

**AMENDING THE MARCH 18, 2008 MEMORANDUM OF AGREEMENT
CONCERNING THE ANCORA PSYCHIATRIC HOSPITAL**

June 1, 2010*

WHEREAS, on November 9, 2007, the Commission approved a Memorandum of Agreement (MOA) between the New Jersey Pinelands Commission (Commission), the New Jersey Department of Human Services (NJDHS), the New Jersey Department of Environmental Protection (NJDEP) and the Camden County Municipal Utilities Authority (CCMUA) authorizing the extension of public sanitary sewer into a Pinelands Rural Development Area(s) and a Pinelands Agricultural Production Area(s) to serve the Ancora Psychiatric Hospital (APH) facility parcel; and

WHEREAS, Paragraph VI.A.18 of the MOA approved by the Commission on November 9, 2007 specifically prohibits NJDHS from commencing the utilization of public sanitary sewer authorized by the MOA to convey wastewater from the APH facility parcel to the CCMUA treatment plant in Camden, New Jersey until a non-Kirkwood/Cohansey potable water source has been obtained and is being utilized by the APH facility parcel; and

WHEREAS, NJDHS had originally intended to develop two potable water wells within the Piney Point aquifer to provide for the potable water needs of the APH facility parcel; and

WHEREAS, consistent with the provisions of the MOA approved by the Commission on November 9, 2007, NJDHS now proposes connection to a private public water system to provide potable water to the APH facility; and

WHEREAS, such a connection will require construction of a new potable water system to connect the APH facility parcel to the private water company's existing water system; and

WHEREAS, NJDHS has indicated that construction of the new sanitary sewer main authorized by the MOA approved by the Commission on November 9, 2007 to serve the APH facility parcel will be completed and ready for operation around June 1, 2010; and

WHEREAS, NJDHS has indicated that construction of the new potable water main to service the APH facility will not be completed and operational until approximately November, 2010; and

WHEREAS, because of concerns regarding the age of APH's existing onsite wastewater treatment plant (WWTP), the quality of the treated wastewater being generated from the WWTP and the limited capabilities of the associated infiltration lagoons and that NJDEP has declared the sanitary sewer service at APH a public health emergency, NJDHS has requested that Paragraph VI.A.18 of the MOA approved by the Commission on November 9, 2007 be amended to temporarily allow DHS to utilize the new public sanitary sewer authorized therein prior to a non-Kirkwood/Cohansey potable water source serving the APH facility parcel; and

* Certain typographical errors in the MOA identified by the Deputy Attorney General representing the Pinelands Commission were corrected on July 21, 2010

WHEREAS, the purpose of the limitation on the use of the public sanitary sewer authorized by MOA approved by the Commission on November 9, 2007 prior to NJDHS's utilization of a non-Kirkwood/Cohansey potable water supply was intended to ensure that the use of the public sanitary sewer system would not result in long-term hydrologic impacts to the Kirkwood/Cohansey aquifer; and

WHEREAS, NJDHS has represented that the time period during which it will utilize the new public sanitary sewer system authorized by the MOA approved by the Commission on November 9, 2007 and continue to utilize the existing Kirkwood/Cohansey potable water wells will be of a short duration, approximately 6 months; and

WHEREAS, on balance, the Commission staff believes that potential hydrologic impacts to the Kirkwood/Cohansey aquifer during this short duration will not result in a long term irreversible impacts provided the conditions of this amendment to the MOA approved by the Commission on November 9, 2007 are met, while the existing ongoing adverse impacts to ground and surface waters on and in the vicinity of the existing APH onsite sanitary sewer treatment system facility are, and continue to be, significant; and

WHEREAS, the CMP, at N.J.A.C. 7:50-4.52(c)2, authorizes the Commission to enter into a MOA with a governmental agency to authorize such agency to carry out specified development activities that may not be fully consistent with the provisions of N.J.A.C. 7:50-5 and 6, provided such agency demonstrates and the Commission finds that variation from the standards of the Pinelands Comprehensive Management Plan (CMP) are accompanied by measures that will, at a minimum, afford an equivalent level of protection of the resources of the Pinelands than would be provided through strict application of the standards of the CMP.

