

## **Section VI. Memorandum of Agreement**

The NJCMP program document contains a section that describes the relationship between the Department and the NJMC (See New Jersey Coastal Management Program, Final Environmental Impact Statement, August 1980, page 283). This section sets forth the roles of each agency in the review of coastal activities and development within the District and the consideration of the Master Plan, its adopted components and management plans in such reviews.

On November 9, 2005, the Department and NJMC entered into a Memorandum of Agreement that identifies the roles and responsibilities for each agency in reviewing proposed coastal activities and developments within the District. The review process outlined in the MOA is codified in and therefore enforceable through the CZM rules' Hackensack Meadowlands District rule, N.J.A.C. 7:7E-3.45. In addition, N.J.S.A. 13:1D-9q provides the Department with the power to contract with any public agency or corporation to formulate comprehensive policies for the conservation of the natural resources of the state, the promotion of environmental protection and the prevention of pollution of the environment of the State. Under this program change submission, the NJCMP intends to replace the description on page 283 of the 1980 Final EIS with the November 9, 2005 MOA as it updates and formalizes the relationship between the Department and New Jersey Meadowlands Commission as described in the original program document.

Table D, Routine Program Change, November 9, 2005 MOA between the NJDEP and New Jersey Meadowlands Commission, compares the language of the 1980 original program document with the 2005 MOA and contains an analysis describing the changes between these documents and why these changes are not substantial changes.

**Table D**  
**Routine Program Change**  
**November 9, 2005 MOA between NJDEP and NJMC**  
September 8, 2009

Under this program change submission, the NJCMP intends to replace the description of the relationship between the Department and NJMC on page 283 of the 1980 Final EIS with the November 9, 2005 MOA. As demonstrated in the analysis below, the MOA updates and formalizes the relationship described in the program document. The MOA does not change the boundaries of the coastal zone. As described below, the incorporation of the November 2005 MOA is not a substantial change to special management areas, uses subject to management, authorities and organization or consideration of the national interest.

1980 NJCMP program document	November 9, 2005 MOA	Significance of Change
Provides that the NJMC is the lead agency for planning and regulation of development in the District.	Provides the NJMC is the lead planning agency within the District and sets forth their regulatory responsibilities. Items 2 through 8 of the MOA identify the NJMC's responsibility in the regulatory process. The Department can not issue a Waterfront Development permit, Federal Consistency Determination, or Water Quality Certificate (except for those that do not require a zoning certificate from the NJMC), without a statement of consistency, zoning certificate or resolution from the NJMC approving the activity or development, from the NJMC.	Both documents recognize that the NJMC is the lead planning agency in the District. Through the MOA, the NJMC is intimately involved in regulatory decisions regarding the acceptability of coastal activities and developments within the District as the Department will not issue a permit, consistency determination or water quality certificate without proof from the New Jersey Meadowlands Commission that activity or project is consistent with the Master Plan.
Provides that the Department is responsible for issuing Waterfront Development permits and will be guided by the Master Plan, its adopted components and management plans in making decisions on Waterfront Development permit applications and consult with NJMC staff concerning interpretation of these policies.	Item 8 of the MOA provides that the Department will issue permit decisions under the Waterfront Development Law for activities located below the mean high water line after receiving a statement of the proposed development or activity's consistency with the Master Plan from the NJMC.	Item 8 of the MOA identifies the vehicle through which the Department is guided in determining consistency with the Master Plan and therefore the MOA merely clarifies how the Department will consult with NJMC staff.
Provides that the Department is responsible for determining the consistency of federal activities with the NJCMP within the District as elsewhere in the State. However, the Department can not issue a Federal Consistency determination in the District without first consulting with the NJMC concerning consistency of the proposed Federal activity with the Master Plan and other adopted HMDC policy documents.	Provides that the Department is responsible for issuing all Federal consistency determinations for Federal actions within or affecting New Jersey's coastal zone. The Department will determine consistency of Federal actions with the CMP after receiving either a copy of a resolution by the NJMC approving the action or a statement of consistency with the Master Plan from the NJMC. For Federal actions that do not require a zoning certificate or other approval from the NJMC the Department will proceed with its review without a review by the New Jersey Meadowlands Commission.	The MOA merely clarifies the process in which consistency with the Master Plan is determined. The Department retains the responsibility of issuing Federal consistency determinations in the District.

