



September 5, 2007

Alex Beehler
Assistant Deputy Under Secretary for Defense (Installations and Environment)
Department of Defense
3010 Defense Pentagon
Washington, DC 20301

Dear Mr. Beehler:

This responds to Mr. Grone's letter of July 20, 2007 regarding the Department of Defense (DoD) and State Memorandum of Agreements (DSMOA) Program. As you know, we also plan to continue discussion on these matters at the upcoming Environmental Council of the States (ECOS) Annual Meeting.

In the meantime, we would like to raise concerns about DoD's determination that organizations such as ECOS and the Association of State and Territorial Solid Waste Management Officials (ASTSWMO) are ineligible for Defense Environmental Restoration Account (DERA) funds.

As Section 2701(d) of title 10, United States Code specifies, DoD may enter into agreements with "any nonprofit conservation organization". By definition in Section 2701(d)(4)(B) a nonprofit conservation organization is "any non-governmental nonprofit organization whose primary purpose is conservation of open space or natural resources". The United States Federal Government definition of natural resources is defined in 40 CFR 300.5 as "land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources". ECOS' mission states, "The purpose of ECOS is to improve the capability of state environmental agencies and their leaders to protect and improve human health and the environment of the United States of America." Therefore since, one of ECOS' primary purposes is to protect and improve the environment including land, air, water, ground water, drinking water, etc., we believe that ECOS does meet the statutory requirement to receive DERA funds. The Association of State and Territorial Solid Waste Management Officials (ASTSWMO) is an organization supporting the environmental agencies of the States and trust territories. ASTSWMO is clearly a conservation organization as evidenced by its bylaws which state the organization's intent "to protect and enhance the environment and **to conserve natural resources**" and includes, as an organizational objective, "**promoting resource recovery and conservation.**"

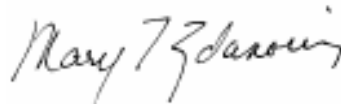
We therefore respectfully ask that the Department reconsider the status of our two organizations, and declare them to be eligible recipients of DERA funds.

We want to make it very clear that by addressing the above matters, we are not waiving our objections to the Department's interpretation of DSMOA policies related to enforcement and DSMOA-eligible activities. In fact, the latter issues are of the greatest concern to our members. We look forward to addressing those vital issues in future discussions.

Sincerely,

Handwritten signature of R. Steven Brown in black ink.

R. Steven Brown
Executive Director
ECOS

Handwritten signature of Mary T. Zdanowicz in black ink.

Mary T. Zdanowicz, J.D.
Executive Director
ASTSWMO