MEMORANDUM OF UNDERSTANDING

BETWEEN

 \_\_\_\_\_\_\_\_\_\_\_\_ County Conservation District

and

\_\_\_\_\_\_\_\_\_\_\_\_ County Conservation District

This Memorandum of Understanding is entered into this \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_ for the purpose of setting forth the mutual responsibilities and understandings of the parties with regard to the review of certain nutrient management plans.

*Whereas*, the act of July 6, 2005 (P.L. 112, No.38), 3 Pa.C.S.A. §§ 501-522, related to nutrient and odor management (the "Act"), and the regulations promulgated thereunder by the State Conservation Commission at 25 *Pa. Code* Chapter 83, relating to nutrient and odor management, establish a comprehensive nutrient management program for the Commonwealth of Pennsylvania; and

*Whereas*, the act of December 19, 1984 (P.L. 1125, No.221), 3 P.S. §§849-864, known as the Conservation District law, authorizes the State Conservation Commission (“Commission”) to approve and coordinate the programs of the conservation districts under §852(c); and

*Whereas,* Section 508 of the Act, 3 Pa. C.S.A. §508 provides for certification of individuals who have demonstrated the competence necessary to develop nutrient management plans; and

*Whereas,* county conservation districts are authorized to assist farmers by employing Nutrient Management Specialists certified in accordance with Section 508 of the Act to develop nutrient management plans; and

*Whereas,* Section 506 of the Act, 3 Pa C.S.A. § 506, requires that the individual who develops a nutrient management plan and the individual who reviews a nutrient management plan shall each be certified Nutrient Management Specialists qualified under Section 508 of the Act; and

*Whereas,* the Commission has determined that a nutrient management plan that is developed by a certified Nutrient Management Specialist as staff of a conservation district shall be reviewed by certified Nutrient Management Specialist as staff for another conservation district or Commission; and

*Whereas,* the Commission has authorized conservation districts to enter into Memoranda of Understanding with other conservation districts for reciprocal review and approval of nutrient management plans that are developed by certified Nutrient Management Specialist of a conservation district, so long as the substance of the Memorandum of Understanding conforms with the policies of the Commission and the Model lnter-district Reciprocal Agreements adopted by the Commission; and

*Now therefore,* \_\_\_\_\_\_\_ County Conservation District ("\_\_\_\_\_") and \_\_\_\_\_\_ County Conservation District ("\_\_\_\_\_") desire to enter into an inter-district reciprocal agreement for the review of nutrient management plans;

1. Plan Development. Nutrient management plans developed by the staff of a district shall only be developed by, or under the immediate technical supervision of a certified Nutrient Management Specialist employed by that district or SCC. The Nutrient Management Specialist developing the plan shall certify that the plan is in accordance with the requirements of the Nutrient and Odor Management Act and the regulations there under at 25 Pa. CodeChapter 83. For purposes of this agreement, the district where the farm is located shall be referred to as the "originating district," and the district performing the review shall be referred to as the "reviewing district."

2. Plan Submission. The originating district shall notify the reviewing district that a nutrient management plan is under development and that review is requested under this Memorandum. Adequate advance notice shall be provided, but in no case shall advance notice of less than 5 days be provided. Drafts of the plan may be provided informally to the reviewing district and proposed best management practices maybe discussed between the originating district and reviewing district staff as may be desirable. Staff from the reviewing district may accompany originating district staff on site visits during plan development, as desirable in the opinion of the originating district. The originating district shall formally submit the nutrient management plan to the reviewing district after it has been signed by the agricultural operator for whom it was developed.

3. Review Period. The 90-day review period pursuant Section 506 of the Act shall commence at the time of the reviewing district receives the plan and deems the submission administratively complete. The reviewing district shall complete its review and provide the originating district with appropriate comments within 30 days of receiving the plan. In no case shall the period of review by the reviewing district extend more than 60 days from the date the plan is submitted. *[Note: It is recommended that the originating district reserve sufficient time for final/ action by its Directors within the 90-day period a/lowed* by Section 506 *of the Act.]*

4. Review Procedures. The reviewing district shall assure that the staff persons performing the review are certified in accordance with Section 508 of the Act and properly qualified to perform the review. The certified individual responsible for the review shall ascertain whether or not the plan is in accordance with the Nutrient and Odor Management Act and the Nutrient Management Regulations. During the review, the certified specialist for the reviewing district is encouraged to communicate freely with the certified specialist who developed the plan and may request such additional information from the originating district as is needed. Additional information necessary directly from the agricultural operator should be requested through the originating district, if possible.

