Certification of Restricted Activities on Conditionally Closed Cleanup Sites

This guidance presents recommendations for ensuring compliance with groundwater restrictions placed on a site as part of a conditional closure. These recommendations allow the real property owner, a permit applicant or a third party to certify that the proposed activities will not affect the conditions for closure. Note that materially changing the closure conditions, such as removing restrictions or altering an engineering control, will still require DEP approval; and likely amending the Conditional Site Rehabilitation Completion Order (CSRCO) and any restrictive covenant. This process does not address such changes and therefore should not be used for removing restrictions or modifying engineering controls. Nothing in this guidance is intended to modify any federal, state or local government requirements or Department rules such as Chapters 62-780 or 62-761, Florida Administrative Code (F.A.C.).

1. Conditionally closed sites may have groundwater use restrictions that limit:
    a. Placement of wells,
    b. Uses of wells,
    c. Construction/modification of stormwater facilities, and
    d. Dewatering
2. These restrictions are in place to ensure the stability of the groundwater plume.
3. Adding or modifying any of these features or activities on a conditionally closed site could affect the stability of the groundwater plume.
4. Therefore, any addition or modification must be designed so as to not cause any movement or instability of the plume.
5. Historically, the CSRCO and restrictive covenant have required DEP approval for any changes related to the restrictions in #1.
6. The Division of Waste Management has limited ability to perform such reviews, and the number of requests is increasing as the number of conditional closures increases.
7. This limited ability can lead to extended review times, potentially unnecessary rounds of comments and responses, and corresponding delays in project completion.
8. To improve this situation and ensure groundwater conditions remain as approved in the CSRCO, the CSRCO would instead require a Florida-registered professional engineer and/or Florida-registered professional geologist (as appropriate to the project) to certify that the proposed activities[1] will not cause the contaminant plume to migrate. The plan should include, as applicable:
    a. Feature/activity location, construction design and specifications relative to the known areas of contaminated soil and groundwater.
    b. For dewatering plans: well point location(s), proposed flow rate, duration, volume and estimated drawdown.
    c. Narrative description of the steps to be taken to avoid causing the spread or migration of contamination.

[1] This discussion is focused on the effects of construction on the groundwater plume. Note that the possible spread of soil contamination may also need to be included in the design. Especially in the case of stormwater design which may increase infiltration over contaminated soil or result in relocation and disposal of contaminated soil.

d. Any groundwater modeling that may have been done as part of the design evaluation process. (Groundwater modeling may not be warranted or appropriate in every circumstance and this guidance should not be inferred to create any such requirement.)
e. Procedures for the handling of any contaminated media (groundwater or soil) that may be encountered during construction. Such procedures should include protocols for proper characterization, handling and disposal.

9. This certified plan must be submitted to the Department office that originally managed the closure for its files and the Department will rely on this professional certification for demonstrating compliance with site restrictions (as contained in the Department's order and Declaration of Restrictive Covenant). Department prior approval of the plan is not required.

10. To verify plume stability, post construction monitoring should be included as part of the plan if activities were within 250 feet of the plume boundary as known at the time of site closure.
    a. For newly constructed wells, quarterly sampling for at least one year for the contaminants of concern (COCs) – as identified by the CSRCO – will be sufficient to demonstrate the well is not causing the plume to move.
    b. For stormwater features – both newly constructed or renovated – permanent or temporary monitoring wells should be installed downgradient of the stormwater feature and sampled quarterly for a minimum of one year for the CSRCO COCs.
    c. For dewatering events – the effluent should be sampled for the CSRCO COCs at regular intervals during the dewatering event. A plan for handling effluent above the groundwater cleanup target level should be included as part of the certified construction plan. If the intent is to apply for the Generic Permit for Discharge of Ground Water from Dewatering Operations pursuant to 62-621.300(2) F.A.C., the effluent must meet the surface water quality standards for the parameters of concern.

11. Sampling results that confirm the plume is not migrating do not need to be submitted to the Department but should be retained for a period of five years and produced upon request. Such records will be an item to be checked during the Department's periodic audits of conditionally closed sites.

12. If any sampling results indicate that the contaminant plume is moving, then the responsible party must submit the sampling information to the Department along with a plan to halt the spread of contamination. Any induced plume migration must be quickly brought under control and plume stability demonstrated using any post construction monitoring data. However, in the event that a stable plume cannot be demonstrated, it may be necessary to open the CSRCO and resume cleanup under 62-780, F.A.C.

Example Certification

The {dewatering/stormwater/well} permit # dated {date} for {property} located at {Street, City, County} FDEP Site Identification # {#}.

I hereby certify that in my professional judgment the {type of project} project described above has been designed to avoid the capture or spread of contaminated groundwater at the subject location.