

**REGIONAL MEMORANDUM OF UNDERSTANDING
BETWEEN
THE NATURE CONSERVANCY
THROUGH ITS ARKANSAS, OKLAHOMA, AND TEXAS CHAPTERS
AND THE
UNITED STATES ARMY CORPS OF ENGINEERS
SOUTHWESTERN DIVISION
FORT WORTH, GALVESTON, LITTLE ROCK, AND TULSA
DISTRICTS**

I. INTRODUCTION. The U.S. Army Corps of Engineers (USACE) and The Nature Conservancy executed a national Memorandum of Understanding (National MOU) on December 14, 2000, 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 stated in that MOU.

This Regional Memorandum of Understanding (Regional MOU) is entered between the Southwestern Division of the U S Army Corps of Engineers (SWD) