

**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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**RECEIVER'S SECOND QUARTER 2022 STATUS REPORT**

**Receivership Activity from April 1, 2022, through June 30, 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 Second Quarter 2022, including activity for the period of April 1, 2022, through June 30, 2022<sup>1</sup> 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**”)<sup>2</sup>, 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

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

<sup>2</sup> 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**

On August 5, 2021, counsel for the Florida Department of Environmental Protection (the “FDEP”) filed a Motion for Appointment of Receiver (Doc. No. 66) in the Foreclosure Case. All the active parties in the 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, Ardaman & Associates, Inc. (“**Ardaman**”), to design the work to close the Stack System. Ardaman assisted the Receiver with the development of bid packages for the work.

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 Activities**

The Order Appointing Receiver (**Doc. No. 77**) authorizes, empowers, and directs the Receiver to manage and undertake closure of the Facility. Consistent with his responsibilities, the Receiver has:

- 1) Prepared and submitted a Conceptual Closure Plan to the FDEP which was approved on March 30, 2022.
- 2) Published an Invitation to Bid to close the OGS-S on April 1 and 7, 2022 in 19 counties.
- 3) Reviewed bids and selected a contractor to close OGS-S.
- 4) Negotiated a Service Agreement with Manatee County to build a pretreatment water plant and deep injection well.
- 5) Received FDEP Approval of the Receiver's Detailed Closure Design Report on June 8, 2022.
- 6) Issued five purchase orders for over \$1,300,000 for materials to be used in the closure of OGS-S.
- 7) Took steps to protect a large colony of Least Terns, an endangered species occupying an area between the Old Gyp Stack North and the New Gyp Stack South. Site personnel cordoned off the colony's nesting area and are working with the Florida Fish and Wildlife Conservation Commission to protect the colony until it continues its migration to Cuba later in the year.

### **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. As of this date, the FDEP has distributed \$32,537,717.57 to fund the Receiver's activities. On June 14, 2022, the Receiver submitted a funding request to the FDEP for an additional \$7,566,485.89.

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. On April 22, 2022, the Receiver filed his First Quarter 2022 Status Report (**Doc. Nos. 145 and 146**) covering the period of January 1, 2022, through March 31, 2022.

The activities of the Receiver detailed in the First and Second Status Reports and the First Quarter 2022 Status Report 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 prepared design drawings and specifications and bid packages for the closure of the Old Gyp Stack-South (the "OGS-S"). The Receiver advertised an invitation for bids to initiate closure of the OGS-S. The deadline to submit bids was May 6, 2022, and four contractors submitted bids. The Receiver has selected Forgen, LLC as the lowest responsible and responsive bidder.

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 second quarter of calendar year 2022 in addition to continued routine operations to move toward closure of the Facility as expeditiously as possible.

#### **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 and scientists having long-term knowledge of and experience with the Facility.

The FDEP's Order approving the conceptual plan allowed the Receiver to proceed with implementing the next steps towards final closure.

#### **The Receiver Advertised an Invitation to Bid for Services to Begin Implementation of the Receiver's Conceptual Plan and Conducted an On-Site Pre-Bid Meeting.**

On April 1, 2022, the Receiver published an Invitation to Bid (the "Invitation") for bids to close the Old Gyp Stack South. The Old Gyp Stack South is dry and ready for closure construction.

The other three gyp stacks will undergo construction after they are de-watered. The Invitation was published twice by the Receiver in legal newspapers with a combined circulation covering 19 Florida counties, once during the week of April 1, 2022, through April 7, 2022, and again during the week of April 8, 2022, through April 15, 2022. The Receiver also emailed the Invitation to parties that had expressed an interest in the project. A comprehensive package (the “Bid Package”) describing in detail the various work for which bids were being invited was assembled by the Receiver, working with project engineers. The Bid Package was over 200 pages. On April 15, 2022, the Receiver held an on-site pre-bid meeting which was attended by the Receiver, representatives of the project’s engineers, the Receiver’s consulting engineers, and several potential bidders. The project engineers gave a presentation and answered questions regarding the Bid Package and the work required by the Conceptual Closure Plan. The presentation was attended by twenty-five individuals comprising teams representing potential bidders. Eighteen interested parties registered for the pre-bid meeting. Parties that registered through the Receiver’s website, <https://www.pineypointreceivership.com/> were permitted to download digital versions of the Bid Package. Copies of the Bid Package were also provided at the pre-bid meeting. After the pre-bid meeting, the Receiver has fielded multiple questions from various potential bidders regarding the Bid Package. The questions and answers were circulated by the Receiver to all registered bidders and posted on the Receiver’s website.

