

Review of Petroleum Restoration Program Discharges With Limited or Delayed Activity

Division of Waste Management

Report: A-1819DEP-026

Office of Inspector General

Internal Audit Section

Florida Department of Environmental Protection

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Review of Petroleum Restoration Program
Discharges with Limited or Delayed Activity
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The Department of Environmental Protection (Department) Office of Inspector General (OIG) conducted a review of active eligible state-funded petroleum cleanup discharges with limited activity under the Division's Petroleum Restoration Program (PRP). This review was conducted as a result of the Fiscal Year (FY) 2018-2019 Annual Audit Plan.

Scope and Objectives

The scope of this review included activities related to facilities with discharges listed as active per the January 2019 PRP Monthly Dashboard Update, as well as current PRP processes and fiscal activities. The objective was to evaluate the status and cause of active discharges with limited or delayed progress towards remediation.

Methodology

This review was conducted in conformance with the *International Standards for the Professional Practice of Internal Auditing*, published by the Institute of Internal Auditors, and under the authority of Section 20.055, Florida Statutes (F.S.). Information for this review was obtained from the Storage Tanks & Compliance Monitoring (STCM) database, OCULUS¹ records, PRP management, and Site Manager.

Background

PRP provides technical oversight, management, and administrative activities necessary to prioritize, assess and clean sites contaminated by discharges of petroleum and petroleum products from stationary petroleum storage systems. These discharges include those determined eligible for state-funded cleanup as well as Eligible – State Funding CAP Exhausted (ESFCE) sites funded by responsible parties. PRP publishes a Monthly Dashboard Update report which

¹ OCULUS is the Department document management system.

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provides the current status of cleanup activities for discharges² determined to be eligible for state-funded cleanup. The report provides the number of discharges for which cleanup has been completed, the number being actively managed, and the number awaiting cleanup.

The number of active discharges listed in this report is included in the Department’s annual Legislative Budget Request Exhibit D-3A. The number of active discharges is also reported on Schedule XI Agency-Level Unit Cost Summary of the Long-Range Performance Plan. It is listed under Activities and Measures as *Manage Government-funded Cleanups of Petroleum Contaminated Sites * Number of known contaminated sites being cleaned up*. The Department has received Fixed Capital Outlay (FCO) funding for petroleum cleanup as follows.

Year	Funding	Purchase Orders issued as of June 30 ³	Active Discharges Per the PRP Monthly Dashboard Update	
FY 2018-2019	\$110,000,000	\$113,284,666	January 2018	6,663
FY 2019-2020	\$110,000,000	\$125,340,880	January 2019	6,098
FY 2020-2021	\$125,000,000	-	January 2020	6,230

According to the January 2019 PRP Monthly Dashboard Update, PRP had completed cleanup of 10,633 discharges, 6,098 discharges were being actively managed, and 2,635 discharges were awaiting cleanup. Discharges are assigned a priority funding score consistent with criteria set forth in Chapter 62-771, Florida Administrative Code (F.A.C.) The current priority score funding threshold is for discharges with a priority score of 11 or greater. As of May 8, 2017, discharges with a funding score of 27 or greater were eligible for state-funded cleanup. Of the 6,098 discharges being actively managed in January 2019, 3,483 were assigned priority funding scores of 27 or greater.

² The term discharge represents the original discharge of petroleum or petroleum products from stationary petroleum storage systems reported for a facility. Facilities may have multiple reported discharges. PRP manages discharges by facility.

³ The amount of purchase orders issued as listed in the June PRP Monthly Dashboard Update. FCO funding not used within the year is carried over to the subsequent year.

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According to the PRP contact list updated as of July 2020, the number of Department and contracted staff funded for PRP activities were as follows:

PRP Staffing	Number
Department Staff	51
Private Contracted Team and Administrative Staff (three contracts)	105
Local Government Program Staff (12 contracts)	168
Total Staff	324

Results and Conclusions

We reviewed OCULUS records for the 3,483 discharges eligible for state-funded cleanup and listed as being actively managed as of January 2019 with priority funding scores of 27 or greater. A review of OCULUS files for these discharges resulted in an initial review sample of 164 discharges with limited or delayed progress. During the course of our review, through Site Manager inquiry and follow-up, OCULUS records were being updated to demonstrate remediation progress was being made on 126 of these discharges. Of the remaining 38, causes for limited progress were attributed to common circumstances as follows:

Circumstances Attributed to Delayed Progress	Number of Discharges
Discharge Eligibility Funding Limits	15
Cost Share and Petroleum Cleanup Participation Program (PCPP) Agreement Oversight	9
Performance Based Cleanup (PBC) Work Orders	1
Florida Department of Transportation (FDOT) Related Discharges	6
Discharge Site Assignment	3
Overall Lack of Consistent Management Oversight	4
Total	38

Based on our review, the causes of these delays were due in part, to a lack of consistent adherence to PRP Standard Operating Procedures (SOP), applicable statutes, and rules. PRP management uses a Focus List to track discharges with limited activity. Based on discussions with PRP staff, the list is compiled quarterly and includes facilities that have an assigned Site Manager but have not had a purchase order within the last six months. Discharge status updates

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are requested from Site Managers. We reviewed the Focus Lists for June 2020. Of the 38 discharges included in our sample, 32 were included on this list. However, information regarding progress for these discharges and documented follow-up was minimal. The specific circumstances regarding delays in progress and related appendices are detailed in the Findings and Recommendations included in the remainder of this report.

