

**STATUS:** Effective

**POLICY NUMBER:** Waste-0065-NPD

**SUBJECT:** Procedures for Gaining Access to Third Party Properties by Participants Performing Investigation or Remediation

**AUTHORIZED:** Carol S. Comer, Commissioner

**SUPERSEDES:** WASTE-0043-NPD

**ISSUING OFFICE(S):** Office of Land Quality

**ORIGINALLY EFFECTIVE:** November 13, 2015

**RENEWED/REVISED:**

**Disclaimer:** This Nonrule Policy Document (Policy) is being established by the Indiana Department of Environmental Management (IDEM) consistent with its authority under Indiana Code (IC) 13-14-1-11.5. It is intended solely to provide guidance and shall be used in conjunction with applicable rules or laws. It does not replace applicable rules and laws, and if it conflicts with these rules or laws, the rules or laws shall control. Pursuant to [IC 13-14-1-11.5](#), this Policy will be available for public inspection for at least 45 days prior to presentation to the Indiana Environmental Rules Board, and may be put into effect by IDEM 30 days afterward. IDEM will submit this Policy to the Indiana Register for publication.

## 1.0 PURPOSE

This Policy describes the adequate steps to be taken and documentation to be provided by a responsible party or program participant who is attempting to access third party properties for the investigation or remediation of contamination in soil, ground water, surface water, sediment, and/or indoor air.

This Policy interprets and supplements:

- 1.1. Indiana Code (IC) [IC 13-12-3-2](#), [IC 13-22-3](#), [IC 13-22-13](#), [IC 13-23-13](#), [IC 13-24-1](#), [IC 13-25-4](#), and [IC 13-25-5](#),
- 1.2. Rules set forth in the Indiana Administrative Code (IAC) at [329 IAC 3.1](#), [329 IAC 4](#), [329 IAC 9](#), and [329 IAC 10](#),
- 1.3. IDEM's Compliance and Enforcement Response Policy (MP-005-R1-NPD),
- 1.4. Remediation Closure Guide (WASTE-0046-R1-NPD), and
- 1.5. Remediation Program Guide (WASTE-0060-NPD).

## 2.0 SCOPE

This Policy applies to all remediation programs in the Office of Land Quality including the Leaking Underground Storage Tank Program, State Cleanup Program, Solid Waste Program, Hazardous Waste Program (which may exercise enforcement discretion and determine when investigation and remediation is complete), and the Voluntary Remediation Program (VRP) and Indiana Brownfields Program (IBP) (which exercise discretion pertaining to program participation). This Policy applies to responsible parties, owners, operators, and program participants investigating and/or remediating contamination in soil, ground water, surface water, and/or sediment and contamination associated with the vapor intrusion pathway. This Policy does not apply when a responsible party, owner, operator, or program participant no longer owns a source site and is attempting to gain access to the source site although following the procedures outlined in 6.3 of this Policy may be appropriate.

## 3.0 SUMMARY

This Policy outlines IDEM's expectations regarding procedures and documentation of steps to be taken by Responsible Parties and program participants to access third party properties that are, or may be, affected by contamination from releases that have, or may have, migrated through the environment to Third Party properties. This Policy outlines IDEM's consideration that the procedures taken and documentation provided by a Participant are adequate such that IDEM may use its enforcement discretion and other discretion when the Participant and other parties follow this Policy and fail to obtain access.

## 4.0 DEFINITIONS

4.1. "Access Agreement" – An Access Agreement is a legal document by which an Owner of property agrees to provide access to its property for specific purposes. A template Access Agreement is attached as an Appendix to this NPD.

4.2. "Closure" – Closure, as defined in the IDEM Remediation Closure Guide and for purposes of this Policy, is IDEM's written recognition that a Participant has demonstrated attainment of remediation objectives in a particular area. The written instrument for this decision varies by remedial program in the Remediation Program Guide. For example, under the federal Resource Conservation and Recovery Act, closure refers to a series of formal procedures required to end the operation of a permitted treatment, storage, or disposal unit.

