

**MEMORANDUM OF AGREEMENT
BETWEEN THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION
AND THE NEW JERSEY PINELANDS COMMISSION**

WHEREAS, the New Jersey Department of Environmental Protection (DEP) is responsible for the conservation and preservation of the natural resources of the State, the promotion of environmental protection, the restoration of the environment and the prevention of pollution, pursuant to the provisions of N.J.S.A. 13:1D-9 et seq., 13:1E et seq., 58:10-23.11 et seq., 58:10A et seq. and 58:10B et seq., and other applicable statutes; and

WHEREAS, DEP is further responsible for the oversight, implementation and enforcement of certain National Priorities List (NPL) site cleanups in cooperation with the United States Environmental Protection Agency (EPA), pursuant to the Comprehensive Environmental Response Cleanup and Liability Act (CERCLA), as amended, 42 U.S.C.A. 9601 et seq., as well as cleanup of contaminated sites pursuant to the Solid Waste Management Act, Industrial Site Recovery Act, Resource Conservation and Recovery Act, the Spill Compensation and Control Act, the Water Pollution Control Act and the Underground Storage of Hazardous Substances Act;

WHEREAS, the New Jersey Pinelands Commission (Commission) is responsible for the protection and management of the Pinelands Area, as defined by N.J.S.A. 13:18A-11, pursuant to the provisions of the Pinelands Protection Act (the Pinelands Act), N.J.S.A. 13:18A-1 et seq.; and

WHEREAS, the Commission's approval is required for development activities in the Pinelands Area, pursuant to N.J.S.A. 13:18A-1 et seq. and N.J.A.C. 7:50-1.1 et seq.; and

WHEREAS, pursuant to N.J.A.C. 7:50-2.11, activities typically associated with remedial actions are defined as development and N.J.S.A. 13:18A-10(c) provides that no application for development within the Pinelands area may be approved by any State agency unless such approval conforms to the minimum requirements of the Pinelands Comprehensive Management Plan; and

WHEREAS, application to the Pinelands Commission and action on the proposed development by the Pinelands Commission is required by the provisions of the Pinelands Comprehensive Management Plan (CMP) (N.J.A.C. 7:50-1 et seq.); and

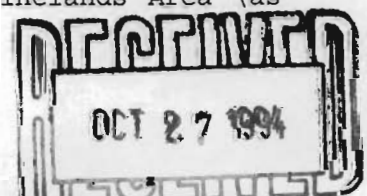
WHEREAS, some contaminated sites are located in the Pinelands area, and various activities potentially requiring development will have to be undertaken at such sites, including but not limited to Preliminary Assessment and Site Investigation (PA/SI), Pre-Remedial Investigation, Remedial Investigation/Feasibility Study (RI/FS for CERCLA sites), Remedial Design (RD), Remedial Action (RA) including Interim Measures, Construction and long term Operation, Maintenance and Monitoring; and

WHEREAS, the Commission may enter into an intergovernmental memorandum of agreement (MOA) with an agency authorizing such agency to carry out specified development activities in the Pinelands Area without securing individual development approval from the Commission, pursuant to N.J.A.C. 7:50-4.52(c); and

WHEREAS, the DEP and the Commission wish to ensure that action undertaken at contaminated sites where the EPA is acting as the lead agency will be in compliance with the programs and regulations administered by the DEP and the Commission; and

WHEREAS, DEP may enter into an MOA with the Commission for the performance of its duties, pursuant to N.J.S.A. 13:1D-9 et seq.; and

WHEREAS, DEP and the Commission intend to establish a mechanism to expedite all present and future cleanups of contaminated sites in the Pinelands Area (as



defined in N.J.S.A. 13:18A-11(a)) conducted either by DEP (DEP Pinelands Sites) or by a private party (PP) pursuant to oversight by the DEP (PP Pinelands Sites) and in accordance with N.J.A.C. 7:26C.

