

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE NEW JERSEY PINELANDS COMMISSION
AND
THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION
Dated: April 9, 2012

I. PURPOSE

This Memorandum of Understanding (“MOU”) serves to establish the framework pursuant to which the Department of Environmental Protection’s Water Quality Management Planning regulations, N.J.A.C. 7:15, will be administered in the Pinelands Area, as defined at N.J.S.A. 13:18A-11.

Recitals

WHEREAS, the New Jersey Department of Environmental Protection (hereinafter the “DEP” or “Department”) is charged pursuant to the Water Quality Planning Act, N.J.S.A. 58:11A-1 *et seq.*, the Water Pollution Control Act, N.J.S.A. 58:10A-1 *et seq.*, and N.J.S.A. 13:1D-1 *et seq.*, and as required by Sections 303(e) and 208 of the Federal Clean Water Act (33 U.S.C. 1251 *et seq.*) with the implementation of the Continuing Planning Process which includes oversight and approval of Wastewater Management Plans; and

WHEREAS, the Pinelands Commission (the “Commission”) is an independent political subdivision of the State of New Jersey created pursuant to Section 4 of the Pinelands Protection Act, N.J.S.A. 13:18A-1 *et seq.*, and charged with implementing the requirements of the Act and is also the planning entity authorized in Section 502 of the “National Parks and Recreation Act of 1978, 16 U.S.C. '471i (“Federal Act”); and

WHEREAS, in accordance with the requirements of the Pinelands Protection Act at N.J.S.A. 13:18A-8 and the Federal Act at 16 U.S.C. '471i(f), the Commission developed a comprehensive statement of policies for planning and managing development and land use in the Pinelands Area known as the Pinelands Comprehensive Management Plan (the “CMP”), which includes land use and development intensity standards, as well as site specific development standards; and,

WHEREAS, the Commission, pursuant to the Pinelands CMP, regulates land use and development intensity and exercises development review authority over all development to be located within the Pinelands Area; and

WHEREAS, in accordance with the continuing planning process set forth in section 7 of the Water Quality Planning Act, N.J.S.A. 58:11A-1 *et seq.*, the Department is required to integrate and unify the statewide and areawide water quality management planning processes; and

WHEREAS, the Water Quality Planning Act also requires the Department to coordinate and integrate the continuing planning process with related Federal, State, regional and local comprehensive, functional and other relevant planning activities, programs and policies, such as the Pinelands CMP; and

WHEREAS, this agreement is not intended to nor does it create or change any of the substantive requirements of either the Pinelands CMP, N.J.A.C. 7:50, or the Department's Water Quality Management Planning regulations, N.J.A.C. 7:15.

NOW THEREFORE, in consideration of the mutual agreements contained herein, the Parties hereby agree as follows:

II. AUTHORITY

A. New Jersey Department of Environmental Protection

The New Jersey Department of Environmental Protection is a principal Department of the Executive Branch of State Government charged with the responsibility to formulate comprehensive policies for the conservation of the natural resources of the state, including protection of threatened and endangered species and their associated habitat, the promotion of environmental protection and the prevention of pollution of the environment of the State (N.J.S.A. 13:1D-9). The Department is authorized pursuant to N.J.S.A. 13:1D-9(q) to contract with any other public agency or corporation incorporated under the laws of this or any other state for the performance of any function under this act.

B. New Jersey Pinelands Commission

The Pinelands Commission is an independent political subdivision of the State of New Jersey created pursuant to Section 4 of the Pinelands Protection Act, N.J.S.A. 13:18A-1 et seq., and charged with implementing the requirements of the Act. The Pinelands Commission is also the planning entity authorized in Section 502 of the "National Parks and Recreation Act of 1978" (Federal Act). The Comprehensive Management Plan sets forth the policies adopted by the Pinelands Commission to protect, preserve and enhance the significant values of the land and resources of the Pinelands Area. The Pinelands Commission is authorized by the Pinelands Protection Act at N.J.S.A. 13:18A-6.g. to enter into any and all agreements or contract, execute any and all instruments, and do and perform any and all acts or things necessary, convenient, or desirable for the purposes of the Pinelands Commission or to carry out any power expressly given in the Act.

