



US Army Corps
of Engineers®



**REGIONAL MEMORANDUM OF UNDERSTANDING
BETWEEN
THE NATURE CONSERVANCY
THROUGH ITS VIRGINIA, MARYLAND, DELAWARE, NEW JERSEY, PENNSYLVANIA,
NEW YORK, CONNECTICUT, RHODE ISLAND, VERMONT, NEW HAMPSHIRE,
MASSACHUSETTS, AND MAINE CHAPTERS
AND THE
UNITED STATES ARMY CORPS OF ENGINEERS
NORTH ATLANTIC DIVISION
NEW ENGLAND, NEW YORK, PHILADELPHIA, BALTIMORE, AND
NORFOLK DISTRICTS**

I. INTRODUCTION. The U.S. Army Corps of Engineers and The Nature Conservancy executed a national Memorandum of Understanding (National MOU) on December 14, 2000, to facilitate effective and efficient management of important biological resources within the context of the Corps' civil works and regulatory missions, and to meet the MOU's stated objectives:

This Regional Memorandum of Understanding (Regional MOU) is entered between the U.S. Army Engineer Division, North Atlantic (NAD) along with its New England, New York, Philadelphia, Baltimore, and Norfolk Districts, represented by their respective District Commanders (hereinafter, NAD Districts), and The Nature Conservancy, acting through its Eastern United States Conservation Region (hereinafter the Conservancy) for the purposes of facilitating regional interests and objectives within each parties' area of responsibility and interest. This Regional MOU incorporates, and is subject to, all of the conditions and terms of the National MOU. In case of a conflict between this Regional MOU and the National MOU, the National MOU provisions shall prevail. The geographic scope of this Regional MOU shall be the USACE official divisional boundary for the NAD and the corresponding area of responsibility for the NAD districts.

II. PURPOSE. The parties seek to facilitate effective and efficient management of important natural resources within the context of each of the NAD District's civil works missions, and the mission of the Conservancy, to the extent authorized by law and by USACE and Conservancy policies. The following objectives are agreed upon within the geographic scope of this Regional MOU:

- A. Seek to protect, restore and conserve key functions and attributes of stream/river channel, floodplain, marine and estuarine habitats in a manner that meets human needs and protects the natural biological communities and native diversity of these ecosystems.
- B. Seek prudent and effective management of water resources in a manner that meets human needs and protects key functions and attributes of coastal-estuarine and marine ecosystems and stream/river, riparian and floodplain ecosystems and their native biological diversity.

- C. Seek new and innovative techniques and strategies for managing water resources and for restoring channels, stream banks, floodplains and coastal-estuarine and marine habitats. As appropriate, encourage and support projects that assess, demonstrate and measure these techniques and strategies and their potential to contribute to meeting the goals for achieving a sustainable ecosystem.

III. RESPONSIBILITIES. The parties, to the extent authorized by law and by USACE and Conservancy policies and within existing legal authorities, agree as follows:

- A. The NAD Districts will consider environmental sustainability concepts suggested by the Conservancy for incorporation into the conceptualization, evaluation, planning, construction, and operation of NAD District projects within the geographic scope of this Regional MOU.
- B. The Conservancy shall, as appropriate and subject to its internal policy regarding confidential information, contribute pertinent scientific and conservation planning information to NAD Districts for their projects that are within the geographic scope of this Regional MOU.
- C. The NAD Districts and the Conservancy shall share information and expertise in exploring potential restoration and water-management projects to ensure that these projects, as appropriate, are designed using the best and most current knowledge and technology, take advantage of innovative and new approaches, include well-designed adaptive management plans, and advance the state-of-the-art for engineering projects that are ecologically sustainable in a multi-use arena. This may include, where authority and funding are available, jointly undertaking demonstration projects and identifying and pursuing policies and programs needed to implement any such projects. The parties shall jointly establish procedures to facilitate these goals and maximize coordination.
- D. The NAD Districts and the Conservancy will work together to monitor and assess the success of any joint projects, and to disseminate lessons learned to interested parties to benefit restoration and water management projects throughout the region.
- E. The NAD Districts and the Conservancy will work together to encourage and facilitate the broader use of habitat restoration and water level management tools and techniques that have proven successful. This may include identifying and recommending policies and programs needed to implement such techniques on a larger scale.
- F. The Conservancy and the NAD Districts will, as appropriate and subject to staff and funding availability, participate in related agency structured environmental forums and organizations upon request when doing so may advance environmental goals and objectives common to both agencies.
- G. The parties to this Regional MOU recognize that the NAD District projects must operate in accordance with authorized project purposes and funding limitations. All actions taken by the NAD Districts in accordance with this Regional MOU are subject to the availability of funds, and nothing in this Regional MOU shall be interpreted as constituting a violation of the Anti-Deficiency Act.

