

## AGREEMENT TO CONDUCT WORK

This Agreement, pursuant to A.R.S. § 49-282.05, made and entered into the day and date indicated below, by and between the Arizona Department of Environmental Quality ("ADEQ" or the "State") and the Roosevelt Irrigation District ("RID"), collectively referred to as the Parties,

### WITNESSETH:

WHEREAS, ADEQ has determined that releases or threatened releases of hazardous substances have occurred within the meaning of A.R.S. § 49-201, resulting in groundwater contamination that has impacted multiple RID water supply wells which may present an imminent and substantial endangerment to the public health, welfare or the environment within the West Van Buren WQARF Site (the "Site"); and

WHEREAS, the Site was placed on the WQARF Registry on November 13, 1987; and

WHEREAS, anyone may, by written agreement with ADEQ, conduct all or a portion of an Early Response Action ("ERA") and Feasibility Study ("FS") at the Site pursuant to ARS §§ 49-282.05 and 49-287.03; and

WHEREAS, the Parties desire that the RID conduct the ERA and the FS (collectively the "Work"), pursuant to this Agreement and have entered into this Agreement to establish the Work to be conducted by the RID; and

WHEREAS, the RID will submit an Implementation Plan ("Plan"), setting forth the Work to be performed and a schedule for submitting detailed Work Plans to conduct the Work for ADEQ review and approval;

NOW THEREFORE, in mutual consideration of the promises, conditions and obligations contained herein, the sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

1. Authorization. Each undersigned representative of the Parties to this Agreement certifies that he/she is fully authorized to enter into the terms of this Agreement and execute and legally bind such party to this Agreement.
2. Recitals and Exhibits. The Recitals and Exhibits are a material part of this Agreement and are incorporated herein.
3. Remedial Action. The RID agrees to conduct all Work under the approved Plan. All results, data and information obtained by the RID, its agents or contractors, from the Work undertaken pursuant to this Agreement, shall be promptly submitted to ADEQ. All Work conducted by the RID shall be performed in accordance with rules adopted under A.R.S. § 49-282.06.

4. Work Plan. The RID shall prepare and submit Work Plans detailing the Work to be conducted. Once submitted and approved by ADEQ and when adequate funds are available from potentially responsible parties or cost recovery actions, the Work Plans shall become an enforceable part of this Agreement.

5. Additional Work. After receipt of the results, data and/or information provided by the RID to ADEQ pursuant to the Plan, the Parties shall meet to discuss and agree on any additional work that needs to be performed and the RID shall amend the Plan or Work Plans to include any agreed upon additional work and shall proceed under this Agreement.

6. Termination. This Agreement shall terminate upon final approval by ADEQ of the Work conducted by the RID under this Agreement. ADEQ's final approval of the Work shall not be unreasonably withheld or delayed. However, ADEQ may terminate this Agreement upon 10 days notice if, in its sole determination, the RID fails to perform under this Agreement.

7. Reservation of Rights. The Parties agree that the RID liability, if any, under the Water Quality Assurance Revolving Fund ("WQARF") statutes or any other federal or state law or regulation is not resolved by this Agreement. This Agreement does not encompass issues regarding violations, releases, contamination, sources, operations, facilities or processes not expressly covered by the terms of this Agreement. Except as otherwise provided herein, this Agreement is without waiver or prejudice to the rights of the State of Arizona or the RID under any federal or Arizona environmental statute or rule with regard to such issues. The RID, by entering into and conducting Work under this Agreement, does not admit any liability under WQARF or any other law.

Nothing under this Agreement shall bar the RID or ADEQ from using information generated by or relating to the Work conducted under this Agreement for any other purpose in any separate proceeding including, without limitation, supporting any position taken in any later allocation proceeding.

8. Oversight Costs. Pursuant to A.R.S. § 49-282.05, the RID shall reimburse ADEQ for the reasonable and necessary costs incurred in reviewing and overseeing the Work, including costs consisting of salaries and benefits paid to state employees and other direct or indirect costs ("Oversight Costs"). Reimbursement for Oversight Costs shall be deferred until ADEQ has incurred at least \$100,000.00 in Oversight Costs or when 2 years has passed from the effective date of this Agreement, whichever occurs first ("Contingent Events").

ADEQ shall inform the RID of when a Contingent Event has occurred and every ninety (90) days thereafter, ADEQ shall provide to the RID an Oversight Cost Package consisting of invoices and summaries of ADEQ Oversight Costs. The RID shall submit payment for the Oversight Costs within thirty (30) days of receipt of each Oversight Cost Package to:

Michael D. Clark

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Michael D. Clark  
Chief Financial Officer  
Arizona Department of Environmental Quality  
1110 West Washington Street  
Phoenix, Arizona 85007

The RID shall pay interest at the statutory rate on any balance remaining unpaid after the thirty (30) days set forth above.

9. Submittals. All deliverables, materials, plans, reports, test results, notices and other items ("Submittals") submitted to ADEQ under this Agreement shall be sent to:

Julie Riemenschneider, Project Manager  
Arizona Department of Environmental Quality  
Remedial Projects Section  
1110 West Washington Street  
Phoenix, AZ 85007

All Submittals to the RID under this Agreement shall be sent to:

David P. Kimball, III  
Legal Counsel  
Gallagher & Kennedy, P.A.  
2575 East Camelback Road  
Phoenix, AZ 85016

All Submittals to ADEQ or the RID under this Agreement shall be deemed submitted when mailed postage prepaid and postmarked, when accepted for delivery by a commercial delivery service or when hand delivered to the above address.

10. Severability. The provisions of this Agreement are severable. If any provision is declared by a court of law to be invalid or unenforceable, all other provisions of this Agreement shall remain in full force and effect.

11. Entire Agreement. This Agreement expresses the entire agreement of the Parties. No modification of this Agreement is valid or enforceable unless the modification is reduced to writing, signed by the Parties and attached hereto.

12. Day. Where used herein, "day" shall mean a calendar day, unless otherwise specified herein.

13. Cancellation. This Agreement may be canceled pursuant to A.R.S. § 38-511.

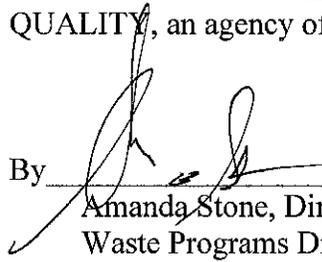
14. Interpretation. This Agreement shall be interpreted and enforce according to the laws of the State of Arizona.

15. Effective Date. The effective date of this Agreement shall be the date this Agreement is signed by ADEQ following signature by the RID.

Dated this 8<sup>th</sup> day of October, 2009.

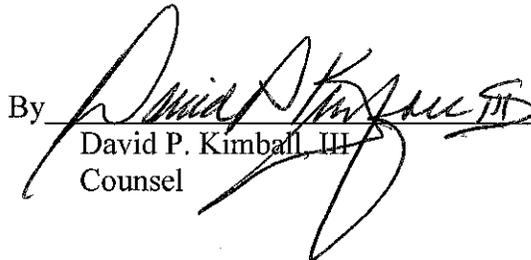
ARIZONA DEPARTMENT OF ENVIRONMENTAL  
QUALITY, an agency of the State of Arizona.

By

  
Amanda Stone, Director  
Waste Programs Division

ROOSEVELT IRRIGATION DISTRICT, a political  
subdivision of the State of Arizona

By

  
David P. Kimball, III  
Counsel