III. AGREEMENTS

- A. The Department agrees that, for purposes of implementation of the Department's Water Quality Management Planning regulations, N.J.A.C. 7:15:
1. It will recognize the management area designations and boundaries established by the Pinelands Commission for lands located within the Pinelands Area and shall not modify, amend, revise, expand or decrease these designations or boundaries in any way;
 2. All lands located within a Pinelands Village, Pinelands Town, Regional Growth Area, substantially developed portions of a Military and Federal Installation Area, and any other area designated by the Commission for the development of centralized waste water treatment and collection facilities pursuant to either N.J.A.C. 7:50-6.84(a)2 to address a public health problem or a memorandum of agreement pursuant to N.J.A.C. 7:50-4.52(c) of the Pinelands CMP, as specified in GIS coverage provided by the Pinelands Commission, shall be deemed to be within a sewer service area;
 3. In recognition of the nature and scope of the Commission's regulation and oversight of land use and development within the Pinelands Area, the Department shall not require that environmentally sensitive areas, as delineated at N.J.A.C. 7:15-5.24(b), be removed from Regional Growth Area, Pinelands Town, Pinelands Village, substantially developed portions of a Military and Federal Installation Area or any other area where the Commission has permitted the development of centralized wastewater treatment and collection facilities in accordance with N.J.A.C. 7:50-6.84(a)2 to address a public health problem or pursuant to a Memorandum of Agreement executed by the Commission in accordance with N.J.A.C. 7:50-4.52(c).
 4. In accordance with N.J.A.C. 7:15-3.7, the Department shall seek comment from the Commission on any application for a wastewater management plan, plan update, site specific or project specific amendment or water quality management plan revision involving lands located in whole or in part within the Pinelands Area and shall not deem such application administratively complete until it receives comments from the Commission; and
 5. It agrees that when the Commission approves a management area change that results in new lands being designated within management areas in which wastewater treatment or collection facilities are a permitted use, it will recognize such area(s) as a sewer service area(s) and revise the affected areawide water quality management plan in accordance with

N.J.A.C. 7:15-3.5 or wastewater management plan to incorporate such change.

B. The Pinelands Commission agrees that;

1. It will provide the Department with a copy of any approvals or certifications that it grants for management area changes that result in new lands being designated for wastewater treatment and GIS coverage depicting these changes within fourteen (14) working days of the date of issuance of such approval or certification;
2. When it considers a management area change, either through certification of a municipal Master Plan or land use ordinance, or on its own initiative, through an amendment of the Pinelands Comprehensive Management Plan, that will result in new lands being included within a management area designation in which the development of centralized wastewater treatment and collection facilities are a permitted use, the Commission shall provide notice and an opportunity for public comment in accordance with N.J.A.C. 7:50-3.33 or N.J.S.A. 52:14B-4, respectively, and such notice shall advise the public that development of centralized wastewater treatment and collection facilities would be a permitted use as a result of such change and that these areas will be deemed suitable for development of centralized wastewater treatment and collection facilities; and
3. It will provide comments to the Department on any application for a wastewater management plan, plan update, site specific or project specific amendment or water quality management plan revision involving lands located in whole or in part within the Pinelands Area within 60 days of receipt of the request for comment pursuant to N.J.A.C. 7:15-3.7.

IV. ENTIRE AGREEMENT

The provisions contained herein or incorporated herein by reference constitute the entire Memorandum of Understanding between the parties and supersede all previous communications or representations, either verbal or written, between the parties hereto with respect to the subject matter hereof.

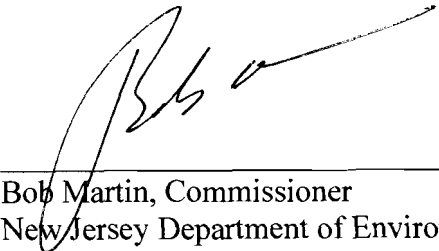
V. EFFECTIVE DATE AND TERMINATION

- A. This Memorandum of Understanding shall take effect upon approval and signature by the authorized representatives of both parties and following the conclusion of the Governor's review in accordance with N.J.S.A. 13:18A-5(h).

- B. This Memorandum of Understanding shall remain in effect unless amended or terminated upon sixty (60) days written notice. Amendment of this MOU shall require consent of both parties.

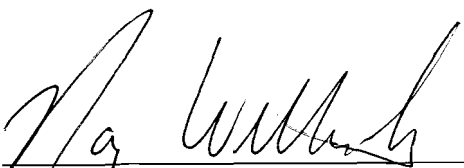
IN WITNESS WHEREOF, the parties have caused their duly authorized representatives to execute this Agreement on and as of the day and year first written above. This Agreement shall be executed in three original copies of which one is to be delivered to NJDEP and the remainder to the Commission.

Date: 4/11/2012



Bob Martin, Commissioner
New Jersey Department of Environmental Protection

Date: 4/13/12



Nancy Wittenberg, Executive Director
New Jersey Pinelands Commission