 35th Annual Regional Mining Conference; presented Piney Point update.
- Coordinated delivery schedules with materials suppliers.
- Worked with environmental engineers to review and complete updated NPDES Application.
- 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.
- Conducted meetings with DEP and mortgage holder's legal representatives to establish boundary lines and access easement.

Additionally, during October 2022, the Receiver and his professionals engaged in the following activities:

- Prepared package of materials for Florida State Representative Mike Beltran.
- Attended weekly project meetings with contractors and engineers.
- Prepared monthly financial reports.
- Conducted multiple telephone calls with media re site status post hurricane.
- Met with engineers to review weather delay terms in contractor's contract.
- Reviewed existing easements to determine right of ingress/egress post foreclosure. Draft memo to file and notate maps illustrating need to additional access.
- Communicated with site manager and RIPA representative re soil purchase agreement and related.
- Completed negotiations of proposed agreement with Manatee County for haul damage protection.
- Corresponded with Axos Bank and County Attorney regarding form of Letter of Credit to secure pavement bond.
- Corresponded with DEP and provided additional information for NPDES permit application.
- Attended several telephone conferences with environmental engineers to review the updated application for NPDES permit.
- Conducted regular meetings with DEP, ECT, site manager and Ardaman re discuss NPDES Permit.
- Participated in multiple telephone calls and emails with DEP personnel and site manager re status of NPDES application and notice of intent to issue permit.
- Conducted several meetings with engineers and contractor re shortage of high-strength fabric.
- Attended Weekly Project Meeting with engineers, contractor, and site manager.
- Researched procurement files, purchase orders, emails with suppliers, invoices and file notes to determine quantities of high-strength fabric ordered and delivered.
- Communicated with engineers and supplier to place purchase order for 22 additional rolls of Mirafi 770 Geotextile; prepared purchase order and completed order.

- Participated in multiple emails with site manager, RIPA, and Trans-Phos re status of haul permit.
- Performed all necessary accounting tasks including bank account reconciliations, payroll management, payables management, and tracked and recorded payment of expenses.