The Receiver researched government procurement websites and determined that all proposed contractors and subcontractors are eligible to bid on the proposed work. The receiver determined that all the bidders were qualified.

**Contractor Bids Were Submitted for Work  
Required by the Receiver’s Conceptual Closure Plan.**

The Receiver’s Invitation to Bid was published on April 1, 2022, as previously reported, soliciting contractors to submit bids to close the Old Gyp Stack South. Bids were received from four contractors on May 6, 2022. The bids received were distributed to the Receiver’s engineers, consultants and facility management team for review, evaluation, questions and comments. The Receiver conducted substantial due diligence and prepared bid comparison worksheets. The Receiver’s engineers and independent consulting engineers prepared lists of questions for bidders to clarify bid methodology.



The Receiver and engineers reviewed the bids to determine the best qualified bid. The Receiver has also engaged an independent engineering firm to advise him with respect to reviewing the bids and ultimate selection of the prevailing bid. On June 17, 2022, the Receiver announced that Forgen, LLC had been selected as the lowest responsible and responsive bidder.

**The Receiver Requested Suppliers to Provide Quotes for Materials for the Closure of Old Gyp Stack South.**

Contractors typically add 10 – 15% to the cost of materials if they are required to source and purchase materials for construction activities. In connection with the closure of Old Gyp Stack South, the Receiver expects to purchase over \$3,000,000 of materials. The Receiver’s engineers provided detailed specifications for the materials to be used in the closure construction. The materials are made by only a few manufacturers. The Receiver contacted the manufacturers for competitive quotes to arrange for the direct purchase of the materials. The Receiver, with assistance of the engineers, has reviewed specifications provided by the manufacturers and is in the process of negotiating the delivery of the materials to the construction site. As of this date, the Receiver has issued five Purchase Orders for materials for an aggregate amount of \$1,332,579.74, representing a savings of \$133,258 to \$199,887.

The Receiver and his engineers are testing soil and sand tailing samples for compliance with technical specifications. The Receiver is also negotiating transport costs and related delivery schedules.

**The FDEP Issued its Approval of the Receiver’s Detail Closure Design Report.**

The FDEP reviewed the detailed closure design analysis, construction drawings, and technical specifications (the “Detailed Closure Design Report”) for the closure of Old Gyp Stack-South and determined that the Detailed Closure Design Report complies with the closure requirements of Chapter 62-673 Florida Administrative Code. The initial phase of the closure of the Stack System was approved for implementation by the FDEP on June 8, 2022. The Receiver published the Notice of Rights in the Bradenton Herald on June 17, 2022.

**The Receiver has Commenced the Renewal of the Site’s National Pollutant Discharge Elimination System Permit.**

The Receiver has initiated a review of the site’s National Pollutant Discharge Elimination System Permit (“NDPES”) for the purpose of updating a pending application to renew the permit.

The Receiver has engaged Environmental Consulting & Technology, Inc. (“ECT”) to assist him with respect to the technical aspects of updating the permit renewal application.

**The Receiver Requested a Letter of Technical Assistance  
Advisement from the Florida Department of Revenue Regarding  
an Exemption from Sales Tax for Certain Goods and Services.**

The Receiver researched Florida sales tax statutes and has determined that it is likely that the Receivership’s purchase of materials used in the remediation of the stack system and for NDPES permit compliance is exempt from sales and use taxes pursuant to section 212.051(1) for machinery, materials, equipment, and specialty chemicals used in connection with the closure of the Facility in compliance with Florida Administrative Code Chapter 62. On May 11, 2022, the Receiver submitted a formal Request for Technical Assistance Advisement to the Florida Department of Revenue (“DOR”) for a determination of exemption from sales or use tax with respect to materials, equipment, chemicals purchased to meet the conditions of the permit issued by the Department of Environmental Protection. The DOR has taken the Request under consideration.