NOW THEREFORE, in consideration of the promises, and of the mutual covenants and agreements contained herein, the Parties hereto agree to amend the MOA approved by the Commission on November 9, 2007 as follows:

1. Unless expressly amended herein, all provisions of the MOA approved by the Commission on November 9, 2007 remain in full force and effect.
2. Notwithstanding the provisions of Paragraph VI.A.22 of the MOA approved by the Commission on November 9, 2007 to the contrary, the Parties agree that DHS, its agent, including a private entity officially acting on behalf of NJDHS, may complete an application with the Commission for the development of a new potable water main to provide potable water service to the APH facility parcel.
3. Notwithstanding the provisions of Paragraph VI.A.18 of the MOA approved by the Commission on November 9, 2007 to the contrary, NJDHS may commence utilization of public sanitary sewer service, including the new sanitary sewer force main being constructed for the APH facility parcel at such time as:
 - a. NJDHS, its agent, including a private entity on NJDHS's behalf, has received a Resolution from the Commission approving an application for

Public Development or received a Commission Certificate of Filing and any necessary local approvals for construction of a potable water system to service the APH facility parcel; and

- b. NJDHS and a potable water company have executed an agreement, or its equivalent, to provide all potable water service needs of the APH facility.
4. CCMUA and/or NJDHS, its agents or assignees agree that it will not use any money from the Pinelands Infrastructure Trust Fund grant for the permitting, construction, operation or any other aspect of the proposed potable water system to service the APH facility parcel.
5. NJDHS agrees to immediately implement, to the extent that it has not done so already, the emergency conservation measures delineated in Paragraph VI.A.2 of the MOA approved by the Commission on November 9, 2007, and as required by paragraph 2 of the emergency permit conditions set forth in Attachment A of its May 29, 2003 Administrative Consent Order with NJDEP, to reduce the amount of consumptive water uses at the APH facility to decrease the demand on the Kirkwood-Cohansey aquifer during the six month duration of utilizing public sanitary sewer and the Kirkwood-Cohansey wells for potable water. To the extent that it has not already done so, such actions shall include, but shall not be limited to, the ongoing practice of converting to low flow fixtures and the timely installation of water conserving "tunnel washer" laundry equipment. Such emergency conservation measures shall remain in effect at least until the new potable water main is constructed and servicing all potable water needs of the APH facility parcel. In addition, NJDHS agrees to take all other reasonable and practical steps to limit and eliminate all non-essential water use such as lawn irrigation to further reduce water usage from the three existing Kirkwood-Cohansey potable water wells.
6. NJDHS agrees that no later than six (6) months following its commencing utilization of public sanitary sewer service allowed by the MOA approved by the Commission on November 9, 2007, it will satisfy all of the obligations in Section VI. Paragraphs 19 & 20 of the MOA approved by the Commission on November 9, 2007.
7. As required by Paragraph VI.A.14 of the MOA approved by the Commission on November 9, 2007, except for emergency purposes, NJDHS agrees to cease use of the existing Kirkwood/Cohansey (K/C) Aquifer water supply wells located at the APH facility parcel to service the potable water needs of the APH facility parcel once the new public potable water supply system for the APH facility parcel is operational. Although NJDHS may retain one of the three existing K/C Aquifer wells for emergency purposes, NJDHS agrees that the well shall only be used, on a temporary basis and to the minimum extent necessary, to remedy or prevent imminent threats to human life, health or safety at the APH facility parcel. Additionally, NJDHS agrees that all uses of that K/C well shall be subject

to the reporting requirements identified in Paragraph VI.A.15 of the MOA approved by the Commission on November 9, 2007.

