



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION II  
EDISON, NEW JERSEY 08837

**CONSENT FOR ACCESS TO PROPERTY**  
**PURSUANT TO THE FEDERAL CLEAN WATER ACT**

Address of Property: 77 Executive Avenue, Edison Township, Middlesex County, New Jersey (Tax Block 375 Q, Lot 1) ("Site")

Property Owner or Rep: One Ninety M, L.L.C. c/o Heller Industrial Parks, Inc.


One Ninety M, L.L.C. ("Owner") is the owner of the above property. Petroleum is being discharged from a storm water culvert on the above property and is reaching navigable waters of the United States. I authorize officers the United States Environmental Protection Agency, its employees and contractors, to enter onto the above premises pursuant to the Clean Water Act ("CWA") Section 311 (33 U.S.C. § 1321) *et seq.* for the following purposes:

1. To perform an assessment for the presence of petroleum material and the threat of a release of such material into navigable waters of the US or adjacent shorelines;
2. To acquire liquid and solid samples from and around the storm water culvert;
3. To initiate a program of absorbent boom maintenance at the above premises;
4. To dispose of all petroleum and absorbent materials;
5. Any other activity that is not inconsistent with the Clean Water Act, the National Contingency Plan, and regulations promulgated at 40 CFR Part 300.

Owner grants the EPA access to the above property voluntarily, without any threats or promises sought or given, and without admitting any facts or liability. Owner understands that this access may be withdrawn by Owner at any time. Owner understands that should access be withdrawn the EPA reserves its right to seek access to the property by any authorized means, including seeking judicial access in federal Court. I certify that I have the authority to grant access to the EPA for the above listed activities on behalf of Owner.

ONE NINETY M, L.L.C.

By: Heller Industrial Parks, Inc., Manager

Signed by:   
Print: \_\_\_\_\_

**BRIAN BANASZYNSKI**  
**PRESIDENT**

Title: \_\_\_\_\_  
Date: 11/21/18



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November 21, 2018

Shirleen A. Roberts, Esq.  
General Counsel  
Heller Industrial Parks, Inc.  
205 Mill Road, Edison, NJ 08837

Dear Ms. Roberts:

This letter is with regards to our recent discussions regarding access to the property at the end of Meadow Road in the Heller Industrial Park in Edison, 77 Executive Avenue, Tax Block 375Q, Lot 1. The purpose of the request for access is for EPA to initiate a response, pursuant to the federal Clean Water Act, to prevent the release of oil from a storm drain at the end of Meadow Road from reaching a navigable waterway of the U.S.

In response to the draft access agreement I sent you, you indicated the need for an addendum to that agreement, which in effect would make our access conditional. In response to your proposal, and as I explained at our meeting, EPA cannot accept conditions on access, so the text of the draft agreement must remain as is. However, in the spirit of mutual cooperation and in my duly authorized capacity as the Federal On-Scene Coordinator for the Response Section of the Response & Prevention Branch of the EPA, I will commit EPA in writing to the following provisions:

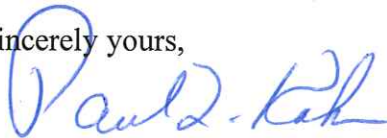
1. Prior to any boom maintenance and other related response activities, such as removing oil-soaked soil and/or vegetation and/or enhancing water paths, EPA will provide you and your designee with 24-hour advance e-mail notice, and said notice will identify the EPA contractor(s) and/or subcontractor(s) that will be on site.
2. The property Owner or its designee shall have the opportunity to be present during boom changes, as well as any activities that EPA may undertake on the Owner's property. In the event that EPA seeks to acquire environmental samples, the property Owner shall have access to split samples, to the extent there is sufficient volume to split. EPA will make every effort to assist the property Owner in this regard.
3. Upon request, EPA will provide the property Owner with copies of any public information pertaining to Site activities conducted by EPA or its contractor(s). Any document(s) that contain confidential business information or otherwise privileged information will be redacted prior to being released to the property Owner.
4. All EPA contractor and subcontractor personnel working on the Owner's property shall have general liability insurance in the amount of \$1 million per occurrence and \$2 million in the aggregate, automobile liability insurance in the amount of \$1 million per occurrence, and Worker's Compensation insurance coverage as required by applicable law.



5. The Owner and Heller Industrial Parks, Inc. shall be listed on these policies as additional Insureds. Certificates of insurance coverage shall be provided to the Owner at least one (1) business day prior to the initial entry onto the Owner's property, and thereafter upon request by the Owner.
6. If EPA or its contractor(s) physically disturb the Owner's property or any wetlands or other natural resources over which other governmental agencies, such as NJDEP, have jurisdiction, either by intent or accident, the appropriate legal/contractual remedies shall be followed by EPA to restore the Owner's property or natural resources to the general condition that existed prior to the damaging event. To the extent allowed by law and policy, EPA agrees to cooperate with the Owner to facilitate the documentation of either an insurance damage claim or a claim against the federal government and to cooperate with other governmental agencies having jurisdiction over disturbed wetlands or other natural resources, so that Owner has no liability for such disturbance.
7. Access to the Property will be from the Meadow Road entrance only and generally limited to the storm water culvert area abutting the wetlands at the southeasterly portion of the Property. EPA will, to the greatest practicable extent, perform its work in a way that minimizes interference with the Owner's and its tenants' ongoing business operations. If EPA determines, in its sole discretion, that any on-site activity may interfere with such business operations, EPA will first notify, and consult with, Owner before commencing the activity. EPA shall enter onto and park vehicles on the property at a location mutually agreed upon between the EPA and the Owner. Overnight parking or material/equipment storage on the property shall be permitted only with expressed permission from the property Owner.

Thank you for your cooperation and assistance in this matter.

Sincerely yours,



Paul L. Kahn  
Federal On-Scene Coordinator  
Response and Prevention Branch