**The Receiver has Taken Steps to Protect a  
Colony of Least Terns, an Endangered Species.**

On May 4, 2022, the site manager discovered a large colony of birds, Least Terns, an endangered species occupying an area between the Old Gyp Stack North and the New Gyp Stack South. Site personnel cordoned off the colony’s nesting area and contacted the Florida Fish and Wildlife Conservation Commission (“FWC”). FWC made a site visit on June 7, 2022, and the FWC representative acknowledged that he was very satisfied with the steps taken by the receivership to protect the nesting colony. The Least Tern Colony is being monitored by Alex Barath with information on the colony and migration being reported to FWC on a weekly basis, per FWC survey website. The Least Tern is protected by the U.S. Migratory Bird Treaty Act. It is also protected as an Endangered Species (Midwest and Great Plains states only) by the Federal Endangered Species Act and as a State-designated Threatened Species by Florida’s Endangered and Threatened Species Rule. The receivership will continue to monitor the area. The site manager, Receiver and engineers are reviewing the previously established timeline of site construction activities to determine if changes are required to accommodate the Least Tern Colony’s migration schedule.

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

As previously reported during March 2022 several alligators were captured and relocated by a licensed trapper. The alligators posed a threat to divers working in the New Gyp Stack South reservoir, approaching them on several occasions, and alligator claws continued to pose a threat of tears to the liners on the sidewalls of the stacks as the alligators migrate 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.

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 the gypsum material, the water becomes infiltrated with nutrients and toxic substances from the gypsum and is no longer eligible for discharge as storm water. The water must be sequestered and treated.

During March and April 2022, seven alligators were successfully caught by the trapper engaged by Florida Fish and Wildlife. 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 alligators alive. The alligators were transported to an alligator farm to live out their lives in luxury.

**Receiver has Negotiated a “Service Agreement Related to Closure and Water Management Needs for the Piney Point Facility with Manatee County Florida” (the Service Agreement).**

The Receiver proposed a Service Agreement and participated in the negotiation and drafting of various provisions regarding the capital funding for the construction, operation and maintenance of certain facilities and equipment to be provided by Manatee County to the Receiver which are necessary to implement the Conceptual Closure Plan. On April 28, 2022, the Receiver, FDEP and representatives of the County met and discussed changes to the draft Service Agreement. The parties have continued to work towards finalizing the Service Agreement.

On June 16, 2022, the Manatee County Commissioners approved a design-build agreement for a Pretreatment Facility required for operation of the Deep Injection Well. The County expects the Pretreatment Facility and Deep Injection Well to be operational by April 2023.

**The Receiver's Enhanced Safety Steps Have Been Fully Implemented.**

The bidding process which begun in early April, increased the number of site visits by contractors, their representatives, and employees. The Receiver's enhanced safety procedures

were fully implemented during April and non-personnel are now required to sign a visitor log, are provided with a notice of hazardous conditions, and are required to sign a written release and acknowledgment in order to gain access to the site. All on-site personnel wear reflective safety vests and hard hats. The site manager conducts daily safety meetings with on-site personnel.

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

- The Receiver has initiated health insurance coverage for all on-site employees for the purpose of enhancing future employee recruitment and workforce retention.
- Met with Florida government officials to whom FDEP reports to answer questions and provide status update regarding the closure of Piney Point.
- 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 and 160**).
- Prepared outlines of procurement requirements and bidding procedures as related to proposed repair/construction activities.
- Reviewed Analytical Test Reports.
- Prepared and filed Second Status Report with the Court (**Doc. No. 117**).
- 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.
- 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.
- 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 presenting Receiver's 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.

- Prepared budget requests for distributions from the Long-Term Care Escrow Fund established by HRK at FDFS for the monthly operating budgets.
- Reviewed disputed invoice for services and initiated negotiations to reduce charges based upon various issues and discrepancies, both observed and alleged by on site personnel. Successfully negotiated a reduction of the invoice.
- Prepared June – December 2022 Budget Projection and draft memorandum re categories and open items.
- Participated in weekly meetings with engineers and service providers.
- 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.
- 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 that 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. This process requires a substantial amount of chemicals. The Receiver has negotiated pricing and delivery of the chemicals at a 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.<sup>3</sup>

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<sup>3</sup> The Receiver does not plan to discharge wastewater 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 will discharge collected stormwater into the bay from time to time pursuant to a permit issued by the Department. The stormwater is segregated from the site's wastewater and is tested prior to discharge.

