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

Pursuant to section 376.30701(2), Florida Statutes, (F.S.) and rule 62-780.220(7), Florida Administrative Code (F.A.C.), notice must be provided to all non-source property owners whose property will be subject to a Non-DRC Institutional Control (“NDIC”) upon which DEP intends to rely. For guidance on IC notice procedures see [Section C.17](https://floridadep.gov/waste/waste/documents/icpg-section-c17). 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.

<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-DRC Institutional Control that will not be recorded.

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 {{if utilizing engineering controls as part of site closure insert “with Engineering and Institutional Controls”}} and to issue a Conditional Site Rehabilitation Completion Order with institutional controls (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.

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

*{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}*.

*{If Relying on Permitting Controls to Restrict Groundwater Use}*

*{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}*.

*{If utilizing the Southwest Florida Water Management District (SWFWMD) Shape File and Permit Procedure Institutional Control}*

{Applicable only for the sites located within the jurisdiction of the SWFWMD for the Source and/or Non-Source Contaminated Properties – insert this paragraph after the sentence above ending “and intends to restrict exposure to contamination in the following manner:”} DEP will rely on local permitting for water wells’ uses.  The Southwest Florida Water Management District (SWFWMD) implements a permitting program for the location, construction, repair, and abandonment of water wells, pursuant to chapter 373.308, F.S.  DEP has implemented a shared electronic record system with the SWFWMD which will document the location and extent of the groundwater contamination. The SWFWMD will use this information when reviewing a well permit application. Therefore, information regarding well construction and location, as well as additional information from DEP regarding the extent and type of contamination, will be required by the SWFWMD when a well permit is requested on your property.  This additional permitting information will ensure that potential exposure to contaminated groundwater is identified and well construction is managed appropriately (SWFWMD Shape File and Permit Procedure).}

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. 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 resulting in risk to human health, public safety and/or the environment is increased. Repeal, amendment or violation of {{*local ordinance(s), MOA,* ***OR*** *permit(s), etc., as applicable}* or failure to notify DEP of such violation, amendment or repeal may, in addition to other remedies available at law, result in proceedings to revoke the CSRCO and require the immediate resumption of active cleanup or require that other approved Institutional Controls be implemented, unless it is demonstrated that the cleanup criteria under Subsection 62-780.680(1), F.A.C., have been achieved.

DEP rules require a permit when conducting dewatering on contaminated properties. Any dewatering plans must be signed and sealed by a Florida-registered professional engineer or a Florida-registered professional geologist and certify 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 proper certification and 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 must provide a construction plan that is signed and sealed by a Florida-registered professional engineer or a Florida-registered professional geologist that certifies that the construction will not cause exposure to contaminated groundwater or contamination plume destabilization resulting in risk to human health, public safety, or the environment. In addition, 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 must also be obtained. DEP may revoke the CSRCO if stormwater facilities are constructed without proper certification.

{*Optional (Consider when notice is being sent to persons that have not been involved with prior discussions regarding the cleanup or closure, or when new property owners are involved)*: 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. In lieu of a summary, a draft DRC may be attached.}

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](http://depedms.dep.state.fl.us/Oculus/), the online document management system. Please use the DEP Site ID number listed on DEP’s preliminary evaluation to communicate with DEP or [Oculus](http://depedms.dep.state.fl.us/Oculus/).

Non-source property owners 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, if applicable}*

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