Findings and Recommendations

Finding 1: Discharges with Delayed Remediation Progress due to Funding Limits

Eligible discharges in Petroleum Liability Restoration Insurance Program (PLRIP) and PCPP are both subject to statutory limitations on the amount of cleanup funding available in accordance with Sections 376.3071(13)(b), and 376.3072(2)(d)(2), F.S. According to the PRP SOP Chapter 3, the limit of state funds that can be used on eligible discharges (CAP) is applicable to each discharge, rather than each facility. If funding towards a facility's discharge cleanup has been expended or if the eligible discharge is at or near the funding limit, the responsible party or property owner is responsible for funding the remaining cleanup cost. Per PRP SOP Chapter 3, Site Managers are required to *monitor site expenditures and notify their Section Leader and the property owner/responsible party when a site has completed the site assessment phase or reached 80 percent of the CAP amount, whichever comes first*. In addition, PRP SOP Chapter 3 states, *in the event the remaining available funding is not sufficient to create a meaningful and logical scope of work for the final task assignment or purchase order for the property, and the property owner or responsible party is willing to expand the scope of work at their own expense, the Funding CAP Transition Agreement should be used and applied to the final Task Assignment or purchase order only*. Additionally, the PRP SOP Chapter 3 outlines

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procedures for transitioning ESFCE discharges from being managed by PRP with state funding to clean up funded by the owner/responsible party in guidance document, *Procedures for Management of Eligible Sites with IPTF [Inland Protection Trust Fund] Funding CAPs and Transition to Non-Program Voluntary or Enforcement Status*.

Of the 38 discharges included in this review, 15 (40%) reflected delayed progress toward cleanup due to the facility's discharge either nearing or exceeding the statutory funding limit. Specific circumstances regarding those discharges are included in Appendix A. Of the 15, OCLUS records for 10 discharges reflected that the property owner/responsible party had been notified of the funding limit consistent with direction under SOP Chapter 3. Aside from funding notification, of the total 15 discharges, funding transition agreements had been executed with the property owner/responsible party for two, and two others had been referred to the District for enforcement.

In two other cases, once the funding CAP was reached, the discharges were subsequently managed as part of a group of facilities considered to be a "cluster" due to comingled contamination. Cleanup work for these two discharges continued to be funded under a separate adjacent facility's eligibility for which there is no funding CAP. PRP management confirmed that discharges may be made part of a cluster due to the proximity of the discharge locations. Procedures for clustering discharges were included in a previous PRP SOP. However, the current SOP does not address management of clustered discharges.

Based on OCLUS records for the remaining nine discharges, cleanup activities had ceased once the discharge neared or reached its funding CAP. However, regardless of whether discharges had become ESFCE, were referred, or ceased management oversight activities due to

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funding CAP circumstances, the 15 facilities continue to be represented in a number of discharges being actively managed in the PRP Monthly Dashboard Update report. Based on our inquiry, PRP management indicated there was no process in place to remove ESFCE sites from the list once the discharge reaches its funding CAP.

Recommendation

We recommend the Division work with PRP to address the management of ESFCE discharges which are nearing or have exceeded funding CAPs. These discharges should be actively managed consistent with PRP SOP Chapter 3 and PRP guidance documents. For circumstances where PRP continues to manage ESFCE discharges as a coordinated cluster, PRP should ensure that the SOP reflects this process.

We also recommend the Division work with PRP to address the inclusion of ESFCE discharges in the PRP Monthly Dashboard Update report. Once state funding limits are reached, these discharges should not be included in the number of discharges reported as being actively managed, as the on-going inclusion of these inactive discharges contributes to inflated reporting.

Finding 2: Discharges with Delayed Remediation Progress due to PCPP Agreements

According to Section 376.3071(13)(d) F.S., to participate in the PCPP program, applicants must submit a Limited Contamination Assessment Report (LCAR) at the owner's expense and must agree to contribute 25 percent of the cleanup costs. If the property owner or responsible party is unable to contribute to the cost for cleanup, an Ability To Pay (ATP) analysis may be submitted, which can reduce or eliminate the LCAR and cost share requirement.