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**

The Receiver established a 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. In the Second Quarter 2022, the Receiver's Axos Bank account # 0017 was funded as follows:

April 5, 2022 – Proceeds from the sale of scrap metal	\$ 1,048.50
April 21, 2022 - Distribution from the HRK Long-term Care Fund:	\$ 36,996.27
April 27, 2022 – Refund for returned parts	\$ 81.41
May 16, 2022 – Proceeds from the sale of inoperable pickup truck	\$ 700.00
June 3, 2022 - Distribution from the HRK Long-term Care Fund:	\$ 42,099.87
June 13, 2022 - Distribution from the HRK Long-term Care Fund:	\$ 4,767.96
June 27, 2022 – Transfer from Bank Account # 0025:	<u>\$ 5,927.98</u>
<b>Total deposits into the Receiver’s Axos Bank account # 0017 From April 1 through June 30, 2022:</b>	<b><u>\$ 91,621.99</u></b>

The Receiver's Axos Bank Account # 0017 was used to fund \$123,178.08 of day-to-day maintenance and operations from April 1 through June 30, 2022. An analysis of the Axos Bank account # 0017 is attached as **Exhibit A**.

The Receiver established a Receivership Bank Account (Bank Account # 0025) at Axos Bank on October 21, 2021, for deposit and disbursement of funds distributed by the FDEP pursuant to the Maintenance and Funding Agreement between the FDEP and the Receiver. The funds are to be used to close the Stack System at the Piney Point site. The account is an interest-bearing account. In the Second Quarter 2022, the Receiver's Axos Bank Account # 0025 was funded as follows:

May 1, 2022 - Interest received	\$ 931.61
May 9, 2022 - Distribution from the HRK Long-term Care Fund:	\$ 4,672,803.36
May 31, 2022 – Interest received:	\$ 870.53
June 30, 2022 – Interest received:	\$ <u>692.66</u>
<b>Total deposits into the Receiver's Axos Bank Account # 0025 From April 1 through June 30, 2022:</b>	<b><u>\$ 4,675,298.16</u></b>

The Axos Bank Account # 0025 earned \$2,494.80 of interest in the Second Quarter of 2022. During the Second Quarter of 2022, ended June 30, 2022, \$9,445,335.55 was disbursed from account # 0025, primarily for engineering, site maintenance and repair, and water management activities. An analysis of the Axos Bank account # 0025 is attached as **Exhibit B**.

Funding and disbursement activities for the Axos Bank Accounts # 0017 and # 0025 have been accounted for separately. The Receiver's comprehensive accounting incorporating the activity of both accounts from April 1, 2022, through June 30, 2022, is attached hereto as **Exhibit C**.

## **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 disputed a payment demand by a contractor. The dispute was settled in May for a reduced amount.

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. The former employee's timecards were provided to his counsel. 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 Stack System Closure activities 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. A more definitive time estimate of final Stack System Closure will be available as the project advances.

**XI. Conclusion.**

The Receiver has received many 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](mailto:herb@donicalaw.com).

**RESPECTFULLY SUBMITTED** this 11<sup>th</sup> day of July, 2022.

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



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on July 11, 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