8. The existing NJDEP water allocation permit for the three existing Kirkwood Cohansey wells at the APH facility expires on March 31, 2011. NJDHS agrees to diligently pursue a modified NJDEP water allocation permit. The modified water allocation permit shall specifically indicate that only one of the three existing wells shall be utilized for emergency use in accordance with the restrictions set forth in paragraph 7 above.
9. The NJDEP agrees that it will incorporate limitations on the use of the Kirkwood- Cohansey wells set forth in Paragraph 7 of this MOA amendment and provide for penalties for the unauthorized use of the concerned wells and any failure to follow the reporting procedures set forth in Paragraph VI.A.15 of the MOA approved by the Commission on November 9, 2007 into the modified NJDEP water allocation permit for the Kirkwood-Cohansey wells located on the APH facility parcel.
10. NJDHS agrees that should the APH facility be closed and the APH facility parcel be determined to be surplus State property, it will permanently seal the Kirkwood/Cohansey wells located at the APH facility parcel, prior to NJDHS terminating all of its operations at the APH facilities.
11. NJDHS agrees that if the APH facilities are closed, NJDHS shall still satisfy all conditions and obligation of the MOA.
12. NJDHS agrees that if the parcel is determined to be surplus State property, DHS shall provide the Department of Treasury with a copy of the MOA approved by the Commission on November 9, 2007, a copy of the required deed(s) of conservation, a copy of this amendment to the MOA and advise the Treasury Department to disclose to any prospective buyer/owner of the parcel that future permitted land use of the parcel is limited to those uses consistent with the Township's certified land use ordinances, such uses shall only be conducted within the portions of the parcel located within the designated "Development Area" as depicted on Exhibit 1 to the MOA approved by the Commission on November 9, 2007 as modified by Attachment 1 of the amendment to the MOA approved by the Commission on November 9, 2007, no development shall occur within the area of the APH parcel deed restricted to prohibit future development and any proposed uses shall be subject to the development application provisions of the CMP (N.J.A.C. 7:50-4).
13. To provide at least a minimum of an equivalent level of protection to the resources of the Pinelands as required by the CMP (N.J.A.C. 7:50-4.52(c)2), NJDHS proposes, and herein agrees, to file a Deed of Conservation Restriction designating an additional 89 acres (See Attachment 1) originally designated as "Development Area" in the MOA approved by the Commission on November 9,

2007 as "Open Space." (The MOA approved by the Commission on November 9, 2007 designated approximately 300 acres of the APH parcel as "Development Area" and approximately 359 acres of the APH parcel as "Open Space Area.") The concerned 89 acres, upon which 10 existing former wastewater infiltration lagoons are located, is depicted on Attachment 1, attached hereto and incorporated herein by reference. The former wastewater infiltration lagoons, each approximately four feet deep, occupy approximately 18 acres of the 89 acres and currently provide wildlife habitat for a variety of birds, amphibians and mammals. NJDHS agrees to facilitate the natural succession of native Pinelands vegetation in the 10 former wastewater lagoons by removing non-native vegetation from the lagoons on at least an annual basis for 10 years from the date of approval of this MOA amendment.

14. NJDHS estimates that construction of the new sanitary sewer main to serve the APH facility parcel will be completed and operational around June 1, 2010. NJDHS estimates that the construction of the new potable water main to service the APH facility will not be completed and operational until six (6) months later on November 1, 2010. NJDHS agrees that if completion of construction and operation of the new potable water main to service the APH facility extends more than seven (7) months beyond the date it commences utilization of the new public sanitary sewer system, it shall, in addition to deed restricting 89 acres of Open Space as required by Paragraph 13 above, undertake improvement to an existing, approximately 400 linear foot stormwater conveyance area to improve the quality of existing runoff discharging to this area. Such improvements shall, at a minimum, consist of regrading and stabilizing of the area, removal of exotic plant species and/or phragmites and re-vegetation consistent with the provisions of the landscaping and revegetation guidelines of the Pinelands CMP (N.J.A.C. 7:50-6.26). The concerned stormwater conveyance area is located on the APH facility parcel, east of Woodland Drive and south of Pine Drive and currently accepts and discharges stormwater runoff from at least two existing internal roadways and a parking area to wetlands which drain to Blue Anchor Brook (See Exhibit 1).

If the proposed water main is not operational within seven (7) months after the date NJDHS commences utilization of the new public sanitary sewer system, NJDHS agrees to provide a plan to the Commission staff for the proposed improvements to the concerned stormwater conveyance area by the end of the ninth (9) month after the date DHS commences utilization of the new public sanitary system. Upon Commission staff written concurrence with the plan, NJ DHS agrees to construct the improvements within 19 months from the date NJDHS commences utilization of the new public sanitary sewer system.