According to the PRP SOP Chapter 2, PCPP agreements must be executed by the Department and the property owner/responsible party on PCPP eligible discharges before

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beginning work other than for Low Score Site Initiative (LSSI) or Low Score Assessment (LSA). Pursuant to Section 376.3071(13)(d) F.S., *in the event the department and the owner, operator, or person otherwise responsible for site rehabilitation cannot complete negotiation of the cost-sharing agreement within 120 days after beginning negotiations, the department shall terminate negotiations and the site shall be ineligible for state funding under this subsection.*

According to paragraph 10 of the most recent PCPP Agreement, *Participant further agrees that it shall be subject to the prompt payment provisions of Section 215.422, F.S., upon receipt of an invoice for its share of costs from the Contractor, when such invoice is accompanied by a written approval by the Department of the work completed. Within 21 days of payment to the Contractor, the Participant shall provide to the Department proof of such payment, which shall include a copy of the Participant's paid and canceled check to the Contractor.* In addition, paragraph 11 of the standard PCPP agreement states, *participant has a copayment obligation to pay 25% of the cost of site rehabilitation. The Participant shall provide to the Department proof of payment of its copayment obligation to the Contractor. Failure to timely and adequately pay the [Contractor] and provide proof of that payment to the Department within 21 days shall be considered a material breach of the PCPP Agreement.*

Of the 38 discharges included in our sample, nine (24%) reflected delayed progress toward cleanup due to circumstances related to funding eligibility under PCPP. Specific circumstances regarding these discharges are included in Appendix B. Of the nine, OCULUS records for two discharges reflected that PRP had an executed PCPP agreement consistent with Section 376.3071(13)(d) F.S. However, progress was delayed on these two discharges due to a lack of payment confirmation. For one of these, STCM records reflect that PRP had collected a

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portion of the cost share amount from the former property owner or responsible party. The other discharge has been eligible for a Site Rehabilitation Completion Order pending payment confirmation. In both of these cases, a significant portion of the cleanup activities had been funded without confirmation of cost share prior to ceasing progress.

Of the nine, OCULUS records or correspondence with Site Managers for five discharges demonstrated that the property owner or responsible party had either indicated no interest in contributing to the cost for cleanup or had not responded to repetitive notices from PRP seeking to execute a PCPP agreement. OCULUS records for two discharges lacked documentation of progress after initial assessment reports had been received, with the exception of Site Access Agreements and annual Site Manager inspections. Based on our review of these discharges, PRP had not terminated the discharges' eligibility consistent with Section 376.3071(13)(d) F.S. and had not managed the discharges consistent with the PRP SOP Chapter 2. As a result, discharges which should be considered ineligible for funding continue to be included in the number of discharges reported as being actively managed in the PRP Monthly Dashboard Update reports.

Recommendation

We recommend the Division work with PRP to address management of discharges with delayed progress due to PCPP agreement circumstances. PRP should ensure that Site Managers document efforts to execute cost-share agreements for applicable discharges. If PRP and the owner/responsible party cannot complete negotiation of the cost-sharing agreement within 120 days after beginning negotiations, PRP should terminate negotiations and document that the discharge is no longer eligible for state funding consistent with Section 376.3071(13)(d), F.S.

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Further, we recommend PRP work with Site Managers to obtain documented proof of payment of its copayment obligation to the contractor prior to continued funding. If the owner/responsible party does not provide proof of that payment within 21 days, PRP should document the material breach of the PCPP Agreement and take necessary steps toward rescinding eligibility for state funding consistent with the terms of the agreement.

We also recommend the Division work with PRP to address the inclusion of these discharges in the PRP Monthly Dashboard Update report. Since these circumstances have resulted in delayed progress, once a determination can be made that a discharge is no longer eligible for funding, it should not be included in the number of discharges reported as being actively managed.

Finding 3: Discharge with Delayed Remediation Progress due to PBC Work Orders

In accordance with PRP guidance documents, PBC is a Pay For Performance work order subject to specific terms and conditions, as referenced in the Amended and Restated Agency Term Contract paragraph 5B. The focus of PBC work orders is on the completion of milestones towards an aggressive, efficient and successful cleanup of petroleum-contaminated sites. Payments are based on the measured progress toward reaching cleanup goals and require the successful completion of tasks or milestones. PBC work order terms and conditions have changed over time. However, most work orders specify that the work order may be terminated for failure to perform. Financial consequences regarding future work assignments vary by work order and are at the discretion of the Department.

Of the 38 discharges included in our sample, one (3%) reflected delayed progress toward cleanup due to circumstances related to a PBC work order (Facility ID 8736295; Priority funding

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score: 65). Per OCULUS records, the original work order was issued with a funding ceiling amount of \$292,000 in 2004. The final deliverable was originally due in October 2007. Since this time, several extensions had been granted for the final two milestones which included *Maintain Target Levels* and *Site Rehabilitation Completion Order*. The most recent extension included a final milestone extension date of March 31, 2018. According to STCM records, PRP has paid the contractor \$252,708.43 to date under the work order. Based on our inquiry, the Site Manager indicated that the work order had expired, and the contractor had missed the milestones.

According to Paragraph 31 of the original Work Order, *The Contractor acknowledges that, as set forth in Section 376.30711(5)(e), F.S., the Department must terminate the Contractor's eligibility for future contracts under the preapproval program if the Department determines that the Contractor has failed to perform its duties for site rehabilitation tasks set forth in this agreement.*

OCULUS records reflect that no further work had been done and no follow-up actions had been taken for this discharge since the time extension was granted in June 2017, except for the Site Manager's annual Site Inspections. The Site Inspection reports document that neither the owner nor the contractor was on site and no conditions had changed. PRP has continued to issue work orders related to other discharges to the contractor. Since the majority of work order funding was paid to the contractor without achieving the final milestones, and PRP continued to assign the contractor work on other discharges, the incentive to achieve a Site Rehabilitation Completion Order on the discharge was minimalized.

