

# FOLKs Friends of the ~~Lower~~ Keys

August 4, 2022

**Via Email:**

The Honorable Michael S. Regan,  
Administrator, EPA  
[Regan.Michael@epa.gov](mailto:Regan.Michael@epa.gov)

Sarah Fangman, Superintendent  
Florida Keys National Marine Sanctuary  
[Sarah.Fangman@NOAA.gov](mailto:Sarah.Fangman@NOAA.gov)

Daniel Blackman, Regional Administrator,  
EPA Region 4  
[Blackman.Daniel@epa.gov](mailto:Blackman.Daniel@epa.gov)

Steven Blackburn,  
EPA Region 4  
[Blackburn.Steven@epa.gov](mailto:Blackburn.Steven@epa.gov)

Wade Lehmann, Chief,  
EPA Region IV Ocean and Estuarine Section  
[Lehmann.Wade@epa.gov](mailto:Lehmann.Wade@epa.gov)

The Honorable Ron DeSantis, Governor  
[GovernorRon.Desantis@eog.myflorida.com](mailto:GovernorRon.Desantis@eog.myflorida.com)

Barbara Leighty, Senior Policy Analyst  
Executive Office of the Governor  
[Barbara.Leighty@laspbs.state.fl.us](mailto:Barbara.Leighty@laspbs.state.fl.us)

Shawn Hamilton, Secretary, FDEP  
[Shawn.Hamilton@floridadep.gov](mailto:Shawn.Hamilton@floridadep.gov)

Jon Iglehart, Director, FDEP South District  
[Jon.Iglehart@dep.state.fl.us](mailto:Jon.Iglehart@dep.state.fl.us)

Dane Eagle, Secretary, DEO  
[Keantha.Moore@deo.myflorida.com](mailto:Keantha.Moore@deo.myflorida.com)

Barbara Powell, Regional Program  
Administrator, DEO Areas of Critical State  
Concern Program  
[Barbara.Powell@deo.myflorida.com](mailto:Barbara.Powell@deo.myflorida.com)

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 study<sup>1</sup> about the impact of shallow well sewage disposal currently ongoing at the site being permitted.

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<sup>1</sup> 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.<sup>3</sup>**

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.**

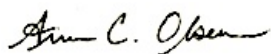
The permit applicant, Marathon, still uses 12 shallow wells for partially treated sewage disposal. Independent scientists have found that the sewage discharge through all of the four shallow wells which were studied is likely migrating to the surface water in large quantities at the edge of the coastal mangroves near the wastewater treatment plants.<sup>4</sup> 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.<sup>5</sup> 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."<sup>6</sup>

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

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<sup>3</sup> 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.

<sup>4</sup> Exhibit B Coast Ecology Study (<http://coastecology.org/science/wastewater.html>)

<sup>5</sup> COUNTY OF MAUI, HAWAII, PETITIONER v. HAWAII WILDLIFE FUND, ET AL., 140 S. Ct. 1462 (2020)

<sup>6</sup> 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."

CC: Marathon Mayor and City Council Members  
George Garrett, Marathon City Manager  
Steve Williams, Marathon City Attorney  
Nolin Moon, Environmental Supervisor South District FDEP  
Geoffrey Mansfield, FDEP  
Rebecca Jetton  
Karen Bohnsack, FKNMS

Representing all 15 Waterkeeper  
organizations of Florida:



  
Jen Lomberg, Esq. | Matanzas Riverkeeper  
Chair of Waterkeepers Florida  
[Jen@MatanzasRiverkeeper.org](mailto:Jen@MatanzasRiverkeeper.org)  
(904) 478-9878



Last Stand  
[info@keyslaststand.org](mailto:info@keyslaststand.org)



Reef Relief  
[reefrelief@gmail.com](mailto:reefrelief@gmail.com)



Surfrider Foundation – Florida Keys Chapter  
[info@surfrider.org](mailto:info@surfrider.org)



Isaak Walton League of America, FL Keys Chapter  
[floridakeysiwla@gmail.com](mailto:floridakeysiwla@gmail.com)



Florida Keys Fishing Guides Association Inc.  
[fkfgacommodore@gmail.com](mailto:fkfgacommodore@gmail.com)



Lower Keys Guides Association  
[board@lkga.org](mailto:board@lkga.org)



Save-A-Turtle of the Florida Keys  
[President@save-a-turtle.org](mailto:President@save-a-turtle.org)



Key West Committee for Safer Cleaner Ships  
[info@safercleanerships.com](mailto:info@safercleanerships.com)



Key Deer Protection Alliance  
[KeydeerProtectionAlliance@gmail.com](mailto:KeydeerProtectionAlliance@gmail.com)



Sugarloaf Shores Property Owners Association, Inc. (SSPOA)  
[mysspoa@sugarloafer.org](mailto:mysspoa@sugarloafer.org)



STOCK ISLAND ASSOCIATION

Stock Island Association  
[sia@iwffa.com](mailto:sia@iwffa.com)



Cudjoe Gardens Property Owners Association  
 President: Kathy Niemann  
[Kathy-winters@utc.edu](mailto:Kathy-winters@utc.edu)

**Florida Keys Environmental Fund, Inc.**  
[fkef@mindspring.com](mailto:fkef@mindspring.com)

**North Cow Key Boater Association**  
[chelininger@msn.com](mailto:chelininger@msn.com)