1980 NJCMP program document	November 9, 2005 MOA	Significance of Change
<p>Provides that the Department will work together with the NJMC to preserve wetlands and other open space designated for preservation by the Master Plan, and to identify additional parcels of land which because of their biological productivity or value for recreational purposes, should also be considered for preservation. The Department and NJMC will explore acquisition and other techniques for the preservation of these lands. Working together, the Department and NJMC will be able to ensure the preservation of at least as much wetlands and other open space as presently called for by the Master Plan.</p>	<p>Provides that coastal activities and development are consistent with the 2004 Master Plan.</p>	<p>As described in the Master Plan section of the program change submission, the 2004 Master Plan continues to promote preservation of wetlands and open space. By requiring consistency with the Master Plan, the MOA maintains the preservation of wetlands and open space in the District.</p>
<p>The Program document provides that amendments to the zoning regulations will be considered amendments to the CMP when they meet the definition for amendments found in 15 CFR 923.80(c).</p>	<p>Item 9 of the MOA addresses the submission of program changes to OCRM for approval</p>	<p>Item 9 clarifies the roles and responsibilities of the Department and NJMC in submitting program changes resulting from changes to the Master Plan.</p>

**MEMORANDUM OF AGREEMENT  
BETWEEN  
THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION  
AND  
HACKENSACK MEADOWLANDS**

WHEREAS, pursuant to Hackensack Meadowlands Reclamation and Development Act, N.J.S.A. 13:17-1 et seq. the New Jersey Meadowlands Commission (NJMC) has been given the responsibility for land use planning and permitting within the Hackensack Meadowlands District (District); and

WHEREAS, pursuant to the Waterfront Development Law, N.J.S.A. 12:5-3, the New Jersey Department of Environmental Protection (NJDEP) has been given responsibility for regulating activities occurring in state tidal waters; and

WHEREAS, pursuant to Section 401 of the Clean Water Act, 33 U.S.C. §1341, and implementing state regulations, the NJDEP is responsible for issuing Water Quality Certificates for activities which may result in a discharge into navigable waters including the discharge of dredged or fill material; and

WHEREAS, pursuant to the Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 et seq., NJDEP is responsible for regulating activities within the 100-year floodplain; and

WHEREAS, New Jersey's Coastal Management Program was approved by the National Oceanic and Atmospheric Administration's Office of Ocean and Coastal Resource Management (NOAA) on September 1978 and September 1980. The approved New Jersey Coastal Management Program includes the District; and

WHEREAS, the NJDEP is responsible for implementing the New Jersey Coastal Management Program and is responsible for issuing all Federal Consistency determinations for Federal actions within or affecting New Jersey's coastal zone. Federal actions, as further defined at 15 CFR 930, are Federal agency activities, Federal license and permit activities and Federal financial assistance to State and local governments; and

WHEREAS, it is necessary to identify the roles of the NJDEP and NJMC in reviewing proposed developments and activities within the District;

NOW, THEREFORE BE IT RESOLVED, that the NJDEP and NJMC agree to the following:

- 1 The NJMC is the lead planning agency in the District.

2. For those developments or activities that require a zoning certificate from the NJMC and a Federal Consistency determination from NJDEP, the NJDEP shall determine the consistency of Federal actions with the New Jersey Coastal Management Program after receiving either a copy of the zoning certificate or a statement of consistency with the NJMC Master Plan (Master Plan) issued by the NJMC.

3. For those developments or activities that do not require a zoning certificate from the NJMC but require a Federal Consistency determination from NJDEP, the NJDEP shall not require a statement of consistency with the Master Plan, and will proceed with the review of the application for the Federal Consistency determination without such statement. This section does not apply to those developments or activities identified at paragraph 6 below.