**PINEY POINT RECEIVERSHIP - AXOS SUMMARY ACCT**

**0017**

**APRIL 1, 2022 TO JUNE 30, 2022**

<b>Row Labels</b>	<b>Sum of Disbursement</b>
<b>Maintenance &amp; Repairs</b>	109,108.49
<b>84 LUMBER COMPANY</b>	341.45
<b>AMAZON HOSE TAMPA</b>	734.34
<b>Amazon Marketplace</b>	23.53
<b>AMAZON Mktp US</b>	117.03
<b>AMAZON.COM</b>	593.64
<b>APOLLO RENTAL CENTER</b>	66.31
<b>ATLANTIC SUPPLY DEPT</b>	5,312.66
<b>BAY PORT VALVE AND FIT</b>	172.01
<b>BULLFROGCREEKMARINE</b>	8.35
<b>Circle K</b>	909.31
<b>DOLLAR GENERAL</b>	17.66
<b>EBAY</b>	99.87
<b>Everglades - Palmetto</b>	227.70
<b>FERGUSON ENT 1237</b>	4,202.42
<b>FL DEPT OF AGRI EGOV</b>	563.75
<b>Fleetwing Corporation</b>	565.33
<b>GRAVELY OF BRADENTON</b>	117.48
<b>HARBOR FREIGHT TOOLS</b>	62.34
<b>HDPE INC</b>	541.24
<b>HOMEDEPOT.COM</b>	594.33
<b>Instruments Direct</b>	1,499.00
<b>JEFFRIES SERVICE CENTER</b>	29.89
<b>JOHNNY NELSON TIRE</b>	325.64
<b>JOHNNY NELSON TIRE PARRISH</b>	21.40
<b>LINDER T&amp;T</b>	1,438.01
<b>LOWES</b>	38.99
<b>MOISTURE BOSS</b>	81.40
<b>NORTHERN TOOL</b>	60.56
<b>O REILLY AUTO PARTS</b>	155.81
<b>PALMETTO AUTO WAREHOUSE</b>	793.03
<b>PALMETTO HARDWARE</b>	177.34
<b>RUSKIN AUTO &amp; TRUCK</b>	8.58
<b>SYNERGY RENTS TAMPA</b>	450.94
<b>THE HOME DEPOT</b>	3,017.25
<b>THOMPSON TRACTOR</b>	1,103.75
<b>THOMPSON TRACTOR COMPANY</b>	67.96
<b>WALMART</b>	100.47
<b>WOOD ENVIRONMENT &amp; INFRASTRUCTURE</b>	84,238.72
<b>WWW.POWERVISION.ME</b>	229.00
<b>Miscellaneous</b>	45.27
<b>AMAZON PRIME</b>	45.27
<b>Monitoring-Analytical</b>	7,001.56

**EXHIBIT A**

COUNCIL OXFORD INC	2,666.00
FULCRUMAPP.COM	126.00
Instruments Direct	2,998.00
PETERSON ENVIRONMENTAL	247.25
TRIST PALMETTO	964.31
Office Expenses	6,285.30
Asurion Wireless Insurance	229.00
ATT BILL PAYMENT	595.26
BLUE SEPTIC TANK SVC	565.00
BUBBAQUES	24.42
DD/BR	29.83
DUNKIN	44.25
FEDEX OFFICE	22.45
HP Instant Ink	38.49
NeoCloud Consulting	3,022.80
POPI'S PLACE III	36.88
PUBLIX	126.46
PUBLIX SUPAR MAR 4854	40.84
PUBLIX SUPAR MAR 9520	74.34
PUBLIX SUPER MART	90.65
SQ *TELL COMMUNICATION	1,173.79
WM SUPERCENTER	21.05
WWW.SPENDWISE.COM	74.85
YAHOO SMALL BUSINESS	74.94
Receipts	0.00
Donica Receivership Services, LLC	0.00
Herb Donica Trustee	0.00
Receiver Expenses	304.20
FLA DEPT REVENUE	304.20
Utilities	414.00
VZWRLSS	414.00
Water Management	19.26
COAST PUMP WATER TECH	<u>19.26</u>
Grand Total	<b><u>123,178.08</u></b>

