IOWA DEPARTMENT OF NATURAL RESOURCES
LAND RECYCLING PROGRAM

PARTICIPATION AGREEMENT

For the

_____

I. RECITALS

WHEREAS, the following participants ("the participants") in the Iowa Land Recycling Program (LRP) and the Iowa Department of Natural Resources ("the department") enter into this agreement as required by Iowa Code section 455H.107(2) and in accordance with administrative rule 567 Iowa Administrative Code (IAC) 105.203(5).

WHEREAS, Iowa Code chapter 455H grants participants certain benefits, privileges and immunities as well as establishing certain obligations. Only those parties who have entered into this agreement shall be considered "participants" as defined in Iowa Code section 455H.103(11) and entitled to those benefits, privileges and immunities. Parties may be removed from this agreement by withdrawal or upon final agency action terminating enrollment in accordance with department rules 567 IAC 105.203(8). Parties may be added to this agreement by written consent of all participants or a determination by the department that the party meets the criteria for consideration as a participant as defined in Iowa Code section 455H.103(11).

WHEREAS, an essential purpose of this agreement is to establish a general understanding between the participant(s) and the department as to the scope of the project being undertaken by the participants and a general set of mutual expectations. To the extent possible at the time of entering into this agreement, the parties are expected to reach an understanding on such issues as what contaminants associated with what known or suspected sources within the affected area are to be addressed and are not to be addressed, the scope of expected liability protection arising out of participation in the LRP, and any barriers the parties foresee in completion of the environmental project and the planned reuse of the affected area.

II. PARTICIPANTS

The following parties to this agreement are participants:

Person/organization: _____

Form of business organization or affiliation: sole proprietor, general partnership, LLC, corporation, non-profit corporation, etc.

Address: _____

City, State: _____

III. TERMS

1. The participants shall grant the department and all authorized representatives reasonable access to the affected area as defined in Iowa Code section 455H.103(1) in order to fulfill regulatory duties including but not limited to site inspections and oversight of all response actions conducted by participants or their agents and surface or subsurface site investigation and response actions related to any suspected contaminants.
2. The participants shall be jointly and severally responsible to reimburse the department for actual costs assessed in accordance with department subrule 567 IAC 105.203(4). The participants also agree to allocate the costs of reimbursement amongst themselves according to the method as described in the attached Exhibit but in doing so do not relieve themselves of their joint and several liability to the department for full reimbursement.

IV. CERTIFICATION OF FINANCIAL ABILITY

1. The participants certify they have obtained an estimate from a qualified groundwater professional of the costs of completing the site assessment and risk evaluation/response phase for the affected area in accordance with chapter 567 IAC 105.200 based on currently available information. Further, the participants certify they have the financial means to complete the site assessment and risk evaluation/response phase of this project based on this initial estimate and have entered into a legally enforceable contract with the following qualified professional, Qualified Professional Name . Further, the participants certify that if costs of completion of this response action are to be allocated amongst participants, this allocation has been specified and made part of a legally binding contractual agreement.
2. Unless the cost of response action and demonstration of compliance leading to a no further action classification can be reasonably estimated at the time of execution of this agreement, the participants agree to amend this agreement, and provide certification of financial ability upon approval of a response action. If the participants choose to expedite response action without prior review and approval of the department as provided in subrule 567 IAC 105.209, they agree to provide financial certification prior to or within a reasonable time after notice to the department of expedited response action.
3. The participants agree to notify the department in writing and at the earliest practicable date if they have reason to believe they will not be able to complete response actions in accordance with chapter 567 IAC 105.200 and this certification.

V. SCOPE OF PROJECT

The participants have (or have not) met with the department project manager and agree to the following project description:

a. A general description of the contaminants expected to be evaluated and those know nor suspected contaminants, sources and probable locations which the participants do not expect to evaluate.
b. A general description of the affected area including areas which are not currently within the control of the participants or for which access agreements have not been obtained.
c. A timetable for initiation of site assessment and submittal of assessment work plans and reports. If the participants intend to proceed with or have begun expedited site assessment in accordance with 567 IAC 105.208(2), please attach a copy of the required notice of expedited action.
d. A projected timetable for each phase of the proposed project and any outlying deadlines applicable to property development objectives.

VI. CONSTRUCTION

Words and phrases in this document shall be interpreted consistent with meanings and definitions as used in Iowa Code Chapter 455H and Chapter 567 IAC 105.200.

_____ Date: _____

Kurt Levetzow
Land Quality Bureau Chief
Iowa Department of Natural Resources

Signature: _____ Date: _____

Participant Name: _____

Participant Title: _____

Participant Organization: _____