

Wells and Remediation: LSRP Requirements and Recommendations

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The Technical Regulations for Site Remediation rules, N.J.A.C.7:26E-1.5(g), require all wells be installed and decommissioned in accordance with the Well Construction and Maintenance; Sealing of Abandoned Wells rules, N.J.A.C. 7:9D. While the owner of the well is the owner of the property where the well is installed, the Subsurface and Percolating Waters Act (N.J.S.A. 58:4A-24) identifies violations of the rules extend to anyone who aids or abets in the violation of those rules. Therefore, LSRPs need to be aware of this responsibility when working with the clients that use wells as part of their remedial projects. The NJ Department of Environmental Protection's Bureau of Water Allocation and Well Permitting (Bureau) is providing the following guidance a result of an increased number of requests to process applications for damaged, lost and destroyed wells.

Damage Prevention

To protect wells from becoming damaged, lost or destroyed, the simplest and first step any LSRP should take is to establish the accurate location of each well. LSRPs are to ensure they have a full inventory of wells within their client's well network, including any off-site wells. This inventory is to include precise locational information that has been verified. This is especially important in cases where a LSRP takes over a case where wells were previously installed by others. Note that:

- Wells installed after June 30, 2008, require the submission of a well record which includes NJ State Plane (NAD 83) GPS coordinates.
- Many older wells have been surveyed with locational information and provided on Well Certification Form B.
- A well search may be conducted by visiting https://www.nj.gov/dep/watersupply/pw_permit.html. Note that if a well was not properly located originally, it may not show up in a well search and other steps must be employed to ensure that an accurate location is established for all wells.

After locating all the wells and reviewing/verifying the information with property owners and operators for completeness and accuracy, the next step is to establish plans to safeguard the wells. This includes documentation and regular review of operation and maintenance activities which could impact the wells. It is also imperative that LSRPs review/verify wells installed off-site (i.e., not owned by the responsible party of the site being remediated). This often occurs when off-site wells are needed for upgradient and downgradient demonstration purposes. Legally, off-site access must be secured through an access agreement which specifies the permissions to access the well and establish the responsibilities for installing, maintaining and decommissioning the well.

Activities involving regrading or repaving are also to be identified in advance so that wells are not lost or destroyed in the process. Wells that are not flush mounted should be properly protected from traffic and machinery to avoid damage. Documenting all activities that could impact the integrity of wells are a key part of LSRP due diligence.

Managing Damaged, Lost or Destroyed Wells

The Damaged, Lost and Destroyed well process, as allowed by N.J.A.C.7:9D-3.5, was developed to assist property owners and their authorized consultants deal with such wells and was envisioned to deal with legacy wells or wells affected by accidents, fires and natural disasters beyond the control of the property owner. However, recent applications under this process have included wells that have been impacted by the property owner or their associates.

When a damaged, lost or destroyed well is suspected, the LSRP should strictly adhere to the Bureau's [Guidance for Damaged, Destroyed, or Lost Wells](#). Keep in mind that this guidance is the basis for submitting an initial request and depending on the circumstances, especially in cases involving property owner action or inaction, extensive additional investigation may be required. LSRPs should be aware that a simple walkover of a property to locate the well is never acceptable.

Offsite Wells

Since remediation projects are not final until after all wells associated with them are properly decommissioned, off-site decommissionings can provide unique challenges, especially if off-site access agreements have not been established. This can be further complicated if the off-site property owner refuses to allow the responsible party to decommission the well and why pre-established access agreements are critical. In these cases, it must be documented that the property owner was advised of the regulatory requirement to decommission the well, that all expenses for decommissioning and property restoration would be covered by the responsible party, and that the property owner was informed that the Department will be notified that the property owner will then be responsible for the decommissioning of the well at their own expense. If the property owner still refuses, the Department can issue a directive to the property owner to have the well properly decommissioned prior to taking formal enforcement action.

Summary

While the Damaged, Lost and Destroyed well process is allowed by rule, it should not be seen as a carte-blanche waiver from the statutory obligation to properly decommission a well. Recent submissions have included the destruction of multiple wells due to regrading, repaving and other redevelopment activities. This is an avoidable situation and may result in the issuance of Notices of Non-Compliance to all parties involved. If not satisfactorily addressed, this may result in the issuance of enforcement violations with monetary penalties. To avoid aiding and abetting violations, LSRPs need to be able to demonstrate that they actively worked with their clients to ensure all wells are located with a high level of accuracy and are properly protected so they can be properly decommissioned when no longer being used.

Additional resources are available on the Bureau's [website](#). Inquiries can be sent to the program's [email](#).