## EXHIBIT A

PINEY POINT RECEIVERSHIP - AXOS SUMMARY  
ACCT 0025  
APRIL 1, 2022 TO JUNE 30, 2022

Row Labels	Sum of Disbursement
<b>Construction</b>	711,933.87
HDPE, INC.	166,022.00
Nicolon Corporation	127,500.00
Solomax Geosynthetics	418,411.87
<b>Employee Wages</b>	138,100.72
INVOICE NATIONAL EMPLOYEE	22,173.66
NATIONAL EMPLOYEE	115,927.06
<b>Engineering</b>	1,170,256.91
Environmental Consulting & Technology, Inc.	481.25
JBM&R Engineering, Inc.	4,250.00
TETRA TECH, INC.	1,165,525.66
<b>Interest Income</b>	0.00
Axos Bank	0.00
<b>Legal Costs &amp; Expenses</b>	5,267.90
Business Observer	3,843.90
Regency Reporting Service, Inc.	1,424.00
<b>Legal Fees</b>	1,225.00
Standley Law Office, P.A.	1,225.00
<b>Maintenance &amp; Repairs</b>	5,052,153.45
Agru America, Inc.	5,183.75
Comanco Environmental Corporation	81,683.26
DIVECOM SERVICES LLC	1,175,000.00
ECHO OCEAN SCIENCE LLC	19,500.00
Fleetwing Corporation	7,297.62
FPS	2,518.96
GARNER ENVIRONMENTAL SERVICES	2,869,191.08
Gator Grading & Paving, LLC	33,973.49
HDPE Inc.	23,145.84
Horne & Willis, Inc.	13,598.00
HRK Holdings, LLC	5,927.98
Jeffery A. Barath	26,758.00
Linder Industrial Machinery Co	16,954.15
Linder Turf & Tractor	151.66
Survtech Solutions, Inc.	1,435.00
Synergy Equipment	13,310.85
Thunder Technologies LLC	7,608.22
Underwater Engineering Service	748,915.59
<b>Monitoring-Analytical</b>	7,761.65
Benchmark EnviroAnalytical, Inc.	7,761.65
<b>Office Expenses</b>	8,513.02
Donica, Herbert R	8,513.02
<b>Receipts</b>	0.00
Herb Donica Trustee	0.00
<b>Receiver Fees</b>	162,360.42
Donica Receivership Services	162,360.42
<b>Rent</b>	8,520.55
A-C-T Environmental & Infrastructure, Inc.	3,700.00
MOBILE MODULAR WEB	4,820.55
<b>Utilities</b>	72,193.52
HRK HOLDINGS LLC DIP	22,056.20
MANATEE COUNTY U	50,137.32
<b>Water Management</b>	2,104,583.34
PHOSPHORUS FREE WATER SOLUTION	2,104,583.34
<b>Admin Expenses</b>	2,465.20
AJG - INS PERM P	2,465.20
<b>Grand Total</b>	<b><u>9,445,335.55</u></b>

PINEY POINT RECEIVERSHIP - AXOS SUMMARY ACCTS 0017 & 0025  
 APRIL 1, 2022 TO JUNE 30, 2022

Row Labels	Sum of Receipt	Sum of Disbursement
84 LUMBER COMPANY	0.00	341.45
Maintenance & Repairs	0.00	341.45
A-C-T Environmental & Infrastructure, Inc.	0.00	3,700.00
Rent	0.00	3,700.00
Agru America, Inc.	0.00	5,183.75
Construction	0.00	5,183.75
AJG - INS PERM P	0.00	2,465.20
Admin Expenses	0.00	2,465.20
AMAZON HOSE TAMPA	0.00	734.34
Maintenance & Repairs	0.00	734.34
Amazon Marketplace	0.00	23.53
Maintenance & Repairs	0.00	23.53
AMAZON Mktp US	0.00	117.03
Maintenance & Repairs	0.00	117.03
AMAZON PRIME	0.00	45.27
Miscellaneous	0.00	45.27
AMAZON.COM	0.00	593.64
Maintenance & Repairs	0.00	593.64
APOLLO RENTAL CENTER	0.00	66.31
Maintenance & Repairs	0.00	66.31
Asurion Wireless Insurance	0.00	229.00
Office Expenses	0.00	229.00
ATLANTIC SUPPLY DEPT	0.00	5,312.66
Maintenance & Repairs	0.00	5,312.66
ATT BILL PAYMENT	0.00	595.26
Office Expenses	0.00	595.26
Axos Bank	2,494.80	0.00
Interest Income	2,494.80	0.00
BAY PORT VALVE AND FIT	0.00	172.01
Maintenance & Repairs	0.00	172.01
Benchmark EnviroAnalytical, Inc.	0.00	7,761.65
Monitoring-Analytical	0.00	7,761.65
BLUE SEPTIC TANK SVC	0.00	565.00
Maintenance & Repairs	0.00	565.00
BUBBAQUES	0.00	24.42
Maintenance & Repairs	0.00	24.42
BULLFROGCREEKMARINE	0.00	8.35
Maintenance & Repairs	0.00	8.35
Business Observer	0.00	3,843.90
Legal Costs & Expenses	0.00	3,843.90
Circle K	0.00	909.31
Maintenance & Repairs	0.00	909.31
COAST PUMP WATER TECH	0.00	19.26
Maintenance & Repairs	0.00	19.26
Comanco Environmental Corporation	0.00	81,683.26
Maintenance & Repairs	0.00	81,683.26
COUNCIL OXFORD INC	0.00	2,666.00
Maintenance & Repairs	0.00	2,666.00
DD/BR	0.00	29.83
Maintenance & Repairs	0.00	29.83
DIVECOM SERVICES LLC	0.00	1,175,000.00
Construction	0.00	1,175,000.00
DOLLAR GENERAL	0.00	17.66
Maintenance & Repairs	0.00	17.66
Donica Receivership Services	0.00	162,360.42
Receiver Fees	0.00	162,360.42
Donica Receivership Services, LLC	53,495.81	0.00
Receipts	53,495.81	0.00
Donica, Herbert R	0.00	8,513.02
Office Expenses	0.00	8,513.02
DUNKIN	0.00	44.25
Maintenance & Repairs	0.00	44.25
EBAY	0.00	99.87
Maintenance & Repairs	0.00	99.87
ECHO OCEAN SCIENCE LLC	0.00	19,500.00
Water Management	0.00	19,500.00
Environmental Consulting & Technology, Inc.	0.00	481.25
Process Water Operations	0.00	481.25
Everglades - Palmetto	0.00	227.70

