## Attachment 9A: Mailed Notice of Intent to Approve Use of Institutional Control for Real Property Owners, Residents, Lessees, Encumbrance Holders

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 real property owner(s) of any property subject to the Institutional or Engineering Control, and to any resident, lessee, or business tenant (except where notice by publication to multiple residences, business or tenants is permitted pursuant to 62-780.220(7) F.A.C.), and to any party holding a materially affected encumbrance in the area subject to the control (for guidance on when the encumbrance holder’s property rights are materially affected by the proposed restriction(s) see Sections [C.11](https://floridadep.gov/waste/waste/documents/icpg-section-c11) and [C.17](https://floridadep.gov/waste/waste/documents/icpg-section-c17)) whether using a Declaration of Restrictive Covenant or other approved Institutional Control. FDEP must 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. In the case of recorded encumbrances, notice should be made in accordance with the terms for notice set forth in the recorded instrument, if any, in addition to the requirements of Rule 62-780.220(7), F.A.C.

<ON LETTERHEAD OF THE PRSR, if applicable>

*{Name of Recipient}*

*{Address of Recipient}*

Re: Notice of Intent to Conditionally Close a Contaminated Site Using an Institutional Control

Dear *{insert name or To Whom It May Concern]:*

You are receiving this notice because you are *{a real property owner, resident, lessee, or business tenant of property subject to the Institutional or Engineering Control; or, the holder of the following recorded Instrument: {insert name and date of Instrument, along with book and page number or other recording information taken from the title report}, (Optional: a copy of which is attached hereto), on certain property owned by {owner’s name} (“Owner”)}*.

In relation to certain environmental site rehabilitation activities on the property, the person responsible for site rehabilitation (PRSR) has requested that Florida Department of Environmental Protection (DEP) approve a No Further Action Proposal with Institutional Controls or with Engineering and Institutional Controls and to issue a Conditional Site Rehabilitation Completion Order with institutional controls (CSRCO) for a contaminated site relating to this property. *{PRSR name}* is seeking this CSRCO in reference to DEP Site ID # *{site id #} {facility name, address}* and intends to restrict exposure to contamination in the following manner: *{describe the type of controls such as land use restrictions, water use restrictions, caps over contaminated soil, etc.}* that *{will be set forth in a Declaration of Restrictive Covenant between the Owner and the DEP, that will further encumber the property; {{select appropriate* ***and*** *or* ***or*** *}} by reliance on existing {{insert citation to city/county local ordinance, MOA, DEP rule, etc.}} that require(s) connection to a community water system, dewatering rules, etc., as applicable}.*

{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 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 *{site/project manager’s name & phone number}* to discuss the status of the work. Complete copies of the No Further Action Proposal, the *{draft Restrictive Covenant or the alternative IC (such as ordinance or MOA)}* that is proposed to be relied upon, and the DEP’s preliminary evaluation are available for public inspection online at [Oculus](http://depedms.dep.state.fl.us/Oculus/), the online document management system. Please use the DEP Site, Facility or Project number listed on the DEP’s preliminary evaluation to communicate with DEP or [Oculus](http://depedms.dep.state.fl.us/Oculus/).

Real property owner(s) of any property subject to the Institutional or Engineering Control, residents, lessees, business tenants, and encumbrance holders of any property subject to the institutional or engineering control 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}*