Recommendation

We recommend the Division work with PRP to address the status and necessary steps forward regarding the noted PBC Work Order agreement. PRP should work with the Site

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Manager to ensure that the discharge is actively managed to closure. Going forward, we also recommend PRP decisions regarding future contractor work assignments are consistent with financial consequences outlined in original PBC agreements.

Finding 4: Delayed Remediation Progress due to FDOT Related Discharges

The Department and FDOT signed a “Memorandum of Understanding (MOU) Regarding Placement of Environmental Infrastructure by the Florida Department of Environmental Protection in the Florida Department of Transportation’s Right of Way” (ROW MOU) on June 16, 2014. PRP’s Site Manager Closure Guide SOP, states that the MOU *provides a process to establish an alternative institutional control to allow low levels of contamination to remain in the FDOT right-of-way (ROW) or under FDOT roads if the Department determines that the discharge meets Chapter 62-780, F.A.C and FDOT includes a ROW map note identifying the area of contamination.* PRP’s Institutional Controls Procedures Guidance (ICPG) document provides guidance for the procedures used to conditionally close contaminated sites.

Of the 38 discharges included in our sample, six (16%) belonged to FDOT. Specific circumstances regarding these discharges are included in Appendix C. While some delays appeared in the past to have been due to active construction, the majority of delays appear to demonstrate a lack of active management and documentation of appropriate steps as outlined in the MOU. Based on discussions with Site Managers, two of these discharges were likely candidates for closures specified in the MOU. However, actions necessary for closure or alternate institutional controls outlined under the MOU and ICPG were not documented for these discharges per OCULUS records.

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Recommendation

We recommend the Division work with PRP to actively manage FDOT related discharges to closure. It is understood that the causes of many delays are due to factors external to the Department. However, where possible, PRP should address original discharges that have subsequently been acquired by FDOT to determine whether the discharge meets criteria necessary for alternative institutional controls consistent with the MOU. This determination should be documented in OCULUS in order to maintain and document proactive management towards completion of the Department's responsibility for cleanup.

Finding 5: Delayed Remediation Progress due to Discharge Site Assignment

According to PRP SOP Chapter 6, sites are usually assigned to Site Managers after receipt and acceptance of a valid Site Access Agreement (SAA) from the real property owner or responsible party. In some cases, an assignment is made in anticipation of an executed SAA because of the Site Manager's previous or current involvement with a site or other extenuating circumstances. Site assignment is tracked in Storage Tank and Contamination Monitoring Database (STCM). It also states that it is important that site assignment information be kept current because it is used for management decisions, queries, and reports.

PRP SOP Chapter 6 further states that all site transfers must be handled by and between the Team Leader/ Site Assignment Coordinators and Team Managers. This requirement is necessary to ensure that Site Assignment Coordinators are kept informed of their Team's assignments and that the tracking systems (both STCM and section tracking) are properly updated to reflect the change. Of the 38 discharges included in our sample, three (8%) reflected delayed progress toward cleanup due to circumstances related to site assignment errors. Specific

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circumstances regarding these discharges are included in Appendix D. Of the three, site management responsibilities for two discharges had been assigned to Department staff in District offices. According to the PRP Site Manager Guide, *Site Managers work within a Team (or local program) that is supervised by a Team Leader (or Environmental Administrator), who reports to the [PRP] Program Administrator.* This does not include District staff. As a result, no remediation progress had been made. The other discharge had been assigned to a Site Manager who was unaware of their assignment at the time of our inquiry.

Recommendation

We recommend the Division work with PRP to address the assignment of discharges noted in Appendix D to ensure the discharges are actively managed and continued progress is documented. Going forward, we recommend PRP ensure discharge sites are not assigned to District staff. PRP should work with program sections to acknowledge and document the understood responsibility for discharge site assignments.

Finding 6: Delayed Remediation Progress due to Overall Lack of Active Management

Of the 38 discharges included in our sample, four (10%) reflected delayed progress toward cleanup due to circumstances related to inconsistent application of program procedures as well as a lack of consistent, active management and oversight. Specific circumstances related to these discharges are outlined in Appendix E. Of the four, one discharge had ceased activity because the owner/responsible party would not allow access to the property. This communication was not established in writing and no steps had been taken to rescind eligibility for state funded cleanup. Two of the discharges were awaiting documents or responses from either the

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owner/responsible party or contractor. Based on OCULUS records, there were minimal documented follow up attempts.

One of the discharges was identified as a difficult site by the Site Manager and had been referred to the PRP Difficult Site Review Committee for resolution. This Committee is comprised of PRP staff that addresses discharges with problematic circumstances which have hindered cleanup progress. However, according to the Difficult Site Review Committee staff, there was no documentation of the referral.

During our review, it was noted that PRP management uses a quarterly Focus List to track discharges with limited activity. Discharge status updates are requested from Site Managers. We reviewed the Focus Lists for June 2020 which contained 786 discharges for which a purchase order had not been issued in the past six months. Of the 38 discharges included in our review sample, 32 were included on this list. However, information regarding progress for these discharges and documented follow-up was minimal.

