## Attachment 15: Division of State Lands/Board of Trustees Property Summary of DSL IC Development Procedure

If the State of Florida is the property owner, then the Person Responsible for Site Rehabilitation (PRSR) should contact the Florida Department of Environmental Protection (DEP) Division of State Lands (DSL) to discuss needed restrictions on the property. As with any property owner, the DSL must first approve the conditional closure and the restrictions. Both parties must agree upon the form of the IC.

The Board of Trustees of the Internal Improvement Trust Fund (BOT or Board) consists of the Governor, the Commissioner of Agriculture, the Attorney General and the Chief Financial Officer. The BOT is vested with authority regarding the acquisition, administration, management, control, supervision, conservation, protection and disposition of all state-owned lands, excluding certain transportation, port and special district lands. Pursuant to Section 253.03, Florida Statutes (F.S.),the Board is responsible for the creation of an overall and comprehensive plan of development for the acquisition, management and disposition of state-owned lands. Section 253.03(7)(a), F.S., directs the Board by statute to maintain a public land office (DSL’s Land Title Records Office) in which are deposited and preserved all records, surveys, plats, maps, field notes, patents and all other title documents for state-owned lands. These records are consulted and searched in the event the BOT considers the sale of the lands.

Pursuant to statute, DEP, primarily through the DSL, performs all staff duties and functions related to the acquisition, administration and disposition of state lands. All entities managing state-owned lands must prepare and submit for review a Management Plan (LMP) for Conservation Lands, or a Land Use Plan (LUP) for Non-Conservation Lands, which in addition to describing the property, must address:

* + A description of past use(s);
	+ A detailed description of existing and planned use(s);
	+ A detailed assessment of the impact of planned uses on the renewable and non-renewable resources of the property and a detailed description of the specific actions that will be taken to protect, enhance, and conserve these resources and to mitigate damage caused by such uses;
	+ A description of management needs and problems for the property; and
	+ A description of executive directives that constrain the use of such property.

Each plan for conservation lands is scheduled to be regularly updated. DSL, as staff to the BOT, provides guidance and recommendations to ensure that these plans meet statutory and rule requirements. If any DSL Lessee or any other entity disagrees with DSL's recommendations, DSL can place the plan before the BOT for consideration. Pursuant to Section 259.036, F.S., DSL is responsible for coordinating the review of land management activities. If a parcel of BOT land is not being managed in accordance with the approved plan, the BOT has the power to revoke lease of such lands.

DEP can impose the same kinds of restrictions on DSL properties as it can on any other (e.g., groundwater use prohibition).

a. Site/Project Manager

If a request for a conditional closure is submitted to DEP for state-owned property by a Lessee (not DSL) and if such a request is approved, the site/project manager must write a comprehensive letter to the Lessee (copying DSL) stating why the request has been approved; what the restrictions must be; what ECs, if applicable; where the restrictions will apply; and what ICs are necessary (the site/project manager may want to attach a copy of the State Lands portion of this ICPG). Additionally, the site/project manager must fill out [DWM Memo to DSL](https://floridadep.gov/waste/waste/documents/icpg-attachment-17) and provide it to DSL. The Lessee is responsible to seek authorization from DSL. Similarly, for state-owned contaminated sites at which DEP’s Site Investigation Section (SIS) is performing site rehabilitation under the State-Owned Lands Cleanup Program (SOLCP), which is state-funded and state-managed, the SIS site/project manager should write the letter described above and complete [DWM Memo to DSL](https://floridadep.gov/waste/waste/documents/icpg-attachment-17) to seek authorization from DSL on behalf of the Lessee.

b. Division of State Lands ICs:

Should DSL agree to conditional closure, DSL must prepare a memorandum to DWM agreeing to the following combination of controls, all of which together create the IC mechanism for DSL properties (see [DSL Packet to DWM](https://floridadep.gov/waste/waste/documents/icpg-attachment-16)).

1. The LMP or LUP and Land Title Records for the DSL property:

DSL does not amend the LMP or LUP. The Lessee is responsible for amending the LMP or LUP to include the DWM approved controls and restrictions. DSL will review and approve the Plan that is submitted. A copy of the current management or land use plan will be provided to the Lessee by the appropriate DSL staff member.

