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Manatee County Phosphate Facility/Clean Water Act: Environmental Organizations and Florida Department of Environmental Protection Enter into Settlement Addressing Transparency

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Five environmental organizations entered into a Joint Notice of Settlement (“Settlement”) with the Florida Department of Environmental Protection (“FDEP”) in the United States District Court for the District of Florida. See Case No. 8:21-cv-1521-WFJ-CPT.

The other party to the Settlement is HRK Holdings, Inc. (“HRK”), which is the owner of the relevant facility.

The five environmental organizations include:

- Center for Biological Diversity
- Tampa Bay Waterkeeper
- Suncoast Waterkeeper
- Manasota-88
- Our Children’s Earth Foundation

Collectively “CBD”.

CBD had filed suit in the United States District Court in 2021 alleging that the state agency violated the Resource Conservation and Recovery Act and the Clean Water Act related to activities at a phosphogypsum stack referred to as Piney Point in Manatee County, Florida.

FDEP had denied all alleged allegations.

The HRK phosphogypsum stack had suffered a leak in its reservoir liner in 2021. In order to forestall a catastrophic collapse, millions of gallons of wastewater were released into Tampa Bay.

HRK subsequently entered bankruptcy.

The Settlement imposes a number of responsibilities on FDEP which include loading documents onto its public Oculus system such as:

- Discharge Monitoring Reports.
- Bioassay laboratory reports.

- Effluent samples.
- Whole effluent toxicity monitoring results.
- Monthly average calculations.
- Groundwater monitoring test results.
- Annual average for Beryllium.
- Annual nutrient loads.
- Annual updated projected water balance.
- Annual phosphogypsum stack inspection.
- Critical Condition Report for a sinkhole or karst feature.
- Any noncompliance which may endanger health or the environment.

The Settlement also includes a payment of \$75,000.00 to the Tampa Bay Estuary Program to monitor ambient water quality.

FDEP is noted in the Settlement to have issued a notice of a draft National Pollution Discharge Elimination System wastewater permit for the facility and an accompanying Administrative Order, which are attached as an appendices.

A copy of the Settlement can be downloaded [here](#).