

MEMORANDUM OF AGREEMENT
Between
the U.S. Environmental Protection Agency, Region 4, Superfund Division and
the Southwest Florida Water Management District

This MEMORANDUM OF AGREEMENT (MOA) is hereby made and entered into by and between the United States Environmental Protection Agency (EPA) and the Southwest Florida Water Management District (SWFWMD). The purpose of this MOA is to develop a framework for cooperation between the EPA and the SWFWMD and to set forth the mutual understanding of the parties concerning cooperative efforts to minimize the potential effects of groundwater contamination in areas within SWFWMD's jurisdiction that are impacted or potentially impacted by Superfund sites, including procedures for information sharing and assisting in the implementation of certain institutional controls through the application of regulatory practices within SWFWMD's jurisdiction, to prevent the potential human exposure to contaminated groundwater in areas impacted or potentially impacted by Superfund sites.

Whereas, pursuant to the authority of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, 42 U.S.C. § 9601 et seq., and the National Contingency Plan, 40 CFR 300 et seq., EPA has the authority to conduct response actions at Superfund sites within the State of Florida;

Whereas, institutional controls are frequently used by EPA as part of selected response actions at Superfund sites;

Whereas, EPA policy defines institutional controls as non-engineering instruments such as administrative or legal controls that eliminate or minimize the potential of human exposure to contaminants and chemicals of concern and that protect the integrity of the remedy by limiting land or resource utilization. Institutional controls at a particular Superfund site may be selected

as a part of a removal or remedial action. Institutional controls selected as a part of a remedial action are identified in the Record of Decision (ROD) and may be more specifically established during the Remedial Design. At many Superfund sites, institutional controls are used to eliminate potential human exposure to contaminated groundwater beneath the Superfund site property and other adjacent or nearby properties;

Whereas, a groundwater institutional control may be a restriction on the construction of potable and irrigation wells and the use of contaminated groundwater within an area impacted by a Superfund site. Implementation and enforcement of institutional controls for contaminated groundwater may require the assistance of regulatory authorities such as the SWFWMD and various local government authorities;

Whereas, SWFWMD has adopted rules to govern the construction of water wells within the geographic boundaries of SWFWMD, to implement the provisions of Part III of Chapter 373, F.S.;

Whereas, such rules are adopted by SWFWMD to ensure that water wells within SWFWMD are located, constructed, maintained, used and abandoned in a manner that protects the water resources, does not pose a threat of contamination to the water resource and protects the health, safety and welfare of the public;

Whereas, SWFWMD has also adopted by reference and implements regulations promulgated by the Florida Department of Environmental Protection governing the construction of water wells, including the construction of water wells within delineated areas of contamination, as set forth in Chapters 62-532 and 62-524, F.A.C.;

Whereas, within the geographic boundaries of SWFWMD, unless otherwise exempt, a permit must be obtained prior to the construction, repair, modification or abandonment of a water well, including wells within areas delineated pursuant to Chapter 62-524, F.A.C., which encompass areas within which groundwater contamination may exist or is known to exist;

Whereas, pursuant to Chapter 40D-3, F.A.C., SWFWMD is authorized to impose upon any well construction permit issued by SWFWMD such reasonable conditions as are necessary to protect the water resource and assure that the permitted activity is consistent with the overall objectives of SWFWMD, and may deny an application for a well construction permit if construction or use of the well would increase the potential for harm to the public health, safety and welfare or if the proposed well would degrade groundwater quality by causing pollutants to spread;

Whereas, EPA and the SWFWMD desire to cooperate in exercising their respective regulatory authority to prevent the potential spread of groundwater contamination, protect aquifer water quality and promote public health, safety and welfare; and

Whereas, the Clean Water Act § 104(a) and (b), 33 U.S.C. 1254(a) and (b), provides EPA the authority to cooperate with organizations such as SWFMD on strategies to address water pollution, including groundwater and surface water pollution.

IT IS MUTUALLY UNDERSTOOD AND AGREED BY AND BETWEEN THE PARTIES THAT:

A. As to EPA:

1. EPA shall notify SWFWMD in writing of any area of groundwater impacted by a Superfund site within the jurisdiction of SWFWMD.

2. Attached hereto and incorporated herein by reference as Appendix 1 is a list of agreed-upon Superfund sites within the jurisdiction of SWFWMD to which this MOA shall be applicable and which shall hereinafter be referred to as the Superfund Areas. EPA shall provide SWFWMD with a written description, aerial depiction and electronic data in a format compatible with the District's Geographic Information System showing the extent of the known and potential groundwater contamination for each of the Superfund Areas contained in Appendix 1. Electronic data should be provided in a shapefile that is in State Plane Feet West Zone, North American Datum of 1983 HARN, with units in feet and vertical units in feet, NAVD 88. Geometry should be polygon, if applicable. Attributes will need column descriptions and domains, and metadata should be FGCD compliant. EPA shall periodically provide an updated written description, aerial depiction and electronic data to SWFWMD for each Superfund Area as often as necessary to maintain an accurate boundary of the Superfund Area, or at least every five years.
3. EPA shall consult with SWFWMD to establish an inner and outer boundary of the area of groundwater impacted or potentially impacted by a Superfund Area. The inner boundary shall be known as the contamination zone or Zone A. The area between the inner and outer boundary shall be known as the buffer zone or Zone B.
4. For each Superfund Area, consistent with EPA's policies on conducting Five-Year Reviews, EPA will ensure a well survey is conducted at least every five years within Zones A and B or the area of the extent of groundwater contamination if greater. The well survey will be conducted through field inspection and will identify any new wells

constructed or operating since the last review was conducted. EPA shall also provide to SWFWMD available monitoring and other site assessment reports demonstrating the status of groundwater contamination.