15. NJDHS agrees that if the proposed potable water service is not operational by the beginning of the eleven month after the date that utilization of the new public sanitary sewer system commences, that NJDHS will not consent to the filing of any further development applications on the APH parcel on its or any other entities behalf until NJDHS returns to the Commission for further amendment of

the MOA to address the CMP (N.J.A.C. 7:50-4.52(c)2) requirement to provide at least a minimum of an equivalent level of protection to the resources of the Pinelands.

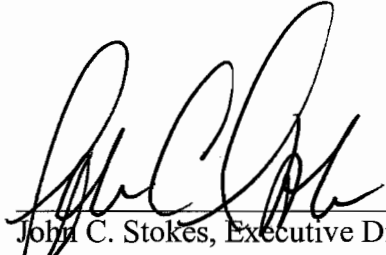
16. *The Deed of Conservation Restriction required to be filed pursuant to Paragraph VI.A.3 and 4 of the MOA approved by the Commission on November 9, 2007 and the Deed of Conservation Restriction required to be filed pursuant to Paragraph 13 of this proposed amendment to the MOA shall be filed and a copy of the filed Deed(s) of Conservation shall be provided to the Commission by September 1, 2010.*

17. In accordance with N.J.S.A. 13:18A-5(h), this Amended MOA shall take effect following the conclusion of the Governor's review period and approval of the Pinelands Commissions minutes authorizing entry of this Amended MOA and then upon approval and signature by the authorized representatives of all Parties.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the 27th day of AUGUST, 2010.

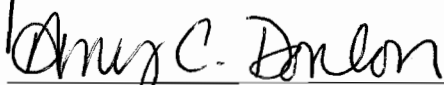
NEW JERSEY PINELANDS COMMISSION

Date: 8/27/10

By: 
John C. Stokes, Executive Director

Approved as to form by:

Date: 7/13/2010

By: 
Amy C. Donlon, Deputy Attorney General

NEW JERSEY DEPARTMENT OF HUMAN SERVICES

Date: 8.17.10

By: 
Jennifer Velez, Commissioner

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION

Date: _____

By: _____
Scott Brubaker, Acting Assistant Commissioner

CAMDEN COUNTY MUNICIPAL UTILITIES AUTHORITY

Date: _____

By: _____
Doreen A. Dixon, Chairperson

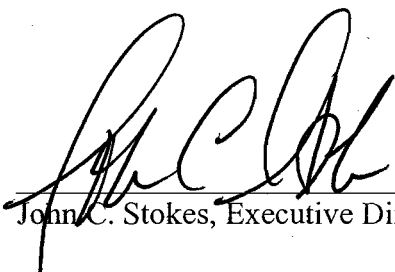
the MOA to address the CMP (N.J.A.C. 7:50-4.52(c)2) requirement to provide at least a minimum of an equivalent level of protection to the resources of the Pinelands.

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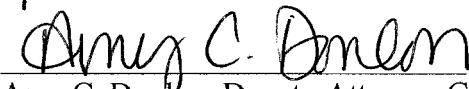
NEW JERSEY PINELANDS COMMISSION

Date: 8/27/10

By: 
John C. Stokes, Executive Director

Approved as to form by:

Date: 7/13/2010

By: 
Amy C. Donlon, Deputy Attorney General


NEW JERSEY DEPARTMENT OF HUMAN SERVICES

Date: _____

By: _____
Jennifer Velez, Commissioner

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION

Date: 8/24/10

By: 
John Plonski, Assistant Commissioner

CAMDEN COUNTY MUNICIPAL UTILITIES AUTHORITY

Date: _____

By: _____
Doreen A. Dixon, Chairperson

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NEW JERSEY PINELANDS COMMISSION

Date: 8/27/10

By:


John C. Stokes, Executive Director

Approved as to form by:

Date: 7/13/2010

By:


Amy C. Donlon, Deputy Attorney General

NEW JERSEY DEPARTMENT OF HUMAN SERVICES

Date: _____

By:

Jennifer Velez, Commissioner

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION

Date: _____

By:

Scott Brubaker, Acting Assistant
Commissioner

CAMDEN COUNTY MUNICIPAL UTILITIES AUTHORITY

Date: 8/16/10

By:


Doreen A. Dixon, Chairperson

ATTCHMENT 1



Exhibit 1: Proposed MOA Offset Area 4/15/10

