WHEREAS, on March 18, 2008, the New Jersey Pinelands Commission (PC), the New Jersey New Jersey Department of Human Services (DHS), the New Jersey Department of Environmental Protection (NJDEP) and the Camden County Municipal Utilities Authority (CCMUA) entered into a Memorandum of Agreement (MOA) authorizing the extension of public sanitary sewer into a Pinelands Rural Development Area(s) and a Pinelands Agricultural Production Area(s) to serve the Ancora Psychiatric Hospital (APH) facility parcel; and

WHEREAS, Paragraph VI.A.18 of the March 18, 2008 MOA specifically prohibits DHS from commencing the utilization of public sanitary sewer authorized by the MOA to convey wastewater from the APH facility parcel to the CCMUA treatment plant in Camden, New Jersey until a non-Kirkwood/Cohansey potable water source has been obtained and is being utilized by the APH facility parcel; and

WHEREAS, DHS had originally intended to develop two potable water wells within the Piney Point aquifer to provide for the potable water needs of the APH facility parcel; and

WHEREAS, consistent with the provisions of the March 18, 2008 MOA, DHS now proposes connection to a private public water system to provide potable water to the APH facility; and

WHEREAS, such a connection will require construction of a new potable water system to connect the APH facility parcel to the private water company’s existing water system; and

WHEREAS, DHS has indicated that construction of the new sanitary sewer main authorized by the March 18, 2008 MOA to serve the APH facility parcel will be completed and ready for operation around May 1, 2010; and

WHEREAS, DHS has indicated that construction of the new potable water main to service the APH facility will not be completed and operational until approximately November 1, 2010; and

WHEREAS, because of concerns regarding the age of Ancora’s existing onsite wastewater treatment plant (WWTP), the quality of the treated wastewater being generated from the WWTP and the limited capabilities of the associated infiltration lagoons and that NJDEP has declared the sanitary sewer service at APH a public health emergency, DHS has requested that Paragraph VI.A.18 of the March 18, 2008 MOA be amended to temporarily allow DHS to utilize the new public sanitary sewer authorized therein prior to a non-Kirkwood/Cohansey potable water source serving the APH facility parcel;
WHEREAS, the purpose of the March 18, 2008 MOA limitation on the use of the public sanitary sewer authorized by that MOA prior to DHS’s utilization of a non-Kirkwood/Cohansey potable water supply was intended to ensure that the use of the public sanitary sewer system would not result in long-term hydrologic impacts to the Kirkwood/Cohansey aquifer; and

WHEREAS, DHS has represented that the time period during which it will utilize the new public sanitary sewer system authorized by the March 18, 2008 MOA and continue to utilize the existing Kirkwood/Cohansey potable water wells will be of a short duration, approximately 6 months; and

WHEREAS, on balance, the Commission staff believes that hydrologic impacts to the Kirkwood/Cohansey aquifer during this short duration will not result in a long term irreversible impacts provided the conditions of this amendment to the March 18, 2008 MOA are met, while the existing ongoing adverse impacts to ground and surface waters on and in the vicinity of the existing APH onsite sanitary sewer treatment system facility are, and continue to be, significant; and

WHEREAS, the CMP, at N.J.A.C. 7:50-4.52(c)2, authorizes the Commission to enter into a MOA with a governmental agency to authorize such agency to carry out specified development activities that may not be fully consistent with the provisions of N.J.A.C. 7:50-5 and 6, provided such agency demonstrates and the Commission finds that variation from the standards of the Pinelands Comprehensive Management Plan (CMP) are accompanied by measures that will, at a minimum, afford an equivalent level of protection of the resources of the Pinelands than would be provided through strict application of the standards of the CMP;

NOW THEREFORE, in consideration of the promises, and of the mutual covenants and agreements contained herein, the Parties hereto agree to amend the March 18, 2008 MOA as follows:

1. Unless expressly amended herein, all provisions of the March 18, 2008 MOA remain in full force and effect.

2. Notwithstanding the provisions of Paragraph VI.A.22 of the March 18, 2008 MOA to the contrary, the Parties agree that DHS, its agent, including a private entity officially acting on behalf of DHS, may complete an application with the Commission for the development of a new potable water main to provide potable water service to the APH facility parcel.