Recommendation

We recommend the Division work with PRP to address the discharges in Appendix E to ensure appropriate courses of action are taken consistent with authoritative requirements and PRP guidance. We also recommend PRP put additional processes in place to actively follow up on Site Manager status input in order to improve the use of the Focus List as an effective management tool.

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To promote accountability, integrity, and efficiency in state government, the OIG completes audits and reviews of agency programs, activities, and functions. Our review was conducted under the authority of Section 20.055, F.S., and in conformance with the International Standards for the Professional Practice of Internal Auditing, published by the Institute of Internal Auditors, and Principles and Standards for Offices of Inspector General, published by the Association of Inspectors General. The review was conducted by Linda Powell, Courtney Allen and Sarah Beal and was supervised by Valerie J. Peacock.

Please address inquiries regarding this report to the OIG's Audit Director by telephone at (850) 245-3151. Copies of final reports may be viewed and downloaded via the internet at <https://floridadep.gov/oig/internal-audit/content/final-audit-reports>. Copies may also be obtained by telephone (850) 245-3151, by fax (850)245-2994, in person or by mail at Department of Environmental Protection, Office of Inspector General, 3900 Commonwealth Boulevard, Mail Station #41, Tallahassee, FL 32399.

*Valerie J. Peacock,
Director of Auditing*

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Inspector General*

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Appendix A: Discharges with Delayed Progress Due to Funding CAP Limits

Facility ID	Score	Eligible Program	Last Activity/Date	Program CAP	Payments to Date	Owner Notified of CAP	Review Comments
8510658	76	PLIRP	Natural Attenuation Monitoring Study (10/14/2015)	\$1,200,000.00	\$1,258,898.39	No	Since funding CAP exceeded, work on this discharge is being funded under purchase orders for adjacent discharge (ID 8510706). The two discharges are being managed as a cluster due to comingled plumes.
8510272	61	PLRIP	Transition Agreement (8/18/2015)	\$1,200,000.00	\$1,214,440.74	Yes	FDOT is now responsible for remediation activities. However, this discharge remains on PRP Monthly Dashboard Update report as a discharge being actively managed.
8944321	61	PLRIP	Operations and Maintenance Inspection (9/13/2013)	\$1,200,000.00	\$1,360,038.68	No	Since funding CAP exceeded, work on this discharge is being funded under purchase orders for adjacent discharge (ID 8519610). The two discharges are being managed as a cluster due to comingled plumes.
9502759	55	PCPP	Operations and Maintenance Report (12/6/2012)	\$400,000.00	\$423,130.32	No	Equipment was removed from the discharge site on 2/4/15. Site Manager indicated that additional funding was being pursued.
8500718	56	PLRIP	Remedial Action Interim Report (7/6/2017)	\$400,000.00	\$264,596.10	Yes	Site Manager notified the property owner that the discharge was nearing funding limit on 02/28/2018. However, there has been no documented follow up activity in OCULUS to support continued remediation activity.
8502960	55	Settlement Agreement	Supplemental Site Assessment (8/23/2017)	\$250,000.00	\$135,067.64	No	Contractor recommended remaining state funds be used to conduct remedial activities. Site Manager indicated remaining work would exceed the funding CAP. No further work or contact with the property owner regarding the funding CAP and transition agreements documented in OCULUS.
8508127	30	PLRIP	Supplemental Site Assessment (8/3/2017)	\$800,000.00	\$795,710.36	Yes	Notification of Imminent State Funding Limit letter sent to property owner 4/10/2018 with a response due within 45 days. Per OCULUS records, a response was not received. Site Manager indicated the site is parked until ATP is submitted.
8509972	60	PLRIP	Supplemental Site Assessment (8/29/2017)	\$300,000.00	\$299,566.65	Yes	Notification of Imminent State Funding Limit letter sent to property owner 7/31/2019, advising they had 45 days to respond with their intention to proceed with cleanup on a voluntary basis or interest in utilizing a transition agreement. Site Manager advised that no response was received.