Maintenance & Repairs	0.00	227.70
FEDEX OFFICE	0.00	22.45
Maintenance & Repairs	0.00	22.45
FERGUSON ENT 1237	0.00	4,202.42
Maintenance & Repairs	0.00	4,202.42
FL DEPT OF AGRI EGOV	0.00	563.75
Maintenance & Repairs	0.00	563.75
FLA DEPT REVENUE	0.00	304.20
Maintenance & Repairs	0.00	304.20
Fleetwing Corporation	0.00	7,862.95
Maintenance & Repairs	0.00	7,862.95
FPS	0.00	2,518.96
Maintenance & Repairs	0.00	2,518.96
FULCRUMAPP.COM	0.00	126.00
Office Expenses	0.00	126.00
GARNER ENVIRONMENTAL SERVICES	0.00	2,869,191.08
Construction	0.00	2,869,191.08
Gator Grading & Paving, LLC	0.00	33,973.49
Maintenance & Repairs	0.00	33,973.49
GRAVELY OF BRADENTON	0.00	117.48
Maintenance & Repairs	0.00	117.48
HARBOR FREIGHT TOOLS	0.00	62.34
Maintenance & Repairs	0.00	62.34
HDPE INC	0.00	541.24
Maintenance & Repairs	0.00	541.24
HDPE Inc.	0.00	23,145.84
Maintenance & Repairs	0.00	23,145.84
HDPE, INC.	0.00	166,022.00
Construction	0.00	166,022.00
Herb Donica Trustee	4,710,848.13	0.00
Receipts	4,710,848.13	0.00
HOMEDEPOT.COM	81.41	594.33
Maintenance & Repairs	81.41	594.33
Horne & Willis, Inc.	0.00	13,598.00
Maintenance & Repairs	0.00	13,598.00
HP Instant Ink	0.00	38.49
Office Expenses	0.00	38.49
HRK HOLDINGS LLC DIP	0.00	22,056.20
Utilities	0.00	22,056.20
HRK Holdings, LLC	0.00	5,927.98
Maintenance & Repairs	0.00	5,927.98
Instruments Direct	0.00	4,497.00
Maintenance & Repairs	0.00	4,497.00
INVOICE NATIONAL EMPLOYEE	0.00	22,173.66
Employee Wages	0.00	22,173.66
JBM&R Engineering, Inc.	0.00	4,250.00
Engineering	0.00	4,250.00
Jeffery A. Barath	0.00	26,758.00
Construction	0.00	26,758.00
JEFFRIES SERVICE CENTER	0.00	29.89
Maintenance & Repairs	0.00	29.89
JOHNNY NELSON TIRE	0.00	325.64
Maintenance & Repairs	0.00	325.64
JOHNNY NELSON TIRE PARRISH	0.00	21.40
Maintenance & Repairs	0.00	21.40
Linder Industrial Machinery Co	0.00	16,954.15
Construction	0.00	16,954.15
LINDER T&T	0.00	1,438.01
Maintenance & Repairs	0.00	1,438.01
Linder Turf & Tractor	0.00	151.66
Maintenance & Repairs	0.00	151.66
LOWES	0.00	38.99
Maintenance & Repairs	0.00	38.99
MANATEE COUNTY U	0.00	50,137.32
Employee Wages	0.00	50,137.32
MOBILE MODULAR WEB	0.00	4,820.55
Employee Wages	0.00	4,820.55
MOISTURE BOSS	0.00	81.40
Maintenance & Repairs	0.00	81.40
NATIONAL EMPLOYEE	0.00	115,927.06
Employee Wages	0.00	115,927.06
NeoCloud Consulting	0.00	3,022.80

