## Attachment 16: Sample Division of State Lands Packet

**DIVISION OF STATE LANDS MEMORANDUM TO**

**DIVISION OF WASTE MANAGEMENT**

**Florida Department of Environmental Protection**

**Memorandum\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Date:

To: Appropriate District Director or Program Administrator

Division of Waste Management

From: Director

Division of State Lands

Subject: Conditional Site Rehabilitation Completion Order

Facility Name

Facility address

Facility City, County

FDEP Facility ID#

Discharge Date:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

In response to your Division's request for an IC on state lands currently managed by the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (LESSEE), the following is provided in lieu of removal or other remediation of {{petroleum, solvent, arsenic, etc.}}-impacted soils or water at the site.

**BACKGROUND:** The Board of Trustees of the Internal Improvement Trust Fund (Board) consists of the Governor, Attorney General, Chief Financial Officer, and the Commissioner of Agriculture, and is vested with 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, 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. Pursuant to Section 253.03(7) (a), F.S., the Board is directed by statute to maintain a public land 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 by DSL staff when the Board considers the transfer of the lands as surplus.

Pursuant to statute, the Department of Environmental Protection (FDEP), primarily through the Division of State Lands (DSL), performs all staff duties and functions related to the acquisition, administration, and disposition of state lands. It is important to note, however, that the entire FDEP is staff to the Board of Trustees. All entities managing state-owned lands must prepare and submit a management plan for review, which in addition to describing the property, must address:

1. A description of past uses
2. A detailed description of existing and planned uses
3. 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
4. A description of management needs and problems for the property
5. A description of executive directives that constrain the use of such property.

Each plan is scheduled to be regularly updated. DSL, as staff to the Board, provides guidance and recommendations to ensure that these plans meet statutory and rule requirements. If LESSEE or any other entity disagrees with DSL's recommendations, DSL can place the plan before the Board for consideration. If a parcel of Board land is not being managed in accordance with the approved plan, the Board has the power to revoke the lease.

**FACILITY NAME: FACILITY ADDRESS (*known by any other name*?).** LESSEE leases state-owned lands for the operation of\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and LESSEE must prepare a land management plan for the property. This land management plan must address land use and environmental issues, such as soil and water contamination and other environmental hazards. FDEP Division of Waste Management site managers will coordinate with LESSEEs to determine appropriate property use changes and requirements to be incorporated into the plan (e.g., “LESSEE will modify the lease to require closure of irrigation wells.”). LESSEE is required, pursuant to Section 18-2.021, F.A.C., to submit its plan to the DSL for review. The Division of Waste Management must review and approve of all plans related to soil and/or groundwater contamination remediation and other environmental hazards prior to plan submittal to DSL. If DSL has any objections to the plan, DSL must present the plan to the Board for final consideration.

LESSEE’S management plan for the {{FACILITY NAME OR DSL NAME}}, which includes the lands affected by the contaminated {{soils and/or groundwater}}, has been updated to reference the contamination issue and includes as an attachment an executed copy of Amendment No*. ##* to Lease No. *####*, which amends LESSEE’s lease to include the institutional and engineering control restriction language requested in the Division of Waste Management (or its contracted entity) letter of {{DATE}}, to LESSEE. A copy of the amended management plan is attached for your file. The management plan amendment requires that the property {{(OR a portion of the property)}} {{insert a summary describing the restrictions placed on this property; e.g., groundwater use restrictions, soil cap requirements, land use restrictions, etc. Each site is different and the restrictions are site specific, so please describe only what is specific to this site.}} The lease amendment implements the restrictions for the term of the lease; however, the Division of State Lands agrees that upon transfer of the property, institutional and engineering controls shall be recorded in the county land records where the title deed to the property is recorded, and thereafter shall run with the land and with the title to the property and continue in perpetuity, unless modified in writing by DSL and DEP's Division of Waste Management. This means that all future leases must include the same requirements and use restrictions, and any transfer of the property must be accompanied by the recording of a restrictive covenant that includes the same requirements and use restrictions.

As required by statute, DSL maintains land title and lease records for all Board lands. These records are consulted and searched by DSL staff prior to transfer of the property out of state ownership. DSL will place a notice in the title and lease files for this property that lists the restrictions at the contaminated site until such time as the affected site meets state and federal standards that would allow other uses. This notice will declare further that a restrictive covenant shall be recorded in the county land records where the title deed to the property is recorded if the Board ever determines the property to be surplus to state needs and decides to transfer it. A restrictive covenant recorded in the county land records where the title deed to the property is recorded will restrict the future uses of the property.

The DSL submits that these actions will restrict use of the affected lands and provide adequate long-term control in lieu of a Declaration of Restrictive Covenant for as long as the lands are owned by the state, and in perpetuity after the recording of a restrictive covenant in the county land records where the title deed to the property is recorded. If you have any questions, please contact \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_with the Bureau of Public Land Administration. \_\_\_\_\_\_\_\_\_\_\_\_\_\_ may be reached at 850-245-­­­­\_\_\_\_.

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