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8510479	80	PLRIP	Remedial Action Report (3/25/2014)	\$300,000.00	\$295,331.13	Yes	A funding CAP transition agreement was executed 8/26/2013. However, the discharge has remained on the monthly PRP Dashboard Update report as being actively managed. There has been no follow up activity documented in OCULUS to support the continuation of remediation activities.
8626856	61	PLIP	Post Active Remediation Monitoring (11/07/2013)	\$300,000.00	\$293,087.75	Yes	Continued work canceled 8/1/2017. Property owner would not authorize additional work due to funding CAP. No documented activity in OCULUS to support that a transition agreement was executed, remediation activity was being continued by the property owner, or the facility was referred to the District for enforcement.
8629873	46	PLRIP	Remedial Action Interim Report (5/3/2013)	\$411,500.00	\$410,974.13	Yes	The property owner was provided notice of funding limit on 2/20/2013 with a 45-day requested response. Discharge was referred on 6/26/13 to the Northwest District for enforcement but remains on the PRP Monthly Dashboard Update as a discharge being actively managed.
8732022	60	PLRIP	Addendum Sampling Report (4/18/2013)	\$300,000.00	\$259,014.50	Yes	PRP sent the prior owner notice regarding the impending funding CAP. However, there is no documentation in OCULUS to reflect the current owner received notice or that a transition agreement was executed. The last PRP correspondence dated 3/2014 indicated that the location of the discharge was in Volusia County which is a sole source aquifer and close to Blue Springs. Orange City expressed concerns regarding the depth of contamination from the discharge.
8943789	81	PLRIP	Source Removal Report (4/29/2010)	\$300,000.00	\$296,613.64	Yes	Discharge is considered a difficult site by the Site Manager as there are funding disputes with the owner. A District referral was sent on 8/28/13. PRP requested Supplemental Site Assessment to be performed by 12/15/2017. However, there was no documentation in OCULUS of continued remediation activity by the property owner or resolution of disputes.
9401106	56	PCPP	Monitoring Plans and Report (2/15/2017)	\$400,000.00	\$400,000.00	Yes	Site Manager notified the property owner that funding had been exhausted on 11/6/2017. Correspondence sent in October 2019 regarding a Post Active Remediation Monitoring Report. A Site Status Report was due by 3/16/20 but has not been submitted.
9801205	60	PCPP/ Settlement Agreement	Remedial Action Plan (11/7/2017)	\$900,000.00	\$875,625.98	No	Equipment was removed from discharge site on 8/20/18. Site Manager indicated that there had been no progress towards execution of a transition agreement.

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Appendix B: Discharges with Delayed Progress Related to PCPP

Facility ID	Score	Last Activity/ Date	Funding CAP	Payments to Date	Review Comment
8519540	52	Natural Attenuation Monitoring (10/21/2013)	\$400,000.00	\$267,790.30	PCPP agreement executed with the former property owner 3/23/2005. Per ATP analysis, property owner was not required to contribute to the cost of cleanup. Updated ATP analysis form sent to the current owner on 7/19/2017. No further progress or follow up activity documented in OCULUS.
8629336	30	Template Site Assessment (9/26/2016)	\$400,000.00	\$131,375.55	Site Manager indicated a PCPP agreement was needed. No other follow-up efforts have been documented in OCULUS.
8735162	29	Site Assessment (8/26/2015)	\$400,000.00	\$17,637.16	Site Access agreement executed 7/12/2017. Since this time, correspondence in OCULUS supports notice of funding eligibility requests for ATP financial information. Property owner indicated they were unable to contribute to cleanup cost. Since the PCPP agreement was never executed, PRP sent the property owner a letter was sent on 12/26/19 advising that if an agreement is not negotiated within 120 days, eligibility would be revoked. However, no further actions have been taken.
8735568	55	Post Active Remediation Monitoring (8/18/2014)	\$400,000.00	\$189,695.32	PCPP agreement executed 8/2/2007. A request for confirmation of cost share payment was sent to the property owner on 2/6/15 and 5/20/20, with no response. Site Manager indicated that the Contractor has no record of payment. Since the property owner has requested to only be contacted through mail, there has been little correspondence.
9100180	29	Site Characterization Screening (1/08/2014)	\$400,000.00	\$6,601.65	Site Access agreement executed 9/20/2016. There has been no follow up activity other than annual site inspections documented in OCULUS. No PCPP agreement has been executed.
9200755	41	Site Characterization Screening (3/5/2013)	\$400,000.00	\$58,880.65	Site Manager indicated a PCPP agreement was needed. Prior PCPP agreement executed 8/5/2004 documented that the property owner was unable to pay. Based on documented correspondence, the current property owner does not want to contribute to cleanup costs. No further progress or follow up has been documented in OCULUS.
9800673	30	Site Assessment (1/20/2016)	\$400,000.00	\$11,667.80	PRP sent PCPP agreement notice to the property owner on 6/26/18, 11/29/2018, 6/4/2019, and 1/23/20. Notices indicated that failure to respond within the 120-day eligibility period would result in the property owner's eligibility being revoked. Per correspondence from PRP to the Property Owner on 3/10/20, the process of revoking eligibility has begun, however, there is no documentation of this revocation documented in OCULUS.
9806454	57	Well Abandonment (5/27/2015)	\$400,000.00	\$116,221.65	This facility has been eligible for closure since June 2015. However, PRP notified the property owner a Site Rehabilitation Completion Order would not be issued until the cost share payment was made. Per STCM records \$866.00 was paid to the Department for the cost share. A letter was sent to the property owner 7/25/2019 requesting proof of payment with no response. The letter did not state to whom payment should be made, proof that the property owner had been invoiced by the Contractor or request confirmation from the Contractor regarding payment. The site manager indicated that the Division has decided to move forward with the site.
8625030	46	Remediation Action Report (4/22/2014)	\$400,000	\$132,908.62	Remediation was put on hold in 2016 due to the owner planning to expand their building in the pathway of the remediation system. Site Manager indicated that the current owner does not want to pay necessary cost share.