5. Site Visits During: Review. The review of a plan shall include a site visit to the agricultural operation by the reviewer, in order to ensure that the proposed best management practices will address all problem areas on the operation. If the reviewer is familiar with the current daily operations at the site, the site visit may be waved if it is not necessary in the opinion of the reviewer. Site visits will be arranged with the originating district.

6. Review Committee. The reviewing district shall provide the originating district with timely and appropriate comments upon which the originating district's Board of Directors may base an informed decision to approve, modify or disapprove the nutrient management plan.

7. Plan Approval Modification or Denial. The Board of Directors of the originating district shall formally approve, modify or disapprove the plan, pursuant to Section 506 of the Act. The Directors of the originating district shall duly consider the review comments submitted by the reviewing district, and shall formulate a final decision of the originating county in accordance with the full discretion allowed by law. The Directors of the originating district may approve, modify or disapprove the plan as is appropriate in the opinion of the Directors and in accordance with the Act and the regulations promulgated there under.

8. Cost. Each party to this Memorandum shall bear all costs for salary, overhead, travel, incidental or any other expenses incurred by that party.

9. Appeals. In the event that an aggrieved person contests the action of the originating district in approving, modifying or disapproving a plan, the concern shall be handled in accordance with the Commission's Administrative Manual for the Nutrient Management Program. Final decisions of the Commission in that matter will be defended by a Commonwealth attorney appointed for the Commission in accordance with law. The appropriate certified originating district and reviewing district staff will participate in the appeal matters, as requested by the Commission.

10. Term of the Agreement. This Memorandum shall become effective as of the date when duly signed by the parties hereto [*or upon a date set forth in this paragraph],* and shall be effective for a term of 10 year(s) *[or until a date set forth in this paragraph].* Extensions and renewals of this Memorandum any be agreed to by the parties in writing. An executed copy of an extension shall be sent to the Executive Secretary of the Commission.

11. Scope of the Agreement. (*Optional)* The signatory parties to this Memorandum agree to limit the scope of this agreement by limiting the technical assistance resources provided by each party for the responsibilities outlined in this Memorandum as follows:

\_\_\_\_\_review all plans received (no technical assistance limits).

\_\_\_\_\_review up to \_\_\_\_ plans per \_\_\_\_\_\_.

 \_ review plans as resources permit.

\_\_\_\_\_review plans in accordance with the following. *[Insert special terms of negotiated agreement between the districts].*

12. Modifications to this Agreement. Modifications to this Memorandum may be negotiated between the parties and set forth as a separate written addendum to this document. The modification shall not become effective unless and until approved in writing by the Executive Secretary of the Commission.

13. Termination of the Agreement. This Memorandum may be terminated by either party upon thirty (30) days written notice to the other party. Within 10 days of such termination, the district terminating the Memorandum shall inform the Commission of this action in writing.

14. Notification to the Commission. An executed copy of this Memorandum shall be filed by the originating district and the reviewing districts and sent to the Executive Secretary of the Commission as soon as it is finalized. The executed copy shall be considered to be approved by the Commission in accordance with each district’s delegation agreement for the Nutrient Management Program upon receipt by the Commission, unless the district is notified by the Commission in writing to the contrary.

*In witness whereof, the parties do set their hands and signatures this* \_\_\_\_ *day of \_\_\_\_\_,* 200\_\_.

*[Provide spaces below for the signatures of originating and reviewing district directors or manager* , *in accordance with each district's legal requirements for ratification of this, agreement Review of the agreement by the district's, legal counsel is recommended. Submission of the executed agreement to the Executive Secretary of the State Conservation Commission is necessary]*

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\_\_\_\_\_, Chairman Date

\_\_\_\_\_\_\_ County Conservation District

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\_\_\_\_\_\_\_\_, Chairman Date

\_\_\_\_\_\_\_ County Conservation District