

Attachment 9D: Mailed Notice of Intent to Approve Use of Non-Recorded Institutional Control for Non-Source Property Owners

A copy of the following notice should be provided, pursuant to 62-780.220(7), F.A.C.,¹ to all non-source property owners whose property will be subject to a Non-Recorded Institutional Control ("NRIC") upon which FDEP intends to rely. DEP should be provided with complete electronic copies of the mailed notice(s) and a list of names and addresses of entities to whom the notice was sent, and the date sent.

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<ON LETTERHEAD OF THE PRSR, if applicable>

{Name of non-source property owner}

{Address of non-source property owner}

Re: Notice of Intent to Conditionally Close a Contaminated Site Using a Non-Recorded Institutional Control

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Dear {insert name or To Whom It May Concern}:

You are receiving this notice because you own property onto which contamination has migrated from a neighboring property, and the type of Institutional Control that Florida Department of Environmental Protection (DEP) has approved to conditionally close the contaminated site will not be recorded in the public record. The source property is located at {insert the name of the source property, if it is a business, and the address of the source property}.

In relation to certain environmental site rehabilitation activities on the source property, the person responsible for site rehabilitation (PRSR) has requested that DEP approve a No Further Action Proposal with Institutional Controls and issue a Site Rehabilitation Completion Order with Conditions (CSRCO) for a contaminated site relating to your property. Through sampling, the PRSR and DEP have determined that groundwater contamination extends off the source property onto adjacent properties (non-source properties). Your property has been determined to be a non-source property onto which contamination has migrated from the source property.

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{If Relying on an Ordinance or MOA, etc. to Restrict Access to Groundwater,

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{PRSR} is seeking a CSRCO in relation to DEP Site ID # {insert number}, {insert facility name and address}, and intends to restrict exposure to contamination by relying on the existing {insert citation to city/county local Ordinance, OR MOA, etc., as applicable} that {"requires connection to municipal water," OR "prohibits groundwater use in the area," etc., as applicable}. Such {insert the name of relevant documents, such as "ordinance(s)," or "MOU"} is attached hereto. This {ordinance(s) OR MOU, etc., as applicable} requires that the public {"use municipal water instead of the groundwater in this area," OR state what the Institutional Control requires, as applicable}.

¹ See also ICPG Section C. 17., IC Notice Procedures.

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{If Relying on Permitting Controls to Restrict Groundwater Use}

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{PRSR} is seeking a CSRCO in relation to DEP Site ID # {insert number} {insert facility name and address} and intends to restrict exposure to contaminated groundwater by relying on local permitting requirements. A permit is required by {insert name of local government, or name of Water Management District, local delegated County, as applicable} to {place a well in the existing ROW, OR to construct or modify water wells, etc., as applicable}. Therefore, {insert how this is protective}.

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DEP will rely upon this {local ordinance(s), MOA, OR permit(s), etc., as applicable} as Institutional Controls to ensure no contaminant exposure resulting in risk to human health, public safety, or the environment will occur from using the groundwater {select appropriate from the following: for potable, irrigation, or produce}. As such, the PRSR must notify DEP if the PRSR becomes aware of the repeal or amendment of the {ordinance(s), permit(s), OR rules, etc., as applicable}, or if a violation occurs on the site such that the potential for exposure to contaminants is increased. Failure to notify DEP of such activities may result in revocation of the CSRCO.

Commented [A1]: Add this section to other letters re: GIS layer

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DEP rules require a permit when conducting dewatering on contaminated properties. DEP's Division of Waste Management must review and approve any dewatering plans to ensure that no exposure to contaminated groundwater and no contamination plume destabilization will occur resulting in risk to human health, public safety, or the environment. DEP may revoke the CSRCO if dewatering occurs without a permit.

DEP rules and guidance also require the approval of any plan to construct new, or modify existing, stormwater facilities to ensure there is no exposure to contaminated groundwater resulting in risk to human health, public safety, or the environment. Parties seeking to construct stormwater facilities on the contaminated properties should consult with DEP's Division of Waste Management in addition to obtaining any authorizations that may be required by DEP's Division of Water Resource Management or the Water Management District, or pursuant to other applicable law. DEP may revoke the CSRCO if stormwater facilities are constructed without DEP's approval.

{Optional}: Attached to this letter is a summary of the history of the contamination addressed by the Institutional Control, including the type of contamination, the affected media, and the location of the contamination. Please contact the undersigned if you have any questions regarding this notice. In addition, you may contact {insert site/project manager's name & phone number} to discuss the status of the work. Complete copies of the No Further Action Proposal, other documents on which DEP will rely (ordinance, OR MOA, etc., as applicable), and the DEP's preliminary evaluation are available for public inspection at Oculus, the online document management system. Please use the DEP Com_, Facility or Project number listed on DEP's preliminary evaluation to communicate with DEP or Oculus.

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Commented [A2]: FBA would like to open discuss with the Department the timeframes, process and considerations for Department evaluation and response to comments that are received by the Department in response to notices to easement or encumbrance holders – particularly as they relate to easement holders.

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Letter recipients have 30 days from receipt of this notice to provide comments to the DEP. Such comments should be sent to DEP, {name and email address of person who should receive comments}.

Sincerely,

{Typed name of sender}

Attachment: *{insert name of attachment}*

cc: *{DEP name and email address of person who should receive comments}*

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