Conditional Closure: The Step-by-Step Process for Site Managers

2017 PRP Workshop
Contractor recommends SRCO with Conditions

Is site in SA or RA Phase?

- SA
  - PRP PG reviews the supporting documents to verify the requirements of 62-770.680 (2) or (3), F.A.C. have been satisfied.

- RA
  - PRP PE reviews the supporting documents to verify the requirements of 62-770.680 (2) or (3), F.A.C. have been satisfied.

Does it satisfy the rule criteria?

- Yes
  - SM issues Provisional SRCR letter and request draft DRC.

- No
  - Are engineering controls needed?
    - Yes
      - Issue comment letter to contractor addressing the outstanding criteria.
    - No
      - SM prepares a work order for scope of work needed to satisfy SRCO conditions.

SM prepares Technical Review Package and submits it to the PE or PG Technical Reviewer.

RP submits draft DRC to SM for technical review.

SM obtains a copy of RP’s published notice of DRC.

Key:
- PRP – Bureau of Petroleum Storage Systems
- FDEP – FL Dept of Environmental Protection
- PE – Professional Engineer
- RP – Responsible Party
- SRCR – Site Rehabilitation Completion Report
- DRC – Declaration of Restrictive Covenant
- ICRS – Institutional Control Registry Sheet
- PG – Professional Geologist
- SA – Site Assessment
- F.A.C. – Florida Administrative Code
- OGC – Office of General Counsel
- RA – Remedial Action
- SM – Site Manager
Next Steps

• Once Report is approved concurring with NFAC,

  • Step 1: Issue Deliverable Review Letter
  • Step 2: Issue Provisional Site Rehabilitation Completion Report Letter (ICPG, Attachment 7)
  • Step 3: Attach a copy of the ICPG for reference
  • Step 4: Request Draft Restrictive Covenant (DRC)
  • Step 5: Prepare Purchase Order
Allowable Costs for PRP Funding

Florida Statute 376.3071(5)(b)4  Inland Protection Trust Fund

**Professional Land Survey**
- Entire or Partial property for restrictions.

**Title Search**
- Must be performed within 180 days of the DRC review
- Affidavit of Title (ICPG, Attachment 8)

**Recording Fees**
- Restrictions (DRC) are recorded in county public records where the restricted property is located.

**Engineering Control Design & Installation**
- Unless an engineering control already exists.
Engineering Certification Report including:

- Use SPI Line Item #19-13 to fund this report

- P.E. Certification of design sufficiency (SPI Line Item #21-9 through #21-12)

- Level of Effort (LOE) equivalent to Level 1 Limited Scope RAP.

Costs Not Allowed for PRP Funding

- Legal Representation (fees)
Next Steps

• Step 6: Site Manager verifies that DRC Package is Complete.

• Step 7: Team PG/PE reviews and approves DRC for technical completeness.

• Step 8: Site Manager prepares DRC Packet for Lead PRP PG/PE Technical Review

NOTE
The DRC Package should be scanned into Oculus as a single pdf document. The email to the Agency Clerk requesting OGC Review of the IC Package should contain the link to the IC Package to be reviewed.
DRC Packet

DRC Packet Should Include:

- DRC Checklist
- Form A or B
- Engineering Certification Report (P.E. Sealed) & PRP Approval Letter
- Map of Encumbrances and Restricted Area, and List of Encumbrances
- Legal Description of the entire property
- Specific Purpose Survey (if only a portion of the site is being restricted)
- Notices of Intent
- Title Report
- Joinder and Consent Of Tenants And Lessees
- Proof of Publication (see ICPG, Attachment 23)
Step 9: Site Manager Prepares the Transmittal Form - ICPG, Attachment 6

Memo includes:
- Summary of the Site
- Any Proposed Restrictions
- Identify all Affected Media (Soil and/or GW)
- Cite any Special Circumstances
- Contact information for the ATC, Legal Representative, Site Owner & RP (if different)

Send Transmittal Form & DRC Packet to PE Technical Reviewer

After approval, PE forwards the DRC Packet to OGC
Next Steps

• Step 10: Site Manager sends electronic copy of DRC Packet to PRP
  PG/PE Technical Reviewer

  Team 5, 6 and Local Programs
   PG IC Technical Reviewer – Christa Bingel, P.G.
   PE IC Technical Reviewer – James Treadwell, P.E.

  Teams 1 & 2
   PG IC Technical Reviewer – Team PE/PG

• Step 11: Following PG/PE review, DRC packet should be:
  1) Scanned into Oculus
  2) Emailed to: Lea Crandall for OGC Tracking #
     OGC Agency Clerk, Agency_Clerk@dep.state.fl.us

  Note: Email should contain the web link to the DRC Package in Oculus.
Based on Oculus Global Taxonomy, documents should be uploaded into Oculus as follows:

**Draft Restrictive Covenants**
• Profile: Enforcement_Legal, Document Type: Restrictive Covenants-Deed Restrictions

**Final Restrictive Covenants**
• Profile: Enforcement_Legal, Document Type: Restrictive Covenants-Deed Restrictions

**Final SRCO with Conditions**
• Profile: Enforcement_Legal, Document Type: Final Orders
The DRC is downloaded from Oculus by OGC for Legal review:

- Dan Blackwell - Paralegal tasked with initial review of DRCs
- 1st point of contact for DRC questions.
- Responsible for tracking all IC packages in OGC
- Can answer many of the questions you may have, including which attorney is assigned to the DRC file.
- Dan.Blackwell@dep.state.fl.us or at 850-245-2287.
Next Steps

• Step 12: Site Manager waits for OGC comments to be sufficiently addressed.

