

RCRA Citizen Suit Action/ Phosphogypsum Stack Contaminants: Center for Biological Diversity Notice to Manatee County, Florida

10/06/2021

The Center for Biological Diversity along with the Tampa Waterkeeper/Suncoast Waterkeeper, and Our Children's Earth Foundation (collectively "CBD") sent a September 28th Resource Conservation and Recovery Act ("RCRA") Notice of Intent to Sue ("Notice") to Manatee County, Florida, ("Manatee") related to what they describe as a proposal to inject solid and hazardous waste from the Piney Point phosphate facility ("Facility").

The Notice references a permit obtained by Manatee from the Florida Department of Environmental Protection ("DEP") for the construction and operation of a Class I injection well for the disposal of wastewater impounded at the Piney Point Facility.

The Notice states that a citizen suit action will be filed pursuant to RCRA within 90 days after Notice alleging an imminent and substantial endangerment to human health and the environment by the injection of solid and hazardous waste originating from the Facility.

The Notice also alleges that Manatee has engaged in unlawful open dumping under RCRA.

The Piney Point Facility is described as a phosphate fertilizer plant that was owned and operated by multiple different corporations from 1966 until operations ceased in 1999. Phosphogypsum is stated to have been generated at the Facility which was eventually formed into stacks.

CBD states that the waste disposed in the phosphogypsum stacks was not Bevill-exempt material. Instead, the waste is described in the Notice as hazardous waste from the monoammonium and/or diammonium phosphate production process. It is also alleged that the waste stored at Piney Point satisfies all regulatory requirements for characterization as hazardous waste.

Manatee is stated to have applied for a permit from DEP for the construction and operation of a Class I industrial injection well for the disposal of wastewater presently impounded at the Piney Point Facility. The Class I industrial injection well is stated to be installed into the Lower Floridian aquifer with casing to approximately 1,950 feet below land surface and an open hole to approximately 3,300 feet bls.

CBD states that the Manatee permit application does not include any water treatment provisions. Instead, it criticizes the proposed use of a pretreatment facility.

CBD alleges:

- Manatee County Will Be Liable for Contributing to an Imminent and Substantial Endangerment to Health and the Environment if it Completes the Underground Injection Well and Disposes Solid and Hazardous Waste into the Floridian Aquifer
- Manatee County Will Be Liable for Violating RCRA's "Open Dumping" Prohibition if it Completes the Underground Injection Well and Disposes Solid and Hazardous Waste into the Floridian Aquifer

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