

# PINEY POINT FREQUENTLY ASKED QUESTIONS



## ENFORCEMENT ACTIONS

### What is being announced?

On Aug. 5, 2021, the department filed a complaint in the 12th Judicial Circuit Court in Manatee County, initiating enforcement action against HRK Holdings LLC.

### What violations is HRK being held accountable for?

The complaint outlines injunctive relief, cost recovery, attorneys fees, damages and civil penalties sought for HRK's failure to comply with the following:

- Requirements of Chapter 403, Florida Statutes, pertaining to the safe operation of phosphogypsum stack systems.
- Requirements of Title 62, Florida Administrative Code (F.A.C.), pertaining to surface and groundwater standards.
- Provisions and requirements of the existing Consent Order and Administrative Agreement that HRK entered into with the department requiring them to remove the water from the site by 2019.
- Financial assurance requirements.

### What penalties is the department seeking?

The department is seeking the maximum allowable penalties and recovery of costs and damages under existing laws and regulations. This includes:

- \$50,000 per day in civil penalties for violations of the Consent Order for failure to remove water by 2019.
- \$15,000 per day for violations of surface and groundwater standards and failure to meet financial assurance requirements.

These figures include the increased fines and penalties championed and secured by Governor DeSantis with unanimous bipartisan passage of HB 1091 during the 2020 legislative session. HB 1091 allows for a daily fine until the issue is remediated or there is a consent order in place that addresses the violation. Previously, fines were forced to stop before any legal remedy was found.

### How much has the state spent on emergency contracting for Piney Point in response to recent events? Are these costs included in the requested recovery of costs?

As of July 15, 2021, the state of Florida has dispersed \$45.7 million on necessary emergency contracting at the Piney Point facility. These costs are included in the requested recovery of costs in the department's complaint.

### Have the emergency contracting costs been paid out of the \$100 million in stimulus money appropriated for closure of the site?

No, in the Fiscal Year 2020-21 state of Florida budget, DEP received three budget amendments in the amount of \$15.45, \$15.5 and \$44.5 million, all of which were applicable to Piney Point response efforts.

### What role would a court-appointed receiver play?

While these roles and responsibilities would ultimately be defined by the court, the department's complaint requests an independent third party take custody of the site, perform day-to-day maintenance of the site to prevent spills and discharges, dispose of process water, and close the phosphogypsum stack system in accordance with department rules.

### Will HRK still own the site?

While there is an ongoing foreclosure action between HRK and their mortgage holder, this current legal action by the department does not affect HRK's ownership of the property.

## GENERAL QUESTIONS

### **What is the status of current water management activities at the site?**

HRK's water management activities are ongoing at the site. DEP is carefully monitoring current water levels at the site in conjunction with current and future weather conditions. We will ensure HRK continues to adjust water management strategies as needed.

DEP inspectors are on-site daily to oversee HRK's water management activities, as well as their required inspections for monitoring the integrity of the phosphogypsum stack system.

### **What does the wastewater in the on-site ponds consist of?**

Currently, the NGS-North and NGS-South contain a mixture of phosphogypsum process water with mixed seawater, and the NGS-South also contains settled dredged materials transferred to the facility by the Manatee County Port Authority.

### **What are the current levels in the NGS-South containment area?**

Approximately 266 million gallons are currently held within the NGS-South compartment. Pond level readings are expected to fluctuate due to a host of factors, including rainfall, water management activities and wind/associated waves in the pond.

### **Are there any emergency discharges currently?**

The prior emergency discharges ceased on April 9, 2021, and have not resumed. In response to rain events, the stormwater management system from unaffected portions of the site continues to function as designed and manages runoff when necessary.

### **Is water treatment ongoing at the site?**

Water continues to be treated at the facility and managed onsite. This will help ensure that in the event HRK should have to implement future emergency discharges, the water will be treated, minimizing potential environmental impact.

### **What is the status of the temporary repair of the NGS-South containment area?**

At the present time, the temporary repair in the NGS-South compartment continues to function as designed.

### **Is monitoring of surrounding waterways still ongoing following the emergency discharges that ceased on April 9, 2021?**

Yes. DEP's [interactive water quality dashboard](#) details sampling locations and corresponding results to evaluate any environmental impact. Results will continue to be posted as soon as they are available.

DEP is also working collaboratively with the Tampa Bay Estuary Program (TBEP) and local governments to cover more area and collect more data. For a comprehensive view of all sampling in Tampa Bay related to Piney Point, visit [TBEP's interactive water quality dashboard](#).

In addition, DEP continues working with the Florida Fish and Wildlife Conservation Commission (FWC) and the Florida Department of Health to monitor algal blooms and water quality. FWC is the lead agency on red tide and will continue to update conditions on its [website](#). For more information on red tide, please visit [ProtectingFloridaTogether.gov](#).

### **Currently, what are HRK's obligations at the site?**

HRK is expected to meet its legal responsibilities as site owner and operator, to manage the site to ensure the integrity of the stack system, and protect the health, safety and welfare of the public and the environment.

If the department's request for a court-appointed receiver is granted, the receiver will assume these responsibilities.

The department will continue its stringent regulatory oversight of the facility to ensure the closure of Piney Point.

DEP's inspectors continue to have an on-site presence. DEP has also maintained key resources that were deployed onsite in response to the emergency conditions, such as water treatment and pumping systems, to ensure there are environmental protections in place and that progress can be made at the site.

### **What is required for closure? What are the next steps?**

In the short term, HRK's efforts will focus on ensuring not only stack integrity but also proper water management to prevent flooding, overtopping of lined areas and uncontrolled discharges. With rainy season upon us, HRK must provide sufficient storage capacity in its process water management system, including the ability to safely manage water levels in the event of extreme rainfall.

As a next step, HRK is required to develop water management plans and submit them to the department for review. HRK is currently working to finalize those plans. Once finalized, the department will review the plans to ensure they meet all regulatory requirements. DEP will also maintain key resources that were deployed onsite in response to the emergency conditions, such as water treatment and pumping systems, to ensure there are environmental protections in place and that progress can be made at the site.

Should HRK not be able to fulfill its obligations, the department is prepared to take immediate action as authorized by law to abate any emergency situations and ensure the facility is properly managed and operated.

In the long term, HRK is responsible for site repairs, for eliminating water quality threats by removing the stack impoundments at the site, and for performing long-term care of the site in accordance with all state regulations. The department is committed to holding HRK accountable and ensuring this is the final chapter of Piney Point.

If the department's request for a court-appointed receiver is granted, the receiver will assume site management responsibilities.

**When will closure activities begin and how long will it take?**

While we can not speculate on an exact timeline at this time, we will have a much better projected estimate once the water management plan and closure plan are finalized.

**Is there an estimated cost for the closure of the site?**

The closure costs will depend on the methods used to remove all the water (treatment costs, well construction costs, monitoring costs, etc.) combined with the cap and fill material needed to close off the top of the stack. This is on top of any repairs that must be made following this event to ensure long-term stability. Once the water is removed from NGS-South and the engineering team has a better idea of repairs needed, we can start estimating closure costs.

**Are there any other facilities that are in the same position as Piney Point?**

No. Piney Point is the only facility that is not managed by an active phosphate company in Florida.

All other sites are accounted for and are being actively managed by the operators who have demonstrated financial assurance (62-673 F.A.C.).

There are stringent regulations in place to ensure adequate storage levels and ensure proper and safe water management at these sites (62-672.780 F.A.C.).