NOW THEREFORE, IT IS HEREBY AGREED:

1. DEP shall conduct, or oversee to ensure compliance with, all activities associated with Preliminary Assessment and Site Investigation, Pre-Remedial Investigation, Remedial Investigation/Feasibility Study (RI/FS for CERCLA sites), Remedial Design (RD), Remedial Action including Interim Measures, Construction and long-term Operation, Maintenance and Monitoring at all DEP and PP Pinelands Sites in accordance with the management programs and minimum standards set forth in subchapters 5 and 6 of the CMP N.J.A.C. 7:50-5.1 et seq. and 7:50-6.1 et seq., (with special reference to N.J.A.C. 7:50-6.1 et seq. (Wetlands) and N.J.A.C. 7:50-6.81 (Water Quality)) except in cases, where it has been determined by the Pinelands Commission that a standard may be waived through the issuance of a Waiver of Strict Compliance. **This waiver would apply to both soils and groundwater.** These standards shall be applied to all State authority remedial sites as well as State and Federal lead CERCLA sites for the Feasibility Study, Design, Construction and Operation and Maintenance and Remedial Action phases.
2. The DEP and the Commission agree that the comments of both agencies regarding the remediation of sites where the EPA is acting as the lead agency (agency with primary responsibility for the site) will be submitted in a coordinated fashion. DEP will submit Pinelands comments to the lead agency provided that they are submitted within fifteen calendar days of Pinelands receipt of the document (or unless DEP and the Commission agree to a different time frame).
- 3a. The Commission shall not require DEP or PP's performing preliminary investigation or cleanup activities pursuant to DEP oversight at any DEP or PP Pinelands site to submit applications for Commission approval for those activities conducted for the purpose of initiating any PA/SI, Pre-Remedial Investigation, and/or RI/FS. **However, DEP shall ensure that the Commission has received copies of all major reports, examples of which are listed in Attachment A. The Commission shall provide written confirmation to the DEP of its receipt of these documents.** Upon written notification by the Commission to DEP of any inconsistencies between the planned activities at any DEP or PP Pinelands Site and the regulations set forth in N.J.A.C. 7:50-1 et seq. DEP will modify reports to be consistent with the Commissions determinations and comments. For the purpose of conducting expedited remedial action activities, DEP shall also notify the Commission at least seven days in advance of on-site activities being initiated associated with an RA at any DEP or PP Pinelands Site. Should situations occur in which the Department may not be able to modify a report in accordance with the Commissions recommendations, the situation will be brought to the attention of the respective management for resolution.
- 3b. The DEP will notify all PP's conducting remedial activities within the Pinelands to send a copy of all remedial documents required by the DEP to the Commission. A copy of the letter that DEP proposes for this purpose is included as Attachment B.
4. The Commission shall not require the completion of an application for the removal of an underground storage tank for which an application for closure plan approval has been submitted to the DEP. **The DEP shall ensure that a copy of the closure plan is submitted to the Commission. The Commission shall provide written notification to the DEP of it's receipt of the closure plan.** Upon written notification by the Commission to the DEP of any inconsistencies between the closure plan and the regulations

set forth in N.J.A.C. 7:50-1 et seq., DEP shall require that such plans be modified until the Commission deems the project consistent with the Commission's regulations, or the Commission is satisfied that the proposed activities are necessary to ensure an expeditious cleanup of the site. If written comments are not received from the Commission within fifteen (15) days (unless a different time period is mutually agreed to by DEP and the Commission) of delivery of the closure plan to the Commission, DEP will assume that the Commission concurs with the plan. DEP will copy the Commission on all approvals issued for the closure of underground storage tanks.

