

AGREEMENT

THIS AGREEMENT, dated the 20th day of January, 1992, by and between

BOROUGH OF DANVILLE ("Danville"), Montour County, Pennsylvania, a municipal corporation existing under Pennsylvania laws, party of the first part,

- AND -

MAHONING TOWNSHIP, ("Township"), Montour County, Pennsylvania and MAHONING TOWNSHIP AUTHORITY ("Authority"), a municipality authority existing under Pennsylvania laws, parties of the second part.

WITNESSETH: WHEREAS, Danville owns and operates a sewage treatment plant, sewage collection system and related facilities, referred to as the sewerage system; and

WHEREAS, the Authority previously entered into an agreement, dated June 1, 1951, which provided for Danville to furnish sewage disposal service for the Authority by permitting the Authority to connect sewer lines to the Danville sewerage system at the Danville-Township boundary line; and

WHEREAS, Danville and the Authority desire to continue the arrangement whereby Danville provides sewage disposal service to the Authority; and

WHEREAS, Danville is required to comply with various requirements under the Clean Water Act and other Acts which impose duties and obligations for controlling industrial discharges, also known as an industrial pretreatment program; and

WHEREAS, in order to perform the duties required in administering an industrial pretreatment program Danville is required to have the legal authority to perform inspections and sampling, issue permits and orders, require reporting and recordkeeping, control rates and quantities of discharges, require that certain discharges be halted, seek equitable and injunctive relief, and impose

penalties and fees on certain industrial waste discharges located in the Township; and

WHEREAS, the Township and Authority desire to have such activities performed by Danville in order to protect the Authority's sewerage system and in order to comply with Federal regulations;

NOW THEREFORE, Danville, on the one hand, and the Township and Authority, on the other hand, for and in consideration of the covenants and agreements contained herein, to be kept and observed, each intending to be legally bound hereby, covenant and agree as follows:

ARTICLE I

1.01 This Agreement is entered into by the Borough of Danville pursuant to an Ordinance duly enacted on _____, 1991 by its Council, by Mahoning Township pursuant to an Ordinance duly enacted by its Board on _____, 1991, and by the Mahoning Township Authority pursuant to a Resolution adopted by its Board on _____, 1991.

ARTICLE II

2.01 Mahoning Township covenants to adopt an Ordinance (Sewer Use Ordinance) similar to the Danville Borough Ordinance Number ___ of 1991, in that all prohibitions, requirements and procedures required of users of the Sewer System shall be identical to those adopted by Danville. A copy of the Ordinance shall be provided to Danville Borough.

2.02 The Township Sewer Use Ordinance shall authorize Danville to develop specific discharge limitations and shall authorize those limitations and requirements to be applicable to dischargers governed by Mahoning Township.

2.03 Any authorized employee or agent of Danville Borough may enter and inspect any part of the Authority's sewerage system at any time, and may take samples.

Any authorized employee or agent of Danville Borough may enter and inspect industrial premises in Mahoning Township that discharge, directly or indirectly, into Danville's sewerage system, and may take wastewater samples. The Sewer Use Ordinance shall confer those rights and establish procedures.

2.04 The Township shall require that reports, schedules and other documents required to be submitted by industrial users in compliance with the Township Sewer Use Ordinance shall be submitted to the Borough of Danville as well. The Township shall maintain a list of all industrial users contributing to the Mahoning sewer system and if any changes to the list occur through the addition or deletion of any industrial users, or if the owner of the discharging facility or the nature of the industrial activity changes so as to constitute a change in discharge, the Township shall promptly notify Danville of the change.

2.05 The Borough of Danville may seek injunctive relief against any user located in Mahoning Township and discharging, directly or indirectly, into Danville's sewerage system, if such discharger's discharge reasonably appears to present an imminent danger to the health or welfare of persons, or the environment, or if the discharge interferes or threatens to interfere with the operation of the collection system, sewage treatment plant, or their appurtenances. Danville may also seek equitable relief against any user of the Township's sewer use system if it believes that acts or omissions by a user have caused harm to the Danville sewage system, sewage treatment plant, or Danville Borough. Any legal actions initiated by Danville against users in Mahoning Township in furtherance of the provisions of the Sewer Use Ordinance shall not be contested or intervened by the Township or Authority, except on behalf of Danville.