4.3. "Community Relations Plan" – A Community Relations Plan is a plan developed by the Participant to offer the public information about site characterization, remediation, potential risks, and closure of a contaminated site. A Community Relations Plan may include public meetings, fact sheets, media advisories, public information sessions, or other means of engaging the public in the remediation process.

4.4. "Contaminant" – For purposes of this Policy, contaminant or contamination includes contaminant (as defined in [IC 13-11-2-42](#)), hazardous substance (as defined in [IC 13-11-2-98](#)), hazardous waste (as defined in [IC 13-11-2-99](#)), regulated substance (as defined in [IC 13-11-2-183](#)), and other substance determined by the Commissioner to be harmful to human health or the environment when released to soil, ground water, surface water, and/or sediment.

4.5. "Investigation" – Investigation means the process of determining whether there has been a release of hazardous substances or petroleum at a site and includes site characterization, which is determining the nature and extent of potential contaminants in environmental media as defined in the Remediation Closure Guide Glossary.

4.6. "Nonrule Policy" – The term assigned by IDEM to those policies identified in [IC 13-14-1-11.5](#) as any policy that:

- i. Interprets, supplements, or implements a statute or rule;
- ii. Has not been adopted in compliance with [IC 4-22-2](#);
- iii. Is not intended by IDEM to have the effect of law; and
- iv. Does not apply solely to the internal IDEM organization.

4.7. "Owner" – For purposes of this Policy, the Owner of a Third Party Property is the record title holder of a particular piece of real property that is not the site from which a release has occurred.

4.8. "Participant" – A Participant for purposes of this Policy is an individual or corporation that is legally required, or has voluntarily agreed in the case of VRP and IBP participants, to perform investigation or remediation, or an entity such as an owner, operator, responsible person, potentially responsible party, generator, or entity that otherwise is performing investigation or remediation of a release.

4.9. "Public Property Entity" – Public Property Entity means the state, county, or municipal government entity that has authority to grant access to utility easements, right-of-ways, or roadways, typically through a permit or other approval mechanism.

4.10. "Release" – Any regulated substance that enters the soil, ground water, and/or sediments from a source such as from a storage container, transportation devices, or processes as defined in [IC 13-11-2-184](#).

4.11. "Remediation" – Remediation means a Remedy as defined in the Remediation Closure Guide Glossary:

- i. One or more measures taken to reduce risks to human health and/or the environment arising from a contaminant release.
- ii. Measures may include contaminant treatment, contaminant removal, institutional controls, or engineering controls, alone or in combination.

4.12. "Third Party Property" – Property that is not owned or controlled by the Participant and is not the source of the contaminant(s) being addressed but that is, or could be, affected by a release of a contaminant to the environment because of potential or actual off-site migration of the contaminant(s).

## 5.0 ROLES

5.1. "Participant" – The Participant is responsible for taking steps to obtain access to Third Party properties from the Owner in order to perform investigation or remediation activities. This role is often fulfilled by an agent of the Participant such as an environmental consultant.

5.2. "IDEM Project Manager" – The IDEM Project Manager (PM) is responsible for overseeing technical and regulatory requirements associated with performing investigation or remediation. The PM is responsible for ensuring that Responsible Parties or program participants take steps consistent with this Policy.

## 6.0 POLICY

6.1. Site Access – Third Party Properties may need to be accessed by the Participant or their representative to perform investigation or remediation. A Participant may need to obtain an access agreement to enter upon Third Party Property. Access may be necessary on public or private property.