  *If an owner’s response takes more than 60 days, SM should inquire in writing as to the delay.*

• Step 13: OGC forwards executed DRC to Program Administrator for signature.

• Step 14: SM mails DRC to RP for signature and recordation.
This is the stamp applied when the Restrictive Covenant is recorded into public record.

You will need this

Book____ Page____

for the final ICRS form Tab 18.

GADSDEN COUNTY NICHOLAS THOMAS
Instrument: 130001150 Recorded: 02/14/2013 10:38 AM

OFFICIAL RECORDS: 1 of 11
Book: 771 Page: 172
Recording Fee: $95.00

This instrument prepared by:
Amanda H. Anderson, Esq.
Gardner, Bist, Wiener, Wadsworth,
Bowden, Bush, Dec, LaVia & Wright, P.A.
1300 Thomaswood Drive
Tallahassee, Florida 32308
Matter No. 1202XX12.2272

DECLARATION OF RESTRICTIVE COVENANT
Next Steps

• Step 15: SM scans signed final IC into DWM Oculus.

• Step 16: Prepare Well Abandonment PO → Approve WA Report

• Step 17: Prepare SRCO with Conditions.

• Step 18: Complete and submit the Institutional Control Registry Sheet (ICRS).
  (Note: ICRS is being updated to ERIC so look for changes soon.)

• Step 19: Scan ICRS and signed SRCO into Oculus.
Institutional Control Registry Data Sheet

For further information please see: http://www.dep.state.fl.us/waste/categories/brownfields/pages/ICR.htm

Jacquelyn R. Brooks
Site/Project Manager *

(850) 877-1133
Site/Project Manager Phone # *

GADS DEN
County *

208519577
Facility ID or other DEP Tracking #*

ONE STOP
Facility Name *

208 South Main Street
Facility Address *

Havana
City *

32333
Zip *

34
Section *

3 North
Township *

2 West
Range *

771
Book Number **

172
Page Number **

2-34-3N-2W-0000-00113-0700
Parcel ID *

30
Lat DD *

37
Lat MM *

14.8900
Lat SS *

84
Long DD *

24
Long MM *

55.7713
Long SS *

RESTRICTIVE COVENANT
Institutional Control Mechanism *

02/14/2013
Date Recorded *

PETROLEUM
Program Area *

04/09/2013
Date Order Issued

Date IC Removed
Registry Confirmation

From: Williams, Christopher A.
Sent: Thursday, April 11, 2013 10:39 AM
To: Brooks, Jackie R.
Cc: DWM_ICR
Subject: One Stop STCM # 8519577

Jacquelyn, We have updated your ICR site to our database. If you have any questions, please feel free to call me at anytime.

<table>
<thead>
<tr>
<th>INSTITUTIONAL CONTROL MECHANISM</th>
<th>DATE IC RECORDED</th>
<th>PROGRAM AREA</th>
<th>DATE ORDER ISSUED</th>
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<tr>
<td>RESTRICTIVE COVENANT</td>
<td>02/14/2013</td>
<td>PETROLEUM</td>
<td>4/9/2013</td>
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**Save Site**

- Add
- Remove
- Clear
- Amend

Record: 1 of 1

<table>
<thead>
<tr>
<th>INSTITUTIONAL CONTROL TYPE</th>
<th>ENGINEERING CONTROL TYPE</th>
</tr>
</thead>
<tbody>
<tr>
<td>DIGGING RESTRICTION</td>
<td>IMPERVIOUS CAP</td>
</tr>
</tbody>
</table>
ICRS Common LSSI Problems

Here are the most common issues when submitting a new LSSI ICR:

• Book # and Page # only needs to have “NA” entered
• Date Record only needs to have “NA” entered
• Date Order Issued - LSSI only needs the date that the document was signed by the director.
• All LSSI need to have this statement in the Comment area. – “Limited groundwater (GW) assessment completed under LSSI Program. Minimal on-site contamination levels met LSSI NFA criteria. Do not use GW for drinking water or irrigation. For clarification, contact DEP LSSI Coordinator.”
Common DRC Problems

• Title Search Missing or Out of Date

• Poor Contact Information on IC Transmittal Form (i.e., ATC, Legal representative)

• Engineering Control Not Surveyed or Not Certified

• Engineering Control Maintenance Plan Not Prepared or not adequate

• No Proof of Notice of FDEPs Intent To Use Institutional Engineering Control
• Questions?