Review of Petroleum Restoration Program
Discharges with Limited or Delayed Activities
Division of Waste Management

Report: A-1819DEP-014

Appendix C: Discharges with Delayed Progress Related to FDOT Activities

Facility ID	Score	Eligible Program	Last Activity/ Date	Funding CAP	Total Cost to Date in STCM	Notes
8500398	35	EDI	Well Abandonment (9/23/2016)	N/A	\$117,726.28	Discharge facility acquired by FDOT via eminent domain and work ceased due to construction activities. However, per the most recent annual inspection reports and correspondence with FDOT, construction has still not begun. This discharge was reassigned to a different Site Manager in July 2020.
8517975	60	EDI	Health and Safety Plan (8/8/2014)	N/A	\$1,015,757.83	Per Site Manager, the discharge is a likely candidate for closure. Previous FDOT construction. Original discharge location is now in the right-of-way. Per the annual Site Inspection form dated 5/16/2017, construction has been completed. No further progress working with FDOT or on closure efforts documented in OCULUS.
9300314	51	PCPP	Remedial Action Plan (12/21/2011)	\$400,000.00	\$203,373.80	PCPP agreement executed 12/24/2005. Per the Site Manager, the discharge facility is now a part of a highway and is being evaluated for a closure. No follow up on the PCPP agreement or progress with FDOT to work towards closure documented in OCULUS.
8507580	60	PLIRP	Well Abandonment (6/13/2016)	\$1,200,000.00	\$379,277.62	Per OCULUS records, the only activities for this discharge since 6/13/2016 have been annual inspections. Site Manager indicated the discharge facility is under active construction and the work will resume once completed. FDOT will not allow site access until construction is complete.
8510208	31	EDI	File Review (6/27/2013)	N/A	\$50,498.88	Since 2016, OCULUS records document that the discharge facility was to be transferred to FDOT. Site Manager indicated the discharge facility was under construction and site access was not allowed.
8840840	30	PCPP	Site Assessment Report (11/2/2015)	\$400,000.00	\$34,010.82	Per the Site Manager, this discharge facility has been acquired by FDOT. There was no other progress documented in OCULUS.

Review of Petroleum Restoration Program
Discharges with Limited or Delayed Activities
Division of Waste Management

Report: A-1819DEP-014

Appendix D: Discharges with Delayed Progress Related to Site Assignment

Facility ID	Last Activity/ Date	Eligible Program	Total Cost to Date in STCM	Review Comment
8502942	None	PCPP	\$0.00	Per STCM records, discharge was assigned to a Department staff member in the Northwest District on 5/31/2013. District staff do not manage petroleum cleanup discharge facilities.
8505252	Site Rehabilitation Completion Report (10/7/14)	EDI	\$532,512.54	Per STCM records, discharge was assigned to a Site Manager on 7/19/18. Site Assignment Coordinator indicated there was no documentation of the discharge assignment. The Site Manager was unaware of the assignment.
8733502	Site Assessment (5/01/2011)	ATRP	\$641,071.83	Per STCM records, discharge was assigned to a staff member in the Northeast District on 5/6/2016. District staff do not manage petroleum cleanup discharge facilities.

Appendix E: Discharges with Delayed Progress due to Lack of Consistent Active Management and Oversight

Facility ID	Last Activity Date	Eligible Program	Total Cost to Date in STCM	Review Comment
8513352	Source Removal Report (9/12/16)	ATRP	\$518,820.64	According to the Site Manager, the owner will not authorize fieldwork on the property. However, there is no written documentation of denied access.
8514625	Analytical Lab Report (1/26/16)	PLIRP	\$100,540.30	There has been no documented activity for this discharge other than annual site inspections since 2016.
8517543	Limited Contamination Assessment Report (6/29/17)	EDI	\$848,573.32	According to the Site Manager, a Site Rehabilitation Funding Allocation Agreement is needed since the facility contains two discharges. However, there was no activity documented in OCULUS other than annual site inspections since 2017.
8517875	Remediation Action Plan (12/5/2016)	EDI	\$225,757.20	Site Manager indicated that the discharge was considered a difficult site and needed to be referred to the Difficult Site Review Committee. According to the Environmental Administrator who coordinates these reviews, the discharge had not been submitted for review.



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Carlos Lopez-Cantera
Lt. Governor

Noah Valenstein
Secretary

Memorandum

TO: Valerie J. Peacock, Director of Auditing
Office of Inspector General

FROM: Tim Bahr, Director *TJ Bahr*
Division of Waste Management

SUBJECT: Response to Audit Report A-1819DEP-026
Review of Petroleum Restoration Program Discharges with Limited or
Delayed Activity

DATE: September 21, 2020

The following is in response to the Review of Petroleum Restoration Program Discharges with Limited or Delayed Activity, conducted by the Office of Inspector General (OIG).

Finding 1: Discharges with Delayed Remediation Progress due to Funding Limits

Recommendation:

We recommend the Division work with PRP to address the management of discharges which are nearing or have exceeded funding CAPs. These discharges should be actively managed consistent with PRP SOP Chapter 3 and PRP guidance documents. Discharges which are nearing or have exceeded state eligible funding limits should be either transitioned to voluntary cleanup or referred for enforcement. For circumstances where PRP continues to manage discharges which have exceeded funding as a coordinated cluster, PRP should ensure that the SOP reflects this process.

We also recommend the Division work with PRP to address the inclusion of these discharges in the PRP Monthly Dashboard Update report. Once state funding limits are reached, these discharges should be distinguished from the number of discharges reported as being actively managed, as the on-going inclusion of these discharges contributes to inflated reporting.

