



**REGIONAL MEMORANDUM OF UNDERSTANDING
BETWEEN
THE UNITED STATES ARMY CORPS OF ENGINEERS
NORTHWESTERN DIVISION
SEATTLE, WALLA WALLA, PORTLAND, OMAHA, AND KANSAS CITY DISTRICTS
AND
THE NATURE CONSERVANCY
WESTERN AND CENTRAL DIVISIONS, THROUGH ITS OREGON, WASHINGTON,
IDAHO, MONTANA, WYOMING, COLORADO, NEBRASKA, KANSAS, MISSOURI,
MINNESOTA AND IOWA CHAPTERS**

1. Introduction:

a. The U.S. Army Corps of Engineers (USACE or Corps) and The Nature Conservancy (Conservancy or TNC) executed a National Memorandum of Understanding (National MOU) on December 14, 2000 (Attachment 1 to this document), in order 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 objectives outlined in that MOU. There are several district-level MOUs with the Conservancy within the Corps' Northwestern Division (NWD), including a multi-organizational MOU that was executed by the Omaha District in July 2005, and a district-level MOU executed by both the Portland and Walla Walla Districts with TNC for the State of Oregon in February 2006.

b. This Regional Memorandum of Understanding (Regional MOU) is entered between the Northwestern Division (NWD) of USACE along with its Seattle, Walla Walla, Portland, Omaha, and Kansas City Districts (NWD Districts), represented by their respective Division Commander, and The Conservancy, acting through its Western and Central Division programs along with its Washington, Oregon, Idaho, Montana, Wyoming, Colorado, Nebraska, Kansas, Missouri, Minnesota and Iowa Chapters represented by their respective State Director, and South Dakota and North Dakota programs represented by its Minnesota State Director, 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 geographical scope of this Regional MOU shall be the USACE Northwestern Division.

2. Purpose: The parties seek to facilitate effective and efficient management of the important natural resources within the context of each NWD District's civil works mission, and the mission of the Conservancy, to the extent consistent with law and USACE and Conservancy policies. The following objectives are agreed upon within the geographic scope of this Regional MOU, including but not limited to:

a. Seek to protect, restore and conserve key functions and attributes of riverine, floodplain, riparian, estuarine and coastal marine habitats in a manner that meets human needs and protects the natural biological communities and 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 estuarine, coastal marine, riparian, riverine and floodplain ecosystems and their native biological diversity;

c. Promote the goals of the Sustainable Rivers Project, a national, collaborative effort between the Conservancy and the Corps to improve the management of dams for ecosystem sustainability on various rivers across the country, to establish ecologically beneficial flows by employing water management practices that maximize the ecological benefits by adjusting the quantities and timing of water releases from USACE projects, while still fulfilling other project purposes and agreements;

d. Seek new and innovative techniques and strategies for managing water resources and for restoring channels, riparian areas, floodplains, estuaries and coastal shorelines. Where possible and 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;

e. Facilitate, where possible, the development and implementation of regional mitigation opportunities to enhance the effectiveness, efficiency and sustainability of the Corps' Section 404 Clean Water Act Regulatory Program and other efforts to mitigate adverse impacts of new infrastructure and other forms of development on natural systems, including wetlands, floodplains and other aquatic resources. Any regional mitigation opportunities will be developed in accordance with the final compensatory mitigation rule (as codified in 33 C.F.R. part 332);

f. Seek prudent and proactive means where possible of incorporating climate change impacts, such as altered hydrologic regimes and sea level rise, into feasibility studies and designs of projects aimed in order to meet human needs and conserving freshwater and marine ecosystems long into the future;

g. Promote the gathering and sharing of scientific and spatial data and research by either party to this Regional MOU as it may be related to projects of mutual interest and concern;

h. Identify opportunities to develop partnerships and engage diverse stakeholder groups and local communities to identify, understand and resolve water resource management challenges;

- i. Encourage management measures that benefit native animals and plants and natural communities while meeting the needs of human communities; and,
- j. Cooperate in the monitoring and management of unique, rare and endangered plant and animal species and their habitat potentially affected by Corps projects.