DSL will place a notice in its Land Title Records for the property stating that its use is restricted in perpetuity, specifically indicating how the property’s use is restricted, until such time that the contamination issues on the property have been remediated to state and federal standards. This notice will declare further that the deed to the property shall be encumbered to include such restrictions on its future use, if the Board ever determines the property to be surplus to state needs and decides to sell it. As required by statute, DEP maintains land title and lease records for all lands that the Board owns (DSL’s Land Title Records). These records are consulted and searched prior to transfer of the property from state ownership. Such restrictions in these files will alert state staff to limit the property’s future uses in any deed of conveyance, and these files may be utilized to provide post-closure notice, as more fully described at 40 CFR § 264.119(b) (1). The state LMP or LUP will include the restrictions until the contamination issues have been remediated to state and federal standards that would allow other uses. Additionally, all related leases should be amended by the DSL to reflect the new restrictions.

1. Lessee’s notice:

A copy of the LMP or LUP and notices advising that use of the property is restricted will be provided to all lessees, sublessees or lease assignees of the property until such time that the contamination issues on the property have been remediated to state and federal standards.

1. Future Transfer of Ownership of BOT Property:

DSL must inform prospective purchasers of state property prior to transfer of ownership by providing them a copy of the state LMP or LUP. When the BOT conveys the property, the contract shall contain a provision that requires the purchaser to include in the deed of transfer all the use prohibitions, water use restrictions and ECs imposed on the property by the state management or land use plan that has been approved by DEP (deed restrictions). The deed restrictions must remain a part of the deed in perpetuity until the contamination has been remediated to state and federal standards.

The deed restriction section of the deed must also include a DEP site access grant to determine compliance with the use restrictions. The deed restrictions must continue in perpetuity unless DEP determines that site contamination no longer exceeds cleanup target levels established pursuant to Florida Statutes, DEP rules and federal standards.

1. IC Registry:

The above use restrictions are to be included in the DEP DWM [IC Registry](https://floridadep.gov/waste/waste/content/institutional-controls-registry).

c. Supporting documentation:

DWM must ensure that the State of Florida owns the subject property in fee. Information from DSL proving fee ownership should be included in the IC package for OGC review. DSL should also provide DWM the name of the current Lessee as that party must be part of the negotiations.

**Summary of DSL IC Development Procedure**

The following is a summary of the above procedure that should be followed for an IC on state-owned land, generally in the order listed here:

1. **Lessee** sends conditional closure request to **DWM/District** (site/program manager reviews it). The conditional closure request should state: why the request for conditional closure is appropriate/the intended ECS and/or ICs; whether ECs are in place (if so, then include the ECMP and any Professional Engineer certifications for the ECs); the proposed area(s) of the ECs and restrictions; and [Mailed Notice Template to Local Governments](https://floridadep.gov/waste/waste/documents/icpg-attachment-9c). (Note that this is the same notice that is requested from non-DSL site RPs.)

2. **DWM Site Manager** writes a comprehensive letter to the **Lessee** (PRSR) and copies **DSL** stating why the request for conditional closure is approved (i.e., the conditions and restrictions).

3. **Lessee** must then pursue authorization from **DSL.** This includes providing to DSL a) surveys and legal descriptions of the contaminated area; b) information about the discharge of contamination (type and amount of contamination, date of discharge); c) an ECMP and any Professional Engineer certifications for the ECs once they are in place; and d) the completed [Non-Conservation Land Use Plan](https://floridadep.gov/waste/waste/documents/icpg-attachment-18).

4. **Lessee** incorporates the approved ECs and restrictions into the LMP or LUP and **DSL** staff amends the lease instrument to include the controls.

5. **DSL** informs the Title Section to place a notice in the Land Title Records for the property stating that it is restricted in perpetuity, listing the restrictions and stating that a deed restriction with the same use restrictions, ECs and ECMP must be included in any deed of conveyance away from state ownership.

6. **DSL** provides copies of 1) the amended LMP or LUP; 2) the amended lease; and 3) the notice in the State Land Title Records to the **DWM/District** site manager.

7. **DWM/District** issues the Conditional Site Rehabilitation Completion Order including the amended lease, which includes the EC and IC information as an attachment.

8. **DWM/District** completes and forwards the completed Institutional Control Registry Data Sheet to DWM\_ICR@dep.state.fl.us, who then places the IC for the DSL property onto the [IC Registry](https://floridadep.gov/waste/waste/content/institutional-controls-registry).