- i. Public property – Typically, access to public property such as an easement, right-of-way, or roadways is granted by a state, county, or municipal government through the application for and issuance of a permit or some other approval mechanism.
  - a. The Participant must apply for any required state or local approval(s) in a timely manner consistent with investigation or remediation milestones.
  - b. If more time is needed to obtain necessary state or local approval(s), the Participant should notify the PM in writing requesting additional time before the due date.
  - c. Normally, access to public property does not require the use of the same procedures necessary to access private property.
  - d. The public property entity may require the Participant to be bonded, insured, or both before performing the work.
- ii. Private property – An Access Agreement or temporary license is typically needed for investigation or remediation activities such as completing soil borings, installing ground water monitoring wells, collecting samples, excavating soil, and installing remediation systems. The Participant should follow procedures outlined in Section 6.3 when the PM has indicated that investigation or remediation is necessary off-site when attempting to access private property. The Participant should consider preparing a Community Relations Plan (CRP) if access to a number of properties will be necessary because a properly-executed CRP may improve the likelihood that access to private properties will be obtained. In some situations, the Participant may need to communicate with the renter/lessee of the property as part of obtaining access, particularly in residential situations. Also, if English is not the predominant language in the community, the Participant has the responsibility to make reasonable efforts to present the proposed site information and Access Agreements in both English and the appropriate foreign language(s). The Participant may utilize the VRP Community Relations Plan Nonrule Policy Document, WASTE-0049-NPD for guidance in the preparation of a CRP.

6.2. Access Agreement - When utilizing an Access Agreement, the Participant should include:

- i. Information about the extent of planned investigation or remediation activities and time needed to perform the activities;
- ii. Assurances that the Owner's property will be restored to its previous condition consistent with completion of the investigation or remediation activities and that the Participant shall use reasonable efforts to minimize disruption to the Owner;
- iii. Written commitment that the Participant is responsible for damages arising from the investigation or remediation work including, when appropriate or required, a statement that the Participant and/or its representative has applicable insurance or some other form of financial assurance in the event damage to the property occurs (Written requests for access, which contain overly broad release, indemnification or "hold harmless" language in favor of the Participant are not acceptable);
- iv. Assurances that technical data collected during the investigation or remediation on the Owner's property will be provided to the Owner and tenant, if applicable, at no cost to the Owner or tenant upon request;
- v. The name, address, telephone number, and e-mail address of the Participant;
- vi. Assurances that the Participant will be available to answer questions, provide updates, and assist in coordination and timing of planned activities; and
- vii. Additional information such as Fact Sheets and/or Information Sheets provided by the PM.

A template Access Agreement is attached in Section 9.0 Appendices. All of the above information should be included in either the Access Agreement or supplemental information provided to the Owner.

6.3. Participant Responsibilities - The Participant should take the following steps to obtain access from Owners and should document the steps taken.

The Participant will provide the information described in Section 6.2. All steps should be conducted until contact with the Owner and their tenant(s), if applicable, is successful or until all steps have been completed. Other approaches may be acceptable, but the Participant should obtain approval from the PM in advance. Performing Steps 3 to 6 in a different order does not require approval from the PM.