- H. This Regional MOU is neither a fiscal nor a funds obligation document. Any endeavor involving reimbursement or contribution of funds between the parties to the Regional MOU will be handled in accordance with applicable laws, regulations, and procedures. Such endeavors, if any, will be outlined in separate agreements that shall be made in writing by representatives of the parties and shall be independently authorized by appropriate statutory authority. This Regional MOU does not provide such authority. Specifically, this MOU does not establish authority for the noncompetitive award to the Conservancy of any contract or other agreement.
- I. Nothing in this Regional MOU prohibits the parties from soliciting or receiving advice and assistance in the objectives set forth above from other governmental entities, private groups or individuals.
- J. The NAD Districts, while receptive to the provision of suggestions, concepts, and scientific and conservation planning information from the Conservancy and all other public entities, remain responsible for all decisions involving the planning and implementation of projects as authorized by law and for which funds are available.
- K. This MOU creates no legal obligations or rights, nor does it create any private right of action in favor of any person.

IV. IMPLEMENTATION.

- A. This Regional MOU becomes effective when signed by all signatory parties and remains in effect until modified or terminated by the NAD or the Conservancy. This Regional MOU may be modified or amended at any time by mutual agreement of NAD and the Conservancy in writing, and may be terminated by either party upon sixty (60) days prior written notice. Modifications to the National MOU will also be considered to have modified this Regional MOU.
 - B. NAD and the Conservancy intend to conduct the activities contemplated in this agreement in accordance with existing authorities. If any provisions of this Regional MOU are determined to be inconsistent with existing laws, regulations or directives, specifically Department of the Army permits under Section 10 of the Rivers and Harbors Act of 1899, Section 404 of the Clean Water Act or Section 103 of the Ocean Dumping Act, governing the signatories, (including, without limitation, the Federal Advisory Committee Act 5 U.S.C. Appendix II) then such laws, regulations or directives shall control. The provisions of this Regional MOU not affected by a finding of inconsistency shall remain in full force and effect.
- V. **COUNTERPARTS.** This Regional MOU may be executed in any number of counterparts, each of which when executed shall be deemed to be an original and all of which when taken together shall constitute one and the same agreement.

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Signatures redacted

John Paul Woodley, Jr.
Assistant Secretary of the Army
(Civil Works)
Department of the Army

3 Nov 2005
Date

WILLIAM T. GRISOLI
Brigadier General, USA
Commanding

3 Nov '05
Date

Curtis L. Thalken
Colonel, U.S. Army
District Engineer
New England District

3 Nov 05
Date

Richard Polo
Colonel, U.S. Army
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New York District

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Date

Robert J. Ruch
Lt. Colonel, U.S. Army
District Engineer
Philadelphia District

3 NOV 05
Date

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Robert J. Davis
Colonel, U.S. Army
District Engineer
Baltimore District

3 Nov 05
Date

Yvonne Prettyman-Beck
Colonel, U.S. Army
District Engineer
Norfolk District

3 Nov 05
Date

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Signatures redacted

Michael Andrews
Chief Operating Officer
The Nature Conservancy

Date

John Cook
Director, Eastern United States Conservation Region
The Nature Conservancy

8 Nov 05
Date

Lise A. Hanners
Connecticut State Director

7 Nov 2005
Date

Roger Jones
Delaware State Director

11/04/05
Date

Michael J. Tetreault
Maine State Director

11/21/05
Date

Nat Williams
Maryland State Director

11/30/05
Date

Signatures redacted

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Daryl Burnett
New Hampshire State Director

11/4/05
Date

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Barbara Brummer
New Jersey State Director

11/7/05
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Henry Pepper
New York State Director

11/8/05
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William W. Kunze
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Janet L. Coit
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Michael Lipford
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