

## **FOLKs' Clean Water Act Lawsuit Settled**

### **Marathon to Stop Shallow Sewage Wells**

FOLKs - Friends of the Lower Keys and the city of Marathon have settled the Clean Water Act lawsuit FOLKs filed against Marathon in January 2022. FOLKs alleges that Marathon has been violating the federal Clean Water Act since 2009 through its use of shallow sewage wells to dispose of partially treated sewage effluent.

“FOLKs is an all-volunteer group of local citizens concerned about water quality,” said Ann Olsen, spokesperson for FOLKs. “We helped get a deep well at Cudjoe Regional, and we are happy to have this settlement with Marathon to stop its use of shallow sewage wells. Our efforts to encourage Marathon to stop using the shallow sewage wells include agreeing to forego the civil penalties provided for under the Clean Water Act, which could amount to over a million dollars.”

“We didn’t sue Marathon lightly,” Olsen added. “It’s been a lot of work and we first tried hard to get Marathon to voluntarily agree. This CWA lawsuit was necessary to effect positive change for the Keys and our waters. We respect Marathon City Council for ultimately agreeing and settling this case.”

Under the settlement terms, Marathon will cease using shallow sewage wells and will undertake a study to determine whether to re-use its sewage effluent or whether to drill a deep well.

“Since they started operation, Marathon’s five sewage treatment plants have disposed over **3 billion** gallons of partially treated sewage effluent down these shallow sewage wells. Tests and scientific studies show that the buoyant sewage effluent migrates quickly to the nearby Marathon surface waters,” stated Don DeMaria from FOLKs.

Recently, the Florida Department of Environmental Protection issued a report indicating that Marathon’s close to shore waters remain impaired for nutrients, as they have been since 1999. The December 2022 report also noted that nearshore waters at Marathon and Duck Key were additionally impaired for low dissolved oxygen levels. Low dissolved oxygen levels are important indicators of water quality problems. None of the other major wastewater disposers in the Florida Keys –

Cudjoe Regional, Key Largo, Islamorada, and Key West – has this additional impairment. “They use deep wells, not shallow sewage wells,” noted DeMaria.

Well-recognized marine biologist Dr. Brian Lapointe took water samples and photographs at two locations in the shallow waters of Marathon in the Florida Keys National Marine Sanctuary, one on the Bay side and one on the Atlantic side. In the shallow waters on the Atlantic side, he found “extraordinarily high levels of sucralose, an indicator of the presence of sewage effluent in the marine waters. The concentrations of sucralose on the Atlantic side were higher than any I have ever taken, including those in the highly polluted Indian River Lagoon,” added Lapointe.

There were “...heavy harmful epiphytic algal overgrowths of the benthic communities by pollution indicator species such as the green seaweed *Chaetomorpha* (Fig. C).”



*Courtesy of CoastEcology.org*

“There is a serious concern that partially treated wastewater from shallow injection wells at a nearby wastewater treatment facility are likely the source of these unusually high concentrations of sucralose,” Lapointe continued.

He noted that a Bay-side wastewater plume also contained high levels of sucralose, indicating wastewater effluent from the nearby sewage plant as its probable source.

Repeated water samples collected by FOLKS between 2019 and 2022 also located the two wastewater plumes with high levels of sucralose very close to shore in Marathon, showing this has been a long term water quality problem.