- i. Step 1: Reconnaissance – The Participant in consultation with the PM should identify the properties of interest based on environmental data then proceed to Step 2.
- ii. Step 2: Records review – The Participant will perform a records review via the County Recorder's Office and any online property records such as Beacon, Enterprise GIS, Think GIS, or any other online County GIS application, along with an online search for relevant phone numbers to find Owners then proceed to Step 3.
- iii. Step 3: In-person Visits
  - a. If the Owner is not residing in the affected property and is not readily available for direct contact, skip this step and proceed to Step 4.
  - b. The Participant may choose to make telephone contact first, in order to schedule an in-person visit. The Participant should attempt to make face-to-face contact with each Owner at least twice.
  - c. The Participant should attempt to make contact when the Owner is most likely to be present. For example, home owners tend to be home in the evening, but business owners may be more likely to be present during the day.
  - d. The Participant may inquire with neighboring property owners or tenants regarding how and when to contact the property owner.
  - e. The Participant should provide written information listed in Section 6.2.
  - f. In-person visits are not expected at those addresses that have "No Trespassing" signs, "Beware of Dog" signs, or any other signs deterring unwanted visitors. Furthermore, any structure that appears vacant, boarded up, dilapidated, falling down, or otherwise unsafe need not be approached due to safety concerns.
  - g. If the property is owned but rented to a tenant, an Access Agreement should be sought from the Owner, but logistics of the investigation or remediation activities once access is granted should be arranged with the tenant.
  - h. If contact is not made during the in-person visit, proceed to Step 4.
  - i. If contact is made during an in-person visit, but an agreement was not reached, proceed to Step 7a.
  - j. If contact is made and an agreement is reached, proceed to Step 7b.
- iv. Step 4: Telephone contact
  - a. The Participant should call each Owner at least two times. The Participant should leave a voicemail, when available, including the name of the caller, who they represent, reason for the call, and contact information.
  - b. All phone calls should be made during regular business hours for businesses and once during the day and once during the evening hours for residences.
  - c. If contact is not made by telephone, proceed to Step 5.
  - d. If contact is made by telephone, but an agreement was not reached, proceed to Step 7a.
  - e. If contact is made and an agreement is reached, proceed to Step 7b.
- v. Step 5: Door hangings
  - a. The Participant should deliver material about the purpose and nature of the activities it needs to perform and a copy of the Access Agreement as well as contact information as described in Section 6.2. The information should be hung on the door of each home or business.
  - b. If no response is received within one week of delivery, proceed to Step 6.
  - c. If contact was successful, but an agreement was not reached, proceed to Step 7a.
  - d. If contact is made and an agreement is reached, proceed to Step 7b.
- vi. Step 6: Written Letters
  - a. The Participant should send letters to the Owner(s) where Third Party access is needed via certified mail requesting access. The letters should contain information described in Section 6.2.
  - b. If the Participant does not receive a reply from the initial certified letter, the same letter should be sent via regular mail two weeks after the first mailing.
  - c. If the Participant receives no response within two weeks, proceed to Step 7.
  - d. If contact was successful, but an agreement was not reached, proceed to Step 7a.
  - e. If contact is made and an agreement is reached, proceed to Step 7b.
- vii. Step 7: Follow-up
  - a. When the Participant is unsuccessful at obtaining property access to perform investigation or remediation, they should submit written documentation of which property(s) could not be accessed that demonstrates that Steps 1 to 6 for each property were taken, and recommendations regarding what next steps that should be taken.
  - b. When the Participant is successful at obtaining property access to perform investigation or remediation, they should submit the access agreement and any other related documentation to the PM along with a schedule for field activities. The Participant may redact confidential information in the agreement or choose to make a confidentiality claim under [329 IAC 6.1-4-1](#).
- viii. Documentation – The Participant should create a record that documents all attempts to make direct contact with the Owner(s) and tenant, if applicable, including in-person attempts, telephone calls, door hangings, and copies of letters sent. Whether access is obtained or not for a Third Party property for which

IDEM has directed the Participant to perform investigation or remediation, the Participant should submit the records to the PM and should explain why an agreement for access was not reached, if the reason is known.

ix. Owners' List – Through the course of investigation or remediation, the Participant should maintain an accurate and up-to-date list of neighboring and potentially affected Owners and tenants, if applicable, even if the Owner(s) does not grant access for investigation or remediation. Such Owners must still be notified of agency actions, such as approval of a corrective action or remedial work plan or determination of closure that may affect their property.

#### 6.4. IDEM Project Manager

- i. If all steps are completed in Section 6.3 and properly documented by the Participant and access to the Third Party property is not obtained, IDEM should assist in facilitating access for the Participant to perform investigation or remediation of the Owner's property(s). The PM should take one or more of the following actions based on consultation with the Participant:
  - a. Make personal contact by telephone, e-mail, or in person with the Owner and/or their representative.
  - b. Send a letter to the Owner requesting them to grant access to the Participant.
- ii. IDEM does not have the authority to obtain access for the Participant. If the PM fails to make contact or fails to facilitate access with the Third Party for the Participant, IDEM may take one or more of the following actions, depending on site circumstances:
  - a. Send additional correspondence to the Owner encouraging them to grant access to the Participant;
  - b. Issue an administrative order to the Owner or seek a judicial warrant to obtain access for investigation or remediation of contaminants with IDEM resources in appropriate circumstances (however, a warrant will rarely, if ever, be requested for residential properties); and/or
  - c. The PM may work with the Participant to identify alternative locations near the property for investigation or remediation, e.g. a public right-of-way may be an acceptable alternative.
- iii. In situations when the PM determines that expedited contact is needed, the PM will attempt to facilitate timely and appropriate access with the Third Party.