3. **Benefits:** The NWD and the Conservancy agree that the ability to achieve common and related natural resource goals can be enhanced significantly under the more coordinated approach outlined in this Regional MOU.

a. The NWD will benefit from access to the Conservancy's extensive and active network of conservation partnerships, scientific, land management and habitat restoration expertise, presence and successful history of work in local communities throughout the country and from the Conservancy's unique position as a leading conservation organization known for use of sound science and collaborative approaches in resolving natural resource management issues.

b. The Conservancy can benefit from the NWD's large multi-disciplinary staff and extensive technical expertise in engineering related fields including biology, GIS remote sensing and analytical capacities. That expertise includes planning, designing and constructing projects for ecosystem restoration and protection and developing or modifying decision-support models for evaluating management options.

4. **Responsibilities:** The Parties, to the extent authorized by law and USACE and Conservancy policies, agree as follows:

a. The NWD Districts shall consider environmental sustainability concepts suggested by the Conservancy for incorporation into the conceptualization, evaluation, planning, construction, and operation of NWD District projects within the geographic scope of this Regional MOU for projects or activities within areas of mutual interest.

b. The Conservancy shall, as appropriate and subject to its internal policy regarding confidential and proprietary information, contribute pertinent scientific and conservation planning information to the NWD and its Districts for projects within the geographic scope of this Regional MOU.

c. The NWD and the Conservancy shall, as appropriate, share information and expertise in exploring potential restoration and water-management projects to help ensure that these projects are designed using the best and most current knowledge and technology, take advantage of innovative 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 necessary to implement any such projects.

d. The NWD and the Conservancy shall work together to identify future collaborative projects that would advance the purposes outlined in this Regional MOU. The NWD and the Conservancy will jointly develop sub-agreements to share/exchange information, technical expertise, and resources to carry out such projects.

e. The NWD and the Conservancy will strive to identify common planning, project, construction and operational priorities within large scale ecosystems and work together to advance these mutual priorities.

f. The NWD 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.

g. The NWD and the Conservancy will work together to encourage and facilitate broader use of restoration and water-level management tools and techniques that have proven successful.

h. Due to Endangered Species Act considerations, the parties shall work cooperatively with the U.S. Fish and Wildlife Service, the National Marine Fisheries Service and other appropriate agencies to ensure that projects undertaken under this Regional MOU are consistent with endangered species recovery plans.

i. This Regional MOU does not obligate either party to either seek funds or to fund any proposed project. No provision within this Regional MOU shall be interpreted or constitute a funding commitment to take any action. Any endeavor involving reimbursement or contribution of funds between the parties to the Regional MOU will be made 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. In addition, this Regional MOU does not provide such authority. Specifically, this Regional MOU does not establish authority for noncompetitive award of any contract or other agreement.

5. Implementation:

a. This Regional MOU becomes effective when signed by all signatory parties and remains in effect until modified or terminated by any party, and sunsets 5 years from the date of signing. This Regional MOU may be modified, amended or extended by mutual agreement of both parties in writing, and may be terminated by either party upon sixty (60) days prior written notice to the other party. Modifications to the National MOU will also be considered to have modified this Regional MOU.

b. The NWD 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 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. However, the provisions of

this Regional MOU are not affected by a finding of inconsistency within the MOU and shall remain in full force and effect.

c. TNC Chapters and the NWD Districts will, as appropriate and subject to staff and funding availability, meet twice annually to review the implementation of this Regional MOU, with the goal of improving, through the assessment of successes and impediments to fulfilling the objectives and duties laid out herein, and to foster good working relationships and communication.

d. This Regional MOU in no way restricts the parties from participating with other public or private agencies, organizations and individuals. Both parties recognize the importance of continuing cooperation and participation with non-governmental organizations and institutions in programs of mutual interest.

The Nature Conservancy
Western & Central Divisions
North America Conservation Region

Signatures redacted

Date October 27, 2009
Karen Berky, Director, Western Division, North America Conservation Region
The Nature Conservancy

Date Nov 18 2009
Rob McKim, Director, Central Division, North America Conservation Region
The Nature Conservancy

U. S. ARMY CORPS OF ENGINEERS
Northwestern Division

Date 27 OCT 09
Miroslav Kurka
Colonel, Corps of Engineers
Acting Division Commander, Northwestern Division
US Army Corps of Engineers