

[THIS LETTER IS TO BE USED WHEN A PERSON RESPONSIBLE FOR SITE REHABILITATION (“PRSR”) AND/OR THE CONSULTANT FOR A PRSR HAS BEEN UNSUCCESSFUL IN ATTEMPTING TO GAIN ACCESS TO A PROPERTY FOR REMEDIAION ACTIVITIES. DO NOT ATTACH CORRESPONDENCE OR SITE ACCESS AGREEMENTS FROM THE PRSR. PLEASE NOTE THAT “ACCESS PROPERTY” REFERS TO THE PROPERTY TO WHICH ACCESS IS NEEDED, AND “PRSR’S PROPERTY” REFERS TO THE PROPERTY CURRENTLY OR FORMERLY OWNED AND/OR OPERATED BY THE PRSR.]

[INSERT DATE]

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

[INSERT NAME(S) AND ADDRESS(ES) OF OWNERS OF ACCESS PROPERTY]

RE: ***[[INSERT SITE NAME AND ADDRESS FOR PRSR’S PROPERTY]***
FDEP Project # ***[X]***

Dear ***[INSERT NAME(S)]:***

This letter is in regard to the cleanup of ***[insert type of contamination]*** by ***[insert PRSR name]*** at the above-referenced property, (the “***[insert PRSR name]’s Property***”). Assessment data indicates that contaminants are present in the soil and/or groundwater at your property located at ***[insert address(es) for Access Property]***, which is ***[insert description of Access Property relative to the PRSR’s Property, e.g., adjacent to, west of, etc.]*** the ***[Insert PRSR name]’s Property***. A copy of the assessment report is available for review at our office. In order to address the contaminants present at your property and the ***[Insert PRSR name]’s Property***, remedial activities must be completed on your property. Frequently, such work involves monitoring well and equipment installation, and soil and groundwater sampling and removal. A copy of the work plan for the proposed remedial activities ***[or insert Remedial Action Plan, if applicable]*** is available for review at our office or may be obtained by contacting ***[insert name of primary contact for PRSR, i.e., the person who will be responsible for negotiating a site access agreement with the Access Property owner(s)]*** at ***[insert contact information for PRSR primary contact]***.

The Florida Department of Environmental Protection (“Department”) was notified on ***[insert date(s) FDEP was informed by PRSR that property access assistance was needed]*** that a written request to gain access to your property was sent to you on ***[insert date(s) of correspondence sent to property owner(s)]***

[INSERT NAME]

[INSERT DATE]

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requesting access to the property] by [insert name(s) of person(s) and/or company(s) that requested access to the property]. According to [insert name(s) of person(s) that requested access to the property], [insert name(s) of person(s) who denied access to the property] informed [insert name(s) of person(s) that requested access to the property] by [insert method (e.g., telephone, letter, etc.)] on [insert date(s) that property access was denied] that access to your property to conduct remedial activities was denied. [Or if no response received to request for access, delete last sentence and insert: "According to [insert name(s) of person(s) that requested access to the property], no response was received to the [insert method (e.g., verbal, written, etc.)] request(s) for access to your property."]

The Florida Legislature has granted the Department broad authority to protect the state's water quality, and Section 376.303(4) of the Florida Statutes¹ gives the Department the option of obtaining access to your property through an Administrative Order if necessary. Pursuant to Section 376.30(4) of the Florida Statutes, the Florida Legislature has determined that "the preservation of the quality of surface and ground waters is of prime public interest and concern to the state in promoting its general welfare, preventing disease, promoting health, and providing for the public safety."

Based upon this information, I hope you will reconsider your decision and grant access by executing a site access agreement with [insert PRSR name]. Please contact [insert PRSR primary contact name] at [insert contact information for PRSR primary contact] to negotiate an agreement for site access within five days of receipt of this letter. [Insert PRSR primary contact name] will coordinate with you to minimize any disruptions to your business activities. Responding at this time will allow you to negotiate for access to be permitted at times and on terms that are most convenient for you.

If you do not contact [insert PRSR primary contact name] and reach agreement allowing access within 14 days of receipt of this letter, [insert PRSR primary contact name] will notify the Department and this matter will be referred to the Department's Office of General Counsel to file an Order requiring you to permit access. The Order, if issued, will be preceded by a description of your rights to challenge the Order, in accordance with Sections 120.569 and 120.57 of the Florida Statutes.

¹ Section 376.303(4), Florida Statutes, provides that "the department may require a property owner to provide site access for activities associated with contamination assessment or remedial action. Nothing herein shall be construed to prohibit an action by the property owner to compel restoration of his or her property or to recover damages from the person responsible for the polluting condition requiring assessment or remedial action activities."

[INSERT NAME]

[INSERT DATE]

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If you have any questions regarding this letter or if you wish to discuss the nature of the proposed work, please contact ***[insert name of FDEP contact person]*** at ***[insert phone number of FDEP contact person]*** or ***[insert email address of FDEP contact person]***.

Sincerely,

[insert name and title]

Waste Cleanup Section

Florida Department of Environmental Protection

cc: ***[insert OGC attorney]***
[insert PRSR primary contact]