

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE DIVISION OF MILITARY AND NAVAL AFFAIRS
AND
THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL
CONSERVATION**

This Memorandum of Understanding (MOU), made this 31 day of May, 2018 by and between the Division of Military and Naval Affairs, an agency within the Executive Department of the government of New York having its principal place of business located at 330 Old Niskayuna Road, Latham, NY (DMNA), and the New York State Department of Environmental Conservation (NYSDEC), a State agency having its principal place of business being located at 625 Broadway, Albany, NY, together referred to as the "Parties."

A. NYSDEC is responsible for inactive hazardous waste disposal site remedial programs pursuant to Article 27, Title 13 of the Environmental Conservation Law ("ECL") and Part 375 of Title 6 of the Official Compilation of Codes, Rules and Regulations ("6 NYCRR").

B. NYSDEC is responsible for carrying out the policy of the State of New York to conserve, improve and protect its natural resources and environment and control water, land, and air pollution consistent with the authority granted to the Department and the Commissioner by Article 1, Title 3 of the ECL.

C. NYSDEC is the New York State governmental entity which has entered into a Memorandum of Agreement with the United States Department of Defense (DOD) to provide a mechanism for the State to provide review and oversight of remediation and for the DOD to reimburse such State expenses associated with DOD facilities from 1986 to the completion of the remediation process. The program established under this agreement is referred to as the Defense and State Memorandum of Agreement (DSMOA) Program.

D. DMNA is the New York State governmental entity responsible for the management of New York Army National Guard programs and facilities.

E. The DOD has unilaterally, and without consultation of DMNA or NYSDEC, determined that Non-DOD Owned, Non Operational Defense Sites (NDNODs), including former Army National Guard Munitions Response Sites, are not eligible for inclusion in the DSMOA Program beyond the initial Preliminary Assessment/Site Inspection (PA/SI) and recommended that each State establish its own internal mechanism to govern review, coordination, and funding of remedial programs at such sites.

F. Given DOD's unilateral determination regarding NDNODs ineligibility under the DSMOA program to fund investigations and remediations, the Parties have determined that it is in the best interest of the State for DMNA to fund NYSDEC to provide review and oversight of investigation and remediation of NDNODs.

G. To enable DMNA to fund NYSDEC's review and oversight of these activities this MOU is required.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein set forth, the Parties hereto agree as follows:

1. DMNA will provide NYSDEC with the names of sites to be addressed under this MOU. Additional sites may be added from time to time.
2. DMNA will prepare a Scope of Work (similar to a DSMOA Joint Execution Plan) outlining the tasks associated with each site to be addressed under this MOU and provide it to NYSDEC for approval.
3. NYSDEC will provide DMNA with an estimate of the costs associated with the services it will be rendering regarding these sites.
4. DMNA agrees to conduct all activities that comprise any element of a Remedial Program pursuant to one or more Department-approved work plans ("Work Plan" or "Work Plans") and this MOU and all activities shall be consistent with the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 C.F.R. Part 300, as required under CERCLA, 42 U.S.C. § 9600 et seq. The Work Plan(s) under this MOU shall be developed and implemented in accordance with 6 NYCRR §§ 375-1.6(a), 375-3.6, and 375-6.
5. NYSDEC agrees to make its best effort to provide its comments and approvals on Work Plans and Reports according the project schedules provided by DMNA and to participate in site visits, conference calls, and meetings as requested by DMNA.
6. If NYSDEC modifies or requests modifications to a Work Plan or Report, it shall specify the reasons for such modification(s). Within fifteen (15) days after the date of NYSDEC's written notice of the modifications, DMNA shall notify NYSDEC of its election whether to modify or accept the Department's modifications.
7. DMNA will reimburse NYSDEC for services rendered upon receipt of an invoice from NYSDEC documenting the services provided.

a. DMNA is not responsible for past State costs prior to the effective date of this MOU. Within forty-five (45) days after receipt of an itemized invoice from the Department, Respondent must pay to the Department a sum of money which represents reimbursement for State Costs, for work performed at or in connection with each site to be addressed under this MOU as provided at 6 NYCRR § 375-1.5(b)(3).

b. Such invoice will be sent to DMNA at the following address:

Billie Jo Fredericks
Division of Military and Naval Affairs (MNFE)
330 Old Niskayuna Road
Latham, NY 12110
Billie.j.fredericks.nfg@mail.mil
Ph. 518 786 4980

c. Each such payment must be made payable to the Commissioner of the NYSDEC and shall be sent to:

Bureau of Program Management
Division of Environmental Remediation
New York State Department of Environmental Conservation
625 Broadway
Albany, New York 12233-7012

8. This MOU cannot be amended, modified, or otherwise changed, except as approved in writing by both Parties.

9. The following offices shall be responsible for the administration of this MOU for their respective party:

For DMNA:
Gary Yapple, Director of Facilities Management and Engineering
Division of Military and Naval Affairs (MNFE)
330 Old Niskayuna Rd.
Latham, NY 12110-3514

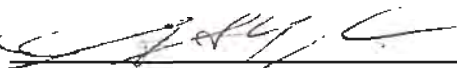
For NYSDEC:
Eric Obrecht, Bureau Director, Remedial Bureau A
Division of Environmental Remediation
NYS Department of Environmental Conservation
625 Broadway
Albany, NY 12233-7015

10. Nothing contained in this MOU nor the fact that the Parties have signed this MOU shall be construed as an admission by the State of New York, or the Parties as to the scope, coverage and/or responsibilities of the DOD and/or NYSDEC under the DSMOA agreement.

11. This MOU constitutes the entire understanding between the Parties and supersedes all prior and contemporaneous proposals, agreements, and understandings, oral or written, relating to the subject matter of this MOU.

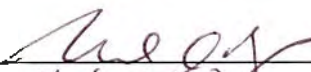
IN WITNESS WHEREOF, the parties hereto have executed this MOU as of the dates set forth below.

DIVISION OF MILITARY AND NAVAL AFFAIRS

BY: 
Name: GARY S. YAPLE
Title: Director of Facilities Management
and Engineering

5/31/18
Date

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

BY: 
Name: Michael J. Ryden
Title: Director, Division of
Environmental Remediation

6/11/18
Date