

FOLKs Friends of the ~~Lower~~ Keys

August 4, 2022

Via Email:

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Greetings:

The undersigned environmental and community organizations are writing on behalf of our thousands of members and supporters in the Florida Keys and throughout the state. We are concerned about the City of Marathon's application to permit expansion and continuation of shallow well sewage disposal at a wastewater treatment facility in Marathon. The FDEP South District has announced that Marathon's application is complete and that a notice of intent to issue permit is scheduled, all before receipt of the results of an EPA-funded study¹ about the impact of shallow well sewage disposal currently ongoing at the site being permitted.

¹ The EPA, the DEO, the FKNMS and FDEP have been concerned for decades about shallow sewage wells and the water quality problems at Marathon and elsewhere in the Keys. As a result, EPA funded a Pennsylvania State University study, "Quantifying the impact of shallow wastewater injection on groundwater nutrient fluxes to surface waters in the Florida Keys National Marine Sanctuary: a pilot study." FDEP wrote a letter of support to EPA for this study.

Before FDEP makes any permitting decisions, the application should address the results of that EPA-funded study, as well as data from independent scientists provided to FDEP who are concerned that large volumes of partially-treated sewage are migrating from Marathon's shallow wells to nearby surface waters.²

The EPA study was initiated in response to citizen concerns about shallow sewage wells. The study is ongoing, with dye tracer tests and a report due in October 2022. **Yet, FDEP made this permitting decision without receiving the data currently being collected from this EPA-funded study.**

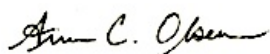
The permit applicant, Marathon, still uses 12 shallow wells for partially treated sewage disposal. Independent scientists have found that the sewage discharge through all of the four shallow wells which were studied is likely migrating to the surface water in large quantities at the edge of the coastal mangroves near the wastewater treatment plants.³ These data were submitted to FDEP and to Marathon, yet the application does not address it, nor did FDEP request a response from Marathon to those data.

The United States Supreme Court recently issued a decision which fundamentally changes decades of legal precedent concerning the use of shallow sewage wells.⁴ Yet there is no EPA guidance or FDEP guidelines for permitting shallow sewage wells under this new decision. Improper rule making is being done on a "case by case" basis."⁵

We ask your assistance in discussing with FDEP our request that it delay issuance of any proposed permit until the EPA-funded studies currently ongoing at this Marathon wastewater treatment facility are complete and EPA, DEO and FKNMS have had an opportunity for input into the appropriate guidelines to be used under this recent Supreme Court case and until rule-making occurs in accordance with the law.

Marathon's current operating permit would remain in effect. We have no desire for delay, and have no knowledge of what the EPA-funded study will show. But it does not make sense for FDEP to rely on model predictions presented by Marathon when there would be no prejudice to anyone from awaiting real data from the on-going studies and guidance and appropriate rule making concerning this very important issue.

Sincerely,



Ann Olsen

FOLKS Spokesperson and the following 29 Florida organizations

² Shallow sewage wells have been long disfavored in the porous limestone of the Florida Keys. All of the other municipal sewage dischargers, and the County's regional sewage discharger, use deep wells instead.

³ Exhibit B Coast Ecology Study (<http://coastecology.org/science/wastewater.html>)

⁴ COUNTY OF MAUI, HAWAII, PETITIONER v. HAWAII WILDLIFE FUND, ET AL., 140 S. Ct. 1462 (2020)

⁵ Email 7-22-2022 from FDEP in response to a public records request: "The Department does not have any specific criteria, form, or methodology to be used for "case by case" determinations that are subject to the Maui decision. No new rule has been promulgated as a result of the decision."

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