3. Notwithstanding the provisions of Paragraph VI.A.18 of the March 18, 2008 MOA to the contrary, DHS may commence utilization of public sanitary sewer service, including the new sanitary sewer force main being constructed for the APH facility parcel at such time as:

   a. DHS, its agent, including a private entity on DHS’s behalf, has received a Resolution from the Pinelands Commission approving an application for Public Development or received a Commission Certificate of Filing and
any necessary local approvals for construction of a potable water system to service the APH facility parcel;

b. DHS and a potable water company have executed an agreement, or its equivalent, to provide all potable water service needs of the APH facility; and

c. The Deed of Conservation Restriction required to be filed pursuant to Paragraph VI.A.3 of the March 18, 2008 MOA has been filed and a copy of the filed Deed of Conservation has been provided to the Commission in accordance with Paragraph VI.A.4 of the March 18, 2008 MOA.

4. CCMUA and/or DHS, its agents or assignees agree that it will not use any money from the Pinelands Infrastructure Trust Fund grant for the permitting, construction, operation or any other aspect of the proposed potable water system to service the APH facility parcel.

5. DHS agrees to immediately implement, to the extent that it has not done so already, the emergency conservation measures delineated in Paragraph VI.A.2 of the March 18, 2008 MOA, and as required by paragraph 2 of the emergency permit conditions set forth in Attachment A of its May 29, 2003 ACO with NJDEP, to reduce the amount of consumptive water uses at the APH facility to decrease the demand on the Kirkwood-Cohansey aquifer during the six month duration of utilizing public sanitary sewer and the Kirkwood-Cohansey wells for potable water. To the extent that it has not already done so, such actions shall include, but shall not be limited to, the ongoing practice of converting to low flow fixtures and the timely installation of water conserving “tunnel washer” laundry equipment. Such emergency conservation measures shall remain in effect at least until the new potable water main is constructed and servicing all potable water needs of the APH facility parcel.

6. DHS agrees that no later than six (6) months following its commencing utilization of public sanitary sewer service allowed by the March 18, 2008 MOA, it will satisfy all of the obligations in Paragraphs 19 & 20 of the March 18, 2008 MOA.

7. As required by Paragraph VI.A.14 of the March 18, 2008 MOA, except for emergency purposes, DHS agrees to cease use of the existing K/C Aquifer water supply wells located at the APH facility parcel to service the potable water needs of the APH facility parcel once the new public potable water supply system for the APH facility parcel is operational. Although DHS may retain one or more of the three existing K/C Aquifer wells for emergency purposes, DHS agrees that such wells shall only be used, on a temporary basis and to the minimum extent necessary, to remedy or prevent imminent threats to human life, health or safety at the APH facility parcel. Additionally, DHS agrees that all uses of K/C wells
shall be subject to the reporting requirements identified in Paragraph VI.A.15 of the March 18, 2008 MOA.

8. The existing NJDEP water allocation permit for the three existing Kirkwood Cohansey wells at the APH facility expires on March 31, 2011. DHS agrees to diligently pursue a modified NJDEP water allocation permit. The modified water allocation permit shall specifically indicate that one or more of the three existing wells shall only be utilized for emergency use in accordance with the restrictions set forth in paragraph 7 above.

9. The NJDEP agrees that it will incorporate limitations on the use of the Kirkwood-Cohansey wells set forth in Paragraph 7 of this MOA amendment and provide for penalties for the unauthorized use of the concerned wells and any failure to follow the reporting procedures set forth in Paragraph VI.A.15 of the March 18, 2008 MOA into the modified NJDEP water allocation permit for the Kirkwood-Cohansey wells located on the APH facility parcel:

10. DHS agrees that should the APH facility be closed and the APH facility parcel be determined to be surplus State property, it will permanently seal the Kirkwood/Cohansey wells located at the APH facility parcel, prior to DHS terminating all of its operations at the APH facilities.

11. DHS agrees that if the APH facilities are closed, DHS shall still satisfy all conditions and obligation of the MOA.

12. DHS agrees that if the parcel is determined to be surplus State property, DHS shall provide the Department of Treasury with a copy of the March 18, 2008 MOA, a copy of the required deed of conservation, a copy of this amendment to the MOA and advise the Treasury Department to disclose to any prospective buyer/owner of the parcel that future permitted land use of the parcel is limited to those uses consistent with the Township’s certified land use ordinances, such uses shall only be conducted within the portions of the parcel located within the “Designated Development Area” as depicted on Exhibit 1 to the March 18, 2008 MOA and Exhibit 1 of the amendment to the March 18, 2008 MOA, no development shall occur within the area of the APH parcel deed restricted to prohibit future development and any proposed uses shall be subject to the development application provisions of the CMP (N.J.A.C. 7:50-4).