5. With respect to emergency response and expedited remedial actions (e.g., spills of hazardous substances) taken at any DEP or PP Pinelands Site, the Commission shall not require the submission of plans or applications for Commission approval. However, DEP or the PP shall notify the Commission by telephone within 48 hours of initiating the emergency response or remedial actions at such sites. If any emergency response or expedited remedial action requires longer than 30 days to complete, DEP shall follow the procedures in 3a above.
6. DEP shall afford the Commission the opportunity to review and comment on the various remedial alternatives being considered by DEP, including DEP's proposed plan (for CERCLA sites), by sending the Commission a draft of the proposed plan. Comments on the Proposed Plan from the Commission shall be received by the DEP within thirty (30) calendar days (unless a different time period is mutually agreed to by the DEP and the Commission). The alternative selected by DEP shall be consistent with N.J.A.C. 7:50-1 et seq. If no comments are received from the Commission within this time period, DEP will assume that the Commission has concurred with the proposed plan.
- 7a. The DEP shall notify the Commission before any development activities associated with long-term interim (greater than 30 days duration) or final remediation of contamination at any DEP or PP site within the Pinelands Area. Submission of the Remedial Action Workplan or Remedial Design and Construction documents by DEP along with the completed Pinelands application form shall serve as an application to the Commission.
- 7b. For minor development and major development by a non-public entity in a municipality with the land use ordinances that have been certified by the Commission pursuant to N.J.A.C. 7:50-3 et seq., the submission in 7a above shall constitute a completed application pursuant to the provisions of the CMP.
- 7c. For major development where DEP or another public agency is the applicant (i.e. publicly funded projects), DEP shall ensure that the notices required by N.J.A.C. 7:50-4.53(c) and (d) are provided for those sites in which DEP is involved. For major development in municipalities that do not have land use ordinances certified by the Commission and where the applicant is not a public agency, DEP shall ensure that the notice required by N.J.A.C. 7:50-4.14(b) or (c) is provided, where DEP has knowledge of these activities. Submission of proof of completion of these notices along with submission of the information required by (a) above shall constitute a complete application pursuant to the provisions of the CMP.
8. Within 30 days of the receipt of a complete application pursuant to 7c above, the Commission staff shall take one of the following actions:
 - i. Where DEP or another public agency is the applicant, a Report on an Application for Public Development shall be issued pursuant to N.J.A.C. 7:50-4.54. The report shall indicate whether the application is consistent with the requirements of the CMP. The Commission will act on the application at its next regularly

scheduled public meeting after the period to request a hearing has expired and no such request has been received.

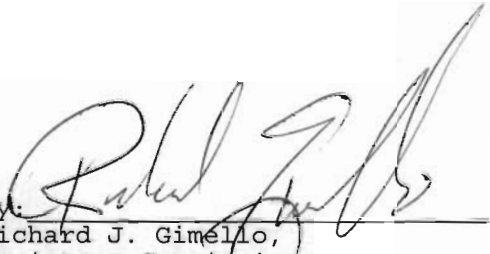
- ii. Where a non-public entity is the applicant, a Certificate of Filing or Certificate of Compliance pursuant to N.J.A.C. 7:50-4.34, 7:50-4.15 or 7:50-4.82(b) shall be issued. The Certificate of Filing or Compliance shall identify any inconsistencies between the application and the requirements of the CMP.
- 9a. In accordance with N.J.A.C. 7:50-4.51 et seq. for development where a public agency is the applicant, the Commission shall review the application and all information which has been submitted to determine whether the proposed activity should be approved or approved with conditions. DEP will not approve or authorize the commencement of remedial activities until the application has been approved by the Pinelands Commission. The DEP will incorporate any conditions imposed by the Pinelands Commission into any formal action it takes on the remedial activity.
 - 9b. For development where a private party is the applicant, the Commission shall review the application and all information which has been submitted to determine whether the proposed activity is consistent with the CMP. DEP will not approve or authorize the commencement of any remedial activities that are not consistent with the requirements of the CMP as set forth in the Certificate of Filing or Certificate of Compliance issued by the Pinelands Commission pursuant to 7(b) above.
 - 9c. A Commission staff determination of all completed applications described in paragraphs 7a through 9b shall be submitted to the Department in writing within 30 calendar days of the Commission's receipt of the completed application.
10. The Commission's review of all plans and proposed activities associated with the remediation of all DEP and PP Pinelands Sites will be limited to an assessment of compliance with the standards specified in the Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-1.1 et seq.). The Commission specifically disclaims any responsibility for the technical feasibility of any proposed remediation.
 11. DEP shall forward to the Commission case reports once a year on all major DEP and PP Pinelands Sites. These reports shall be in the form of DEP's Site Status Report. DEP's Site Status Reports will include any major sites newly identified in the Pinelands Area. The two agencies shall meet to discuss the Status report, as well as any newly identified sites, if requested by either agency.
 12. The Commission and DEP designate the Assistant Director for Development Review and Intergovernmental Coordination and Enforcement on behalf of the Commission, and the Director of the Division of Responsible Party Site Remediation on behalf of DEP, to coordinate activities related to this MOA. Such individuals shall meet periodically (at least two times a year) to discuss issues related to this MOA. **Such individuals or their designees, shall also meet should DEP have any questions concerning any comments submitted by the Commission.** They may also appoint staff member(s) from their respective organizations to conduct routine activities necessary to carry out the provision of this MOA.
 13. In the event that one or both, agencies propose to amend relevant adopted regulation or policies, i.e., those which may have any effect on activities associated with the Pinelands Site, they shall consult with the other to determine how the amendments will affect the administration of this MOA, and shall attempt to resolve any deficiencies before taking action. It is understood that the Commission and the DEP may propose revisions to the terms and procedures of this MOA from time to time. This

agreement may be modified by mutual consent at any time.