#### 6.5. Enforcement and Other Discretion – When the Participant has:

- i. Followed the provisions in Sections 6.1 through 6.3 of this Policy in a timely manner in an effort to obtain the necessary Third Party access;
- ii. Proceeded with the investigation or remediation to the extent reasonably possible in areas where access is available and consistent with any IDEM-approved corrective action or other remedial work plan; and
- iii. Explored other reasonable options available to complete investigation or remediation consistent with any IDEM-approved corrective action or other work plan, despite the lack of Third Party access;

then IDEM will use its discretion to consider that:

- i. The investigation and characterization of the nature and extent of the release that was completed, as required by [IC 13-12-3-2\(a\)](#) and [IC 13-25-5-8.5\(c\)\(1\)](#) as well as Remediation Closure Guide and appropriate section of the Remediation Program Guide, without access being granted, is adequate; and/or
- ii. The Participant has demonstrated, as described in [IC 13-22-13-2](#), to the satisfaction of the Commissioner that, despite the best efforts of the Participant, that it is unable to obtain the necessary permission to undertake corrective action; and/or
- iii. The Participant may be ready to request closure of the site and/or release under the Remediation Closure Guide and appropriate section of the Remediation Program Guide, without having gained access to the Third Party Property. If Third Party Properties were not able to be investigated or remediated because of the failure to gain access, closure decisions may specifically exclude those Third Party Properties.

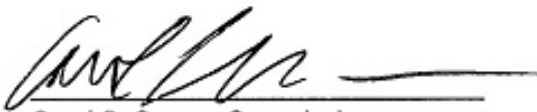
## 7.0 REFERENCES

### 7.1. Federal Laws or Rules:

- i. CERCLA Code – U.S.C. Title 42, Chapter 103  
<http://uscode.house.gov/browse.xhtml>
- ii. CERCLA Rule – 40 CFR Part 300 and 302  
<http://www.ecfr.gov/cgi-bin/ECFR?SID=fa12da544a4e420e0706d7caabdd7deb&mc=true&page=browse>
- iii. RCRA Code – U.S.C. Title 42, Chapter 82, Subchapter III  
<http://uscode.house.gov/browse.xhtml>
- iv. RCRA Rule – 40 CFR Parts 239-282  
<http://www.ecfr.gov/cgi-bin/ECFR?SID=fa12da544a4e420e0706d7caabdd7deb&mc=true&page=browse>
- v. UST Code – U.S.C. Title 42, Chapter 82, Subchapter IX  
<http://uscode.house.gov/browse.xhtml>