5. EPA agrees that if any portion of a Superfund Area appended, or proposed to be appended, to this MOA is situated within an area delineated as an area of groundwater contamination pursuant to Section 373.309(1)(e), F.S., EPA will incorporate in its institutional controls for such Superfund Area provisions for complying with the regulations promulgated in Chapter 62-524, F.A.C., if applicable.

B. As to SWFWMD:

1. Upon receipt of the electronic and other descriptive data for a Superfund Area including the contamination zone and buffer zone for such Superfund Area, SWFWMD will make available through its website for public information purposes an aerial map depicting the location of the Superfund Area and specifically the contamination zone and buffer zone for each Superfund Area. A written description of the Superfund Area will also be made available to the public upon request.
2. When reviewing and approving permit applications involving activity to be undertaken on property located within a Superfund Area (hereinafter referred to as a Permit Application), SWFWMD will, where appropriate, impose such reasonable conditions as are necessary to protect the water resource, prevent the spread of ground or surface water contamination and otherwise be consistent with the overall objectives of SWFWMD. For well construction permits, such conditions may include prohibiting use of the well as a

potable water supply, requiring notice to well owners of potential groundwater contamination or requiring specific methods of construction.

3. SWFWMD agrees that following receipt of an application for a well construction permit for activity located within Zone A of a Superfund Area, if a Request for Additional Information (RAI) is issued, SWFWMD will provide to EPA a copy of the RAI.
4. Pursuant to Rule 40D-3.505(3), F.A.C., SWFWMD will deny an application for a well construction permit for activity in Zone A of a Superfund Area if use of the well would increase the potential for harm to public health, safety and welfare, or if the proposed well would degrade the water quality of the aquifer by causing pollutants to spread.
5. SWFWMD will provide notice to EPA of the receipt of a written request for a variance or waiver pursuant to Section 120.542, F.S., Rule 40D-1.1001, F.A.C., or Rule 40D-3.505(4), F.A.C., or an objection or petition for a hearing in relation to a Permit Application for an activity located or to be located within a Superfund Area.

C. As to both parties:

1. Both parties agree to make their staffs available for timely consultation as to the potential for groundwater impacts occurring within or near a Superfund Area as a result of proposed activity for which a Permit Application is received by SWFWMD.
2. This MOA may be amended in writing upon mutual consent as the parties deem necessary, and such amendments shall take effect upon execution by both parties.
3. Additions or deletions to the list of Superfund Areas contained in Appendix 1 hereto may be made at any time upon mutual consent of the parties.

4. Each party hereby designates the position set forth below as its contact person who shall be responsible for receiving all notices as described herein and for assisting with coordination and overall implementation of this MOA for the respective agency:

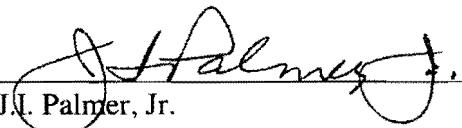
For EPA: Division Director
 U.S. Environmental Protection Agency
 Region IV, Superfund Division
 61 Forsyth Street, NW
 Atlanta, Georgia 30303-8960

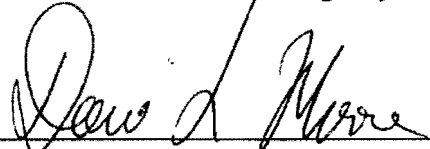
For SWFWMD: Manager, Well Construction
 Regulation Performance Management Department
 Southwest Florida Water Management District
 2379 Broad Street
 Brooksville, Florida 34604-6899

5. This MOA shall become effective on the latest day and year executed by either the EPA or the SWFWMD as noted below.
6. Either party may terminate this MOA upon written notice to the other party.
7. The parties agree that this MOA imposes no formal contractual obligations and is not enforceable by either party against the other or by any third party.
8. Neither party is responsible for the funding, payment and/or reimbursement of any costs incurred by the other party for any activities performed pursuant to this MOA. Any provision of this MOA that may require an obligation of funds by EPA shall be subject to the availability of appropriated funds and no provision herein shall be interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341.

9. This MOA does not create any right or benefit, substantive or procedural, enforceable by law or equity, by persons who are not party to this agreement, against SWFWMD or EPA, their officers or employees, or any other person. This MOA does not direct or apply to any person outside of SWFWMD and EPA.

10. The undersigned representative(s) certify that they are fully authorized to execute this MOA.

BY:  DATE: SEP 11 2008
J.I. Palmer, Jr.
Regional Administrator
U.S. Environmental Protection Agency

BY:  DATE: 8-26-08
David L. Moore
Executive Director
Southwest Florida Water Management

APPENDIX 1
March 2010

1. Landia Chemical Superfund Site, EPA ID No. FLD042110841, Lakeland, Polk County, Florida (August 2008)
2. Alaric Area Groundwater Plume, Helena Chemical Company and Stauffer Chemical Company Combined Superfund Sites, EPA ID Nos. FLD012978862, FLD053502696 and FLD004092532, Tampa, Hillsborough County, Florida (July 2009)
3. Southern Solvents Superfund Site, EPA No. FLD0001209840, Tampa, Hillsborough County (March 2010)