14. The MOA shall take effect upon the signing of both parties, subject to the Governor's review of the Commission's minutes for a period of 10 business days; and may be terminated by either party upon 60 days written notice.

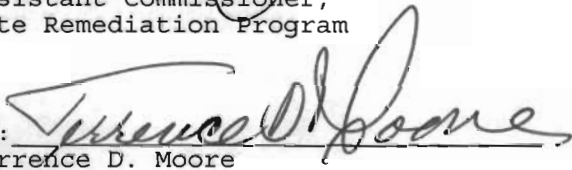
JUN 27 1994

Date

By: 
Richard J. Gimello,
Assistant Commissioner,
Site Remediation Program

Date

August 18, 1994

By: 
Terrence D. Moore
Executive Director
Pinelands Commission

Date

10/21/94

By: 
Deputy Attorney General

Dear _____:

RE: Property located at _____

The New Jersey Department of Environmental Protection (DEP) has determined that the subject property may be located within the New Jersey Pinelands. Any remedial activities proposed for sites located within the Pinelands Area, as defined by NJSA 13:18A-11, are subject to the requirements of the Pinelands Comprehensive Management Plan, NJAC 7:50-1 et seq. Based upon a cooperative agreement between the Pinelands Commission (Commission) and the DEP the requirement for the completion of any application with the Commission will be waived for all pre-remedial and interim cleanup activities provided that they are undertaken with DEP oversight. The party conducting remedial activities must submit copies of all information and reports prepared for the site in accordance with the Technical Requirements for Site Remediation, NJAC 7:26E to the Commission, as well as the DEP. This list includes but is not limited to: remedial investigation reports, remedial action workplans and reports, field sampling and analytical reports.

If you have any questions concerning the requirements of the Pinelands Commission or the Pinelands Comprehensive Management Plan, you may contact the Pinelands Commission Development Review Office directly at P.O. Box 7, New Lisbon, NJ 08064, phone (609) 894-9342.

Sincerely,

The listing of Counties and Municipal Codes below are all or partially located in the Pinelands. Attachment B should be utilized in accordance with this listing.

Atlantic County

0104, 0105, 0106, 0107, 0108, 0109, 0110, 0111, 0112, 0113, 0117, 0120, 0123

Burlington County

0301, 0313, 0320, 0321, 0325, 0326, 0329, 0332, 0333, 0335, 0336, 0339, 0340

Camden County

0405, 0406, 0410, 0435, 0436

Cape May County

0504, 0511, 0516

Cumberland County

0609, 0614

Gloucester County

0805, 0811

Ocean County

1501, 1504, 1505, 1507, 1508, 1511, 1512, 1513, 1516, 1518, 1520, 1523, 1529,
1530

ATTACHMENT A

MAJOR DELIVERABLES: PINELANDS COMMISSION/NJDEP MOA

The following list shall constitute "Major Deliverables" for the purposes of the NJDEP/Pinelands Commission MOA:

State lead CERCLA Sites

RI/FS: Site specific RFP, Draft FS-QAPP, Draft RI and FS Report (each phase) and subsequent final versions of the above documents, Proposed Plan, Remedial Action Workplan and Report and Record of Decision (ROD).

Remedial Design: Site specific RFP, draft FS-QAPP, draft Field Sampling and Testing Reports, 35% Design, 67% Design, 95% Design, 100% Design, permit applications, and any subsequent final versions of the above documents.

Remedial Action: Work Plans, Construction Operations Plan, and as Build Plans and Specifications.

Operation and Maintenance:

O & M Plan.

Other: o Correspondence Relating to NPL Deletion.
 o Correspondence Relating to O & M Termination.
 o Correspondence Relating to Negative Declarations

State Authority Sites

PA/SI - Tech Rule definitions
RI - Tech Rule definitions
RAW - Tech Rule definitions
RAR - Tech Rule definitions

ATTACHMENT B