Attachment 41B - Frequently Asked Questions on Certification of Restricted Activities on Conditionally Closed Cleanup Sites

1. Would you want the certification for a site pre-closure?  Example, site has land use controls (LUCs) for groundwater for a closed landfill and is in long term monitoring.
   1. It is sometimes possible to certify certain potential future design criteria at the time of site closure. For example, the location and effects of a ‘maximum’ size stormwater feature could be evaluated prior to closure and any such approval included in the documentation. In other cases, it will be necessary to wait until the specification or design criteria are known before the evaluation can take place.
2. Will the language be updated in the Site Rehabilitation Completion Orders (SRCOs) and Restrictive Covenants (RCs) to reflect possible Professional Engineer (PE)/Professional Geologist (PG) certification?
   1. Yes, template language has been updated.
3. What if consultants and their representatives want our approval anyway?
   1. We would certainly comply with any request for review and would share any comments we had. However, we would caution that our review was not a requirement and did not otherwise diminish the need for proper PE/PG certification.
4. What is the legal implication for PE or PG who signs and seals and has not done a thorough evaluation?
   1. There would be a site-specific evaluation of what corrective action may be necessary. Any consequences to the PE or PG would be up to their respective boards, if it rose to that level.
5. What happens if restricted activity occurs and it does spread contamination?
   1. Additional assessment would be required to determine the extent of the problem. In the most serious cases, it would likely be necessary to rescind the Conditional SRCO and resume Chapter 62-780, Florida Administrative Code cleanup.
6. We are currently asked by one of the districts to evaluate whether new stormwater features will cause any harmful effects to the petroleum contaminant plume.
   1. These reviews should no longer be necessary.
7. Have you discussed this proposal with the Water Management Districts?
   1. Yes, the water well managers were briefed on the concept some time ago. They were generally receptive to the concept.
8. Does the guidance include minimum distances for conditionally closed sites to initiate design measures?
   1. No, the requirement for the certification would be based on the conditions and restrictions identified in the closure documentation.
9. If a site is closed under one property owner and new owner hires a new PG and as a result of stormwater feature construction contamination is spread, then who is responsible for any required response?
   1. The current property owner is always potentially liable for any contamination on their property.
10. What if my property closed with/without a stormwater feature and my Declaration of Restrictive Covenant (DRC) says to submit a plan (and amended DRC) if a stormwater feature is modified/added? Do I need to amend the DRC?
    1. Most likely yes but work with the Office of General Counsel to see if an amendment is necessary.
11. The Conditional SRCO and/or DRC include a requirement for DEP approval prior to any restricted activity, do we still need to review and approve activities from closures that don’t have the PE/PG certification language?
    1. Most older closure documents do require DEP approval prior to performing any restricted activity but generally do not specify the form of that approval. You should consult the closure documents to see what requirements there might be for such approvals. If the form of the approval is not specified, you could still do a full review and approval, as warranted, or you could approve the signed and sealed certification document without formal review.