- vi. UST 40 Rule – 40 CFR Part 280 and 302  
<http://www.ecfr.gov/cgi-bin/ECFR?SID=fa12da544a4e420e0706d7caabdd7deb&mc=true&page=browse>
- 7.2. Indiana Administrative Code:
  - i. Hazardous Waste – [329 IAC 3.1](#)  
[www.in.gov/legislative/iac/](http://www.in.gov/legislative/iac/)
  - ii. Public Records; Confidential Information; Confidentiality – [329 IAC 6.1](#)  
[www.in.gov/legislative/iac/](http://www.in.gov/legislative/iac/)
  - iii. UST – [329 IAC 9](#)  
[www.in.gov/legislative/iac/](http://www.in.gov/legislative/iac/)
- 7.3. Indiana Statutes:
  - i. Environmental Policy – [IC 13-12-3](#)  
[www.in.gov/legislative/ic/code/](http://www.in.gov/legislative/ic/code/)
  - ii. Hazardous Waste Permits – [IC 13-22-3](#)  
[www.in.gov/legislative/ic/code/](http://www.in.gov/legislative/ic/code/)
  - iii. Hazardous Waste Corrective Action – [IC 13-22-13](#)  
[www.in.gov/legislative/ic/code/](http://www.in.gov/legislative/ic/code/)
  - iv. UST Corrective Action – [IC 13-23-13](#)  
[www.in.gov/legislative/ic/code/](http://www.in.gov/legislative/ic/code/)
  - v. Petroleum Releases – [IC 13-24-1](#)  
[www.in.gov/legislative/ic/code/](http://www.in.gov/legislative/ic/code/)
  - vi. Hazardous Substances – [IC 13-25-4](#)  
[www.in.gov/legislative/ic/code/](http://www.in.gov/legislative/ic/code/)
  - vii. Voluntary Remediation – [IC 13-25-5](#)  
[www.in.gov/legislative/ic/code/](http://www.in.gov/legislative/ic/code/)
- 7.4. Agency Policies:
  - i. Compliance and Enforcement Response Policy (MP-005-R1-NPD)  
<http://www.in.gov/idem/files/MP-005-R1-NPD.pdf>
  - ii. Access to Third Party Property Policy (WASTE-0043-NPD)  
[www.in.gov/idem/files/nrpd\\_waste-0043.pdf](http://www.in.gov/idem/files/nrpd_waste-0043.pdf)
  - iii. Remediation Closure Guide (WASTE-0046-R1-NPD)  
[www.in.gov/idem/6683.htm](http://www.in.gov/idem/6683.htm)
  - iv. Remediation Program Guide (WASTE-0060-NPD)  
[www.in.gov/idem/6726.htm](http://www.in.gov/idem/6726.htm)
  - v. Voluntary Remediation Program Community Relations Plan (WASTE-0049-NPD)  
[www.in.gov/idem/files/nrpd\\_waste-0049.pdf](http://www.in.gov/idem/files/nrpd_waste-0049.pdf)

## 8.0 SIGNATURES



Carol S. Comer, Commissioner  
Indiana Department of Environmental Management

11-12-2015  
Date



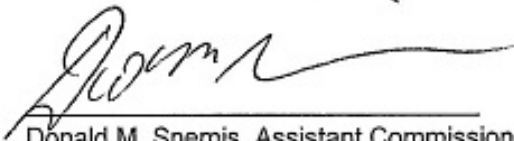
Bruce Palin, Assistant Commissioner  
Office of Land Quality

OCTOBER 30, 2015  
Date



Peggy Dorsey, Deputy Assistant Commissioner  
Office of Land Quality

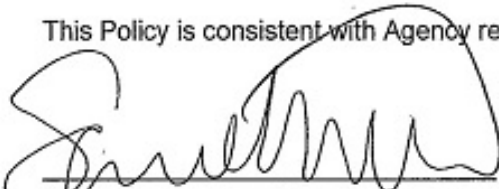
Oct. 15, 2015  
Date



Donald M. Snemis, Assistant Commissioner  
Deputy Chief of Staff and General Counsel

11-6-2015  
Date

This Policy is consistent with Agency requirements.



Quality Improvement Section  
Office of Planning and Assessment

11-16-2015  
Date

## 9.0 APPENDICES

### 9.1. Sample Access Agreement to Property for Environmental Investigation and Remediation Template

#### ACCESS AGREEMENT TO PROPERTY FOR ENVIRONMENTAL INVESTIGATION OR REMEDIATION

This Agreement is made as of the day of \_\_\_\_\_, 20\_\_\_\_\_, by and between [OWNER OF PROPERTY] ("Owner") and the [PARTICIPANT] ("\_\_\_\_\_"), together referred to as "Parties".