2.06 Mahoning Township and the Mahoning Township Authority hereby appoint and assign the Borough of Danville, its duly authorized agents or assigns, as their agent jointly and severally for the purposes of implementing, administering and enforcing the provisions of the Township Sewer Use Ordinance which: control the strength, nature, constituents, volume or mass of pollutants discharged to the sewer system; regulate industrial discharges; establish and regulate a system of permits for certain dischargers; establish reporting requirements for industrial dischargers; establish sampling, inspection and recordkeeping procedures and rights; and establish remedies and enforcement procedures. The Borough of

Danville may, in order to ensure compliance with the Sewer Use Ordinance, issue letters, notices, reports, orders, compliance schedules and other documents notifying, requiring a response, or requiring compliance with the Sewer Use Ordinance or the rules and procedures established by Danville to implement the Sewer Use Ordinance. All such actions taken by Danville shall be and hereby expressly are accepted as actions in the name of and as an agent of Mahoning Township and/or Mahoning Township Authority.

2.07 The Borough of Danville agrees that copies of all correspondence and communications between itself and users discharging into the Authority's sewage system shall be provided to the Authority.

2.08 The Township and Authority shall, if required by Danville, act in concert with and in support of Danville Borough in implementing, administering and enforcing the provisions of the Sewer Use Ordinance. The Township and Authority jointly and severally agree that they shall not hinder or obstruct the efforts of Danville in implementing the provisions of the Sewer Use Ordinance.

2.09 Upon notice by Danville Borough or its authorized agent that civil or criminal enforcement actions are required against a discharger within the jurisdiction of Mahoning Township, the Township shall commence the requested action as provided in its Sewer Use Ordinance. Danville shall provide all necessary information to support such an action and shall assist as necessary in providing documentation or testimony to further the action. If monetary judgements are recovered from such actions, they shall be distributed as follows:

- A. Equitable damages awarded shall be distributed to the party damaged, or pro-rated according to the damage suffered by various parties, as determined by the court or settlement agreement;
- B. Costs recovered shall be paid to the party or parties incurring the costs;
- C. Punitive damages or criminal or civil fines shall be divided evenly, with one-half of any such recovered monies going to

Danville Borough and one-half to the Township.

2.10 Danville Borough shall administer the Sewer Use Ordinances of both Danville and Mahoning Township, as regards sewer use and industrial contributions, in the same manner and using the same guidelines and standards so as to treat dischargers to both systems equitably and fairly. Danville Borough shall make available upon request by the Township or Authority, for examination and copying, all records and documents pertaining to the administration and enforcement of the industrial pretreatment program.

ARTICLE III

3.01 If Danville determines that Mahoning Township or Authority has acted, or failed to act, in such a way that the operation, administration or enforcement of the pretreatment program is hindered, obstructed or made more difficult, Danville may develop a remedial plan, containing a description of the nature of the problem, an enumeration of the steps to be taken by Mahoning Township or Authority, and a time schedule for implementing each step. The Township and Authority covenant that, upon receipt of such a plan they will comply with it. Such plans shall be specifically enforceable in a court of competent jurisdiction. When the Township or Authority fails or refuses to satisfy the terms of such a plan, Danville may refuse to accept industrial wastes, or other non-complying or prohibited wastes, whether alone or mixed with domestic sewage, discharged to the system by dischargers located within the Township and may, to ensure that such wastes are not admitted, seek injunctions prohibiting such discharges in any court of competent jurisdiction.

3.02 If the Township or Authority determine that Danville has failed to adequately regulate dischargers contributing to the Authority's collection system such that harm or damage has occurred or may occur to the system or to persons or property as a result of the inadequate regulation, the Township or Authority may take such steps as they deem necessary to enforce the Sewer Use Ordinance or to develop and enforce additional regulations for dischargers in order to prevent such damage or harm.

3.03 This Agreement is and shall be binding on the parties thereto, their successors and assigns.

3.04 This Agreement may be executed in any number of counterparts, each of which shall be an original, but such counterparts together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Mahoning Township Municipal Authority has caused this Amendment to be executed in its name and on its behalf by its Chairman (or Vice Chairman) and the Authority seal to be affixed hereunto and attested by its Secretary; and the Borough of Danville, Montour County, Pennsylvania, has caused this agreement to be executed in its name and on its behalf by the President of the Borough Council, attested to and the Borough Seal affixed by the Borough Secretary, and approved by its Mayor; and Mahoning township has caused this agreement to be executed in its name and on its behalf by the Chairman of the Board of Supervisors, and attested to and the Township seal affixed by the Secretary, all as of this 20th day of January, 199k 2

MAHONING TOWNSHIP AUTHORITY

ATTEST:

Richard P. L. Shod
Secretary

(SEAL)

By Thomas R. Mertz
Title Chairman

BOROUGH OF DANVILLE

ATTEST:

Secretary

(SEAL)

By _____
President

Approved _____
Mayor