4. For those developments or activities that require a zoning certificate from the NJMC and a Water Quality Certificate from the NJDEP, the NJDEP shall issue a decision on a Water Quality Certificate after receiving either a copy of the zoning certificate or a statement of consistency with the Master Plan issued by the NJMC.

5. For those developments or activities that do not require a zoning certificate from the NJMC but require a Water Quality Certificate from the NJDEP, the NJDEP shall not require a statement of consistency with the Master Plan, and will proceed with the review of the Water Quality Certificate application without such statement. This section does not apply to those developments or activities identified at paragraph 7 below.

6. For developments or activities described below that require a Federal Consistency determination by the NJDEP, the NJDEP shall determine the consistency of Federal actions with the New Jersey Coastal Management Program after receiving either a copy of a resolution by the NJMC approving the development or activity or a statement of consistency with the Master Plan issued by the NJMC.

a. Municipal or county projects necessitating the expenditure of any public funds, and requiring a resolution from the NJMC, in accordance with N.J.S.A. 13:17-12(b).

b. Municipal projects, located on land owned by a municipality, provided that the following conditions are met:

i. The governing body and planning board of the municipality have entered into a Memorandum of Understanding (MOU) with the NJMC, and remain in compliance with the MOU. Such MOU shall provide that municipal projects shall comply with applicable NJMC zoning regulations and that review of the project by the municipality shall utilize NJMC standards;

ii. The municipal project has been reviewed by the municipal planning board, which has certified to the NJMC that the project is in compliance with all applicable NJMC zoning regulations;

iii. A complete copy of the plans for the municipal project, and a certification of the planning board, have been sent to the NJMC for review, and the NJMC has not notified the municipality within 45 days of the receipt thereof of any objection to the project; and

iv. At the completion of the construction of the project, the municipal zoning officer shall certify to the NJMC that the project has been constructed in accordance with approved plans.

c. Development and improvement plans proposed or sponsored by the NJMC

7. For developments or activities described at paragraph 6 a through c above that require a Water Quality Certificate from the NJDEP, the NJDEP shall issue a decision on a Water Quality Certificate after receiving either a copy of a resolution by the NJMC approving the development or activity or a statement of consistency with the Master Plan issued by the NJMC.

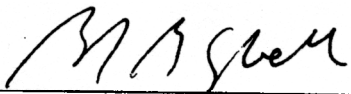
8. The NJDEP shall issue permit decisions under the Waterfront Development Law for activities located below the mean high water line after receiving a statement of the proposed development or activity's consistency with the Master Plan from the NJMC.

9. The NJMC shall prepare in accordance with NOAA guidance, a program change document for submission to NOAA's Office of Ocean and Coastal Resource Management (OCRM) incorporating the NJMC Master Plan adopted by NJMC on January 8, 2004 into New Jersey's Coastal Management Program. The NJDEP's Coastal Management Office shall provide technical assistance to the NJMC in the preparation of the document and shall be responsible for submitting the draft and final program change submissions to OCRM. Any subsequent revisions to the Master Plan shall be incorporated into New Jersey's Coastal Management Program in accordance with this process.

10. This Memorandum of Agreement will be reviewed and assessed periodically by the NJDEP and NJMC to determine if any additions, deletions, and/or modifications are needed to any provision herein.

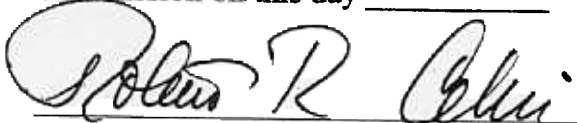
BE IT FURTHER RESOLVED, that the responsibilities outlined above shall take effect upon the execution of this agreement and any changes in the facts upon which this agreement is based or any deviations from the terms and conditions of this agreement may render this agreement null and void.

I hereby agree to the terms set forth above on behalf of the New Jersey Department of Environmental Protection on this day November 9, 2005



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Bradley M. Campbell, Commissioner, New Jersey Department of Environmental Protection

I hereby agree to the terms set forth above on behalf of the New Jersey Meadowlands Commission on this day \_\_\_\_\_



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Robert R. Ceberio, Executive Director, New Jersey Meadowlands Commission