1. \_\_\_\_\_ is the owner of property ("Owner") located in \_\_\_\_\_, \_\_\_\_\_ County, Indiana, commonly known as [Insert Address] (the "Property").
2. Participant is investigating the need for and taking actions to clean-up contaminated properties or the Participant is cleaning up contaminated properties under state and federal law, including Ind. Code §§ 13-20; Code §§ 13-22-13; 13-23-13; 13-24-1; and/or 13-25, *et seq.*; and the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601-9673; the Solid Waste Disposal Act, 42 U.S.C. §§ 6901-6992; and the Oil Pollution Act of 1990, 33 U.S.C. §§2701-2762. These cleanup activities, known as response actions, may include investigation, mitigation and/or cleanup of potential contamination by oil, petroleum, hazardous substances, solid wastes or hazardous wastes.



3. Owner agrees to allow Participant and its employees, authorized agents and contractors to enter the Property to conduct the following activities related to investigation of *[potential]* contamination of the *[soil, groundwater, surface water, sediments, soil gas, or indoor air]* at the Property [LIST]:
  - a. *[Complete soil boring and collect soil samples at the Property.]*
  - b. *[Collect groundwater samples at the Property.]*
  - c. *[Collect samples of the indoor or sub-slab air at the Property.]*
  - d. *[Install monitoring wells at the Property for continued groundwater sampling.]*
  - e. *[Install and maintain treatment wells at the Property.]*
  - f. *[Install and maintain vapor mitigation system at the Property.]*
  - g. *[Install and maintain water treatment system at the Property.]*
  - h. *[Excavate contaminated soil and replace with clean soil.]*
4. Participant will notify Owner by telephone at least three (3) business days in advance of the date on which it plans to begin investigation or cleanup activities at the Property. Participant shall be responsible for all costs and expenses associated with the proper disposal of contaminated soil and the disposal or treatment of contaminated groundwater derived from the investigation or cleanup activities.
5. Participant agrees to coordinate its activities with Owner so as to minimize any inconvenience to or interruption of the conduct of any business operations, or the use and enjoyment of the Property.
6. Owner agrees to not tamper with or disturb any equipment that Participant leaves on the Property for the purposes of investigation or cleanup, such as automatic or passive sampling devices, monitoring wells, vapor mitigation systems, etc.
7. Participant agrees to provide Owner with copies of the results of the investigation or cleanup performed pursuant to this Agreement.
8. Participant agrees, upon completion of the *[investigation, mitigation, and/or cleanup]* conducted on the Property that the Property will be restored to as near the condition that existed before the *[investigation and/or cleanup]* as is reasonably possible including the following activities [LIST]:
  - a. *[Will properly close the wells.]*
  - b. *[Will remove treatment systems.]*
  - c. *[Will backfill and compact to grade after excavation.]*
  - d. *[Will repair pavement.]*
9. Participant and Owner represent and warrant that it is authorized to sign this Agreement and that this Agreement, when signed, shall become a valid and binding obligation, enforceable in accordance with its terms. Owner represents and warrants that it is the owner of the Property or that it has full lawful authority to grant access to the Property for the purposes described herein.
10. In the event Owner's interests in the Property are conveyed, transferred or in any way assigned in whole or in part to any other person or entity, whether by contract, operation of law, or otherwise, Owner shall take all reasonable actions to render any such conveyance, transfer, or assignment subject to the terms of this Agreement. This Agreement may be assigned by Owner without the prior consent of any other party.
11. All work on the Property shall be performed by employees of the Participant or authorized contractors. All such persons performing the work are provided with health insurance and workers' compensation coverage by their respective employers. Participant shall procure and maintain for the duration of this agreement insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work by the Participant, his agents, representatives, employees, or subcontractors. Participant or its authorized contractors shall provide evidence of its general liability coverage upon request by Owner.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the dates set forth below.

Participant

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Owner: \_\_\_\_\_

By: \_\_\_\_\_



Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

*Posted: 11/25/2015 by Legislative Services Agency*  
An [html](#) version of this document.