

**REGIONAL MEMORANDUM OF UNDERSTANDING**  
**BETWEEN**  
**THE NATURE CONSERVANCY**  
**EASTERN UNITED STATES**  
**AND**  
**U.S. ARMY CORPS OF ENGINEERS**  
**SOUTH ATLANTIC DIVISION**

**I. INTRODUCTION.** The U.S. Army Corps of Engineers (USACE) and The Nature Conservancy (TNC) 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 programs, and to meet the MOU's stated objectives.

This Regional Memorandum of Understanding (Regional MOU) is entered between the South Atlantic Division (SAD), including Wilmington, Charleston, Savannah, Jacksonville and Mobile Districts, (hereinafter, SAD Districts), and TNC, including its North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi Chapters for the purposes of facilitating the parties' respective regional objectives and promoting the sharing of information and expertise in working together on sustainably, effectively and efficiently managing and restoring important biological resources in our joint region. 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 divisional boundaries for the regulatory and civil works programs in SAD and the corresponding areas of responsibility for the SAD Districts.

**II. PURPOSE.** The parties seek to facilitate effective and efficient management of important natural resources within the context of each of the SAD District's civil works missions, and the mission of TNC, to the extent authorized by law and by USACE and TNC 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 need 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.
- D. Strive to promote the goals of the Sustainable Rivers Project to provide ecological benefits by considering such ecological benefits to the extent practicable, permitted by law, and consistent with the operational mission and authorized purposes of a project in employing water management practices.

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

- A. The SAD will consider environmental sustainability concepts for incorporation into the conceptualization, evaluation, planning, construction, and operation of SAD District projects within the geographic scope of this Regional MOU.
- B. TNC will, as appropriate and subject to its internal policy regarding confidential information, contribute pertinent scientific and conservation planning information to SAD Districts for their projects that are within the geographic scope of this Regional MOU.
- C. The SAD and TNC will share information and expertise in exploring potential restoration and water management projects, as appropriate.
- D. TNC and the SAD will, as appropriate and subject to staff and funding availability, meet biennially 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.
- E. The parties to this Regional MOU recognize that the SAD projects must operate in accordance with authorized project purposes and funding limitations. All actions taken by the SAD 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. Similarly, nothing herein shall be interpreted as a fiscal or a funds obligation. 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 TNC of any contract or other agreement.

- F. 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. The SAD, while receptive to the provision of suggestions, concepts, and scientific and conservation planning information from TNC 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.
- G. 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 SAD or TNC. It may be modified or amended at any time by mutual agreement of SAD and TNC 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. SAD and TNC intend to conduct the activities laid out 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.

Signatures redacted

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

20 Sept 2010  
Date

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Todd T. Semonite  
Major General, US Army  
Commanding  
South Atlantic Division  
US Army Corps of Engineers

20 Sep 2010  
Date