**EXHIBIT C**

Office Expenses	0.00	3,022.80
Nicolon Corporation	0.00	127,500.00
Construction	0.00	127,500.00
NORTHERN TOOL	0.00	60.56
Maintenance & Repairs	0.00	60.56
O REILLY AUTO PARTS	0.00	155.81
Maintenance & Repairs	0.00	155.81
PALMETTO AUTO WAREHOUSE	0.00	793.03
Maintenance & Repairs	0.00	793.03
PALMETTO HARDWARE	0.00	177.34
Maintenance & Repairs	0.00	177.34
PETERSON ENVIRONMENTAL	0.00	247.25
Maintenance & Repairs	0.00	247.25
PHOSPHORUS FREE WATER SOLUTION	0.00	2,104,583.34
Water Management	0.00	2,104,583.34
POPI'S PLACE III	0.00	36.88
Maintenance & Repairs	0.00	36.88
PUBLIX	0.00	126.46
Maintenance & Repairs	0.00	126.46
PUBLIX SUPAR MAR 4854	0.00	40.84
Maintenance & Repairs	0.00	40.84
PUBLIX SUPAR MAR 9520	0.00	74.34
Maintenance & Repairs	0.00	74.34
PUBLIX SUPER MART	0.00	90.65
Maintenance & Repairs	0.00	90.65
Regency Reporting Service, Inc.	0.00	1,424.00
Receiver Expenses	0.00	1,424.00
RUSKIN AUTO & TRUCK	0.00	8.58
Maintenance & Repairs	0.00	8.58
Solomax Geosynthetics	0.00	418,411.87
Engineering	0.00	418,411.87
SQ *TELL COMMUNICATION	0.00	1,173.79
Maintenance & Repairs	0.00	1,173.79
Standley Law Office, P.A.	0.00	1,225.00
Legal Fees	0.00	1,225.00
Survtech Solutions, Inc.	0.00	1,435.00
Maintenance & Repairs	0.00	1,435.00
Synergy Equipment	0.00	13,310.85
Maintenance & Repairs	0.00	13,310.85
SYNERGY RENTS TAMPA	0.00	450.94
Maintenance & Repairs	0.00	450.94
TETRA TECH, INC.	0.00	1,165,525.66
Water Management	0.00	1,165,525.66
THE HOME DEPOT	0.00	3,017.25
Maintenance & Repairs	0.00	3,017.25
THOMPSON TRACTOR	0.00	1,103.75
Maintenance & Repairs	0.00	1,103.75
THOMPSON TRACTOR COMPANY	0.00	67.96
Maintenance & Repairs	0.00	67.96
Thunder Technologies LLC	0.00	7,608.22
Utilities	0.00	7,608.22
TRIST PALMETTO	0.00	964.31
Maintenance & Repairs	0.00	964.31
Underwater Engineering Service	0.00	748,915.59
Construction	0.00	748,915.59
VZWLSS	0.00	414.00
Utilities	0.00	414.00
WALMART	0.00	100.47
Maintenance & Repairs	0.00	100.47
WM SUPERCENTER	0.00	21.05
Maintenance & Repairs	0.00	21.05
WOOD ENVIRONMENT & INFRASTRUCTURE	0.00	84,238.72
Maintenance & Repairs	0.00	84,238.72
WWW.POWERVISION.ME	0.00	229.00
Maintenance & Repairs	0.00	229.00
WWW.SPENDWISE.COM	0.00	74.85
Office Expenses	0.00	74.85
YAHOO SMALL BUSINESS	0.00	74.94
Miscellaneous	0.00	49.96
Office Expenses	0.00	24.98
<b>Grand Total</b>	<b>4,766,920.15</b>	<b>9,568,513.63</b>

**EXHIBIT C**