13. To provide at least a minimum of an equivalent level of protection to the resources of the Pinelands as required by the CMP (N.J.A.C. 7:50-4.52(c)2), DHS proposed, and herein agrees, to deed restrict an additional 89 acres (See Exhibit 1) originally designated as Development Area in the March 18, 2008 MOA. (The March 18, 2008 MOA designated approximately 300 acres of the APH parcel as Development Area and approximately 359 acres of the APH parcel as Open Space Area.) The concerned 89 acres, upon which 10 existing former wastewater infiltration lagoons are located, is depicted on Exhibit 1, attached
hereto and incorporated herein by reference. The former wastewater infiltration lagoons, each approximately four feet deep, occupy approximately 18 acres of the 89 acres and currently provide wildlife habitat for a variety of birds, amphibians and mammals.

14. DHS estimates that construction of the new sanitary sewer main to serve the APH facility parcel will be completed and operational around May 1, 2010. DHS estimates that the construction of the new potable water main to service the APH facility will not be completed and operational until six (6) months later on November 1, 2010. DHS agrees that if completion of construction and operation of the new potable water main to service the APH facility extends more than seven (7) months beyond the date it commences utilization of the new public sanitary sewer system, it shall, in addition to deed restricting 89 acres of Open Space as required by Paragraph 13 above, undertake improvement to an existing, approximately 400 linear foot stormwater conveyance area to improve the quality of existing runoff discharging to this area. Such improvements shall, at a minimum, consist of regrading and stabilizing of the area, removal of exotic plant species and/or phragmites and re-vegetation consistent with the provisions of the landscaping and revegetation guidelines of the Pinelands CMP (N.J.A.C. 7:50-6.26). The concerned stormwater conveyance area is located on the APH facility parcel, east of Woodland Drive and south of Pine Drive and currently accepts and discharges stormwater runoff from at least two existing internal roadways and a parking area to wetlands which drain to Blue Anchor Brook (See Exhibit 1).

If the proposed water main is not operational within seven (7) months after the date DHS commences utilization of the new public sanitary sewer system, DHS agrees to provide a plan to the Commission staff for the proposed improvements to the concerned stormwater conveyance area by the end of the ninth (9) month after the date DHS commences utilization of the new public sanitary system. Upon Commission staff written concurrence with the plan, DHS agrees to construct the improvements within 19 months from the date DHS commences utilization of the new public sanitary sewer system.

15. DHS agrees that if the proposed potable water service is not operational by the beginning of the eleven month after the date that utilization of the new public sanitary sewer system commences, that DHS will not consent to the filing of any further development applications on the APH parcel on its or any other entities behalf until DHS returns to the Commission for further amendment of the MOA to address the CMP (N.J.A.C. 7:50-4.52(c)2) requirement to provide at least a minimum of an equivalent level of protection to the resources of the Pinelands.

16. In accordance with N.J.S.A. 13:18A-5(h), this Amended MOA shall take effect following the conclusion of the Governor’s review period and approval of the Pinelands Commissions minutes authorizing entry of this Amended MOA and then upon approval and signature by the authorized representatives of all Parties.
IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the _____ day of ______________, 2010.

NEW JERSEY PINELANDS COMMISSION

Date: ________________________  By: ______________________________________
John C. Stokes, Executive Director

Approved as to form by:

Date: ________________________  By: ______________________________________
Amy C. Donlon, Deputy Attorney General
State of New Jersey

NEW JERSEY DEPARTMENT OF HUMAN SERVICES

Date: ________________________  By: ______________________________________
Jennifer Velez, Commissioner

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION

Date: ________________________  By: ______________________________________
Scott Brubaker, Acting Assistant Commissioner

CAMDEN COUNTY MUNICIPAL UTILITIES AUTHORITY

Date: ________________________  By: ______________________________________
Doreen A. Dixon, Chairperson
Exhibit 1: Proposed MOA Offset Area 4/15/10