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### **Monroe County and FCAA Rely on Fake Document in Assessing Potential Environmental Damage from Shallow Wells at Cudjoe Regional**

A fake document has apparently been used by Monroe County and the Florida Keys Aqueduct Authority (FCAA) to support their use of shallow sewage injection wells on Cudjoe Key.

The fake "Environmental Assessment" bears the name and logo of the US Army Corps of Engineers and the name of the Florida Keys Aqueduct Authority. But the Army Corps "expressly denies" having written it, according to a letter dated March 13, 2015, to Monroe County and FCAA from environmental attorneys Christopher Byrd, Orlando, and Caron Balkany, Summerland Key. "The Corps staff and attorneys say this is not a Corps document and that they plan to do something about it," says Balkany.

The attorneys' letter states that the fake "Environmental Assessment" is posted on the official Monroe County website and was used by the County and the State as the basis of decision making to allow the Cudjoe shallow sewage injection wells, applications for federal funding, and other decisions about the controversial shallow wells.

The fake "Environmental Assessment" claims that "consultation with US Fish and Wildlife will be continual." But US Fish and Wildlife Biologist Brian Powell states that never happened. In an email dated March 9, 2015, to Balkany, Powell wrote: "We are preparing a letter notifying FCAA of our concerns with the CRWS and reiterating our request to identify any federal funding they may have received so that we may coordinate with the appropriate federal agency to inform them of their requirements under ESA to conduct a proper Section 7 consultation."

"Experts we have consulted say using shallow sewage injection wells will force contaminated ground water from the adjacent landfill into the wetlands and the near shore waters, along with partially treated sewage effluent. That's against Federal law," says Byrd, a former DEP enforcement litigator now focusing on Florida environmental and land use law. Last week, Byrd and Balkany filed a 60 day Notice of Intent to Sue for violation of the Endangered Species Act and the National Environmental Policy Act with respect to the shallow sewage wells at Cudjoe.

"The County and FCAA relied on a fake document in making some important environmental decisions about the shallow sewage injection wells. Now that they know the document is fake, and that the required environmental assessment was never done, they can do things right. I'm sure a real environmental assessment will show the need for a deep wells at Cudjoe," says Balkany. She and Summerland attorney Lee Rohe are representing two Lower Keys commercial fishermen who are fighting the permit to use shallow sewage injection wells, also claiming the use of shallow wells violates Florida law.