Petroleum Restoration Program (PRP) Response:

PRP has provided training to all site managers on the importance of tracking site funding caps and will remind site managers to review SOP Section 3 on how to proceed once the CAP is reached. In order to better clarify the difference between sites eligible for state funding

(eligible) and those that are eligible but State Funding Cap is Exhausted (ESFCE), the program has created this specific term. The SOP will be updated to include this term by December 1, 2020 and this category will be identified on the dashboard. PRP will continue management of ESFCE sites as long as the Responsible Party continues to proceed in accordance with Chapter 62-780, F.A.C. requirements. If the Responsible Party does not move forward in accordance with the rule timeframe requirements, the site will be referred to the applicable district office or delegated county for enforcement.

The SOP will also be updated to include procedures on cluster sites and site managers will be trained on these procedures by March 10, 2021.

Information will be added to the Monthly Dashboard by December 1, 2020 to identify discharges that are ESFCE and discharges that are managed by the District.

Finding 2: Discharges with Delayed Remediation Progress due to PCPP Agreements

Recommendation:

We recommend the Division work with PRP to address management of discharges with delayed progress due to PCPP agreement circumstances. PRP should ensure that Site Managers document efforts to execute cost-share agreements for applicable discharges. If PRP and the owner/responsible party cannot complete negotiation of the cost-sharing agreement within 120 days after beginning negotiations, PRP should terminate negotiations and document that the discharge is no longer eligible for state funding consistent with Section 376.3071(13)(d), F.S.

Further, we recommend PRP work with Site Managers to obtain documented proof of payment of its copayment obligation to the contractor prior to continued funding. If the owner/responsible party does not provide proof of that payment within 21 days, PRP should document the material breach of the PCPP Agreement and take necessary steps toward rescinding eligibility for state funding consistent with the terms of the agreement.

We also recommend the Division work with PRP to address the inclusion of these discharges in the PRP Monthly Dashboard Update report. Since these circumstances have resulted in delayed progress, once a determination can be made that a discharge is no longer eligible for funding, it should not be included in the number of discharges reported as being actively managed.

PRP Response:

PRP is now following the updated guidance for PCPP agreements recently developed for the July 1, 2020 statutory changes. PRP intends to train staff on the new PCPP guidance processes, including how to take the necessary steps towards rescinding eligibility for state funding, during a PRP teleconference this fall.

Sites that have had eligibility rescinded are not included on the Monthly Dashboard report.

Finding 3: Discharge with Delayed Remediation Progress due to PBC Work Orders

Recommendation:

We recommend the Division work with PRP to address the status and necessary steps forward regarding the noted PBC Work Order agreement. PRP should work with the Site Manager to ensure that the discharge is actively managed to closure. Going forward, we also recommend PRP decisions regarding future contractor work assignments are consistent with financial consequences outlined in original PBC agreements.

PRP Response:

PRP will work to ensure that Facility ID# 538736295 is actively managed to closure as funding allows and will implement financial consequences as outlined in original PBC agreements.

Finding 4: Delayed Remediation Progress due to FDOT Related Discharges**Recommendation:**

We recommend the Division work with PRP to actively manage FDOT related discharges to closure. It is understood that the causes of many delays are due to factors external to the Department. However, where possible, PRP should address original discharges that have subsequently been acquired by FDOT to determine whether the discharge meets criteria necessary for alternative institutional controls consistent with the MOU. This determination should be documented in OCULUS in order to maintain and document proactive management towards completion of the Department's responsibility for cleanup.

PRP Response:

PRP will provide additional training this fall on actively managing FDOT related discharges, as funding allows, and inserting documentation into Oculus.

Finding 5: Delayed Remediation Progress due to Discharge Site Assignment**Recommendation:**

We recommend the Division work with PRP to address the assignment of discharges noted in Appendix D to ensure the discharges are actively managed and continued progress is documented. Going forward, we recommend PRP ensure discharge sites are not assigned to District staff. PRP should work with program sections to acknowledge and document the understood responsibility for discharge site assignments.

PRP Response:

Responsibility for site assignments has been transitioned to a single Site Assignment Coordinator who assigns sites to the Team Supervisor. The Supervisor is responsible for notifying their staff of assignments and will be reminded of this responsibility in a PRP teleconference this fall.

In addition, when a District is managing a site with a petroleum discharge that is eligible for funding, it will be reflected on the Monthly Dashboard report.

Finding 6: Delayed Remediation Progress due to Overall Lack of Active Management

We recommend the Division work with PRP to address the discharges in Appendix E to ensure appropriate courses of action are taken consistent with authoritative requirements and PRP guidance. We also recommend PRP put additional processes in place to actively follow up on Site Manager status input in order to improve the use of the Focus List as an effective management tool.

PRP Response:

PRP will evaluate additional options for holding Team Leaders responsible for their staff actively managing assigned petroleum cleanup sites. PRP plans to discuss in the upcoming Fall teleconference that the Focus list is a final opportunity for site managers to either issue purchase orders for a site they manage, as funding allows, or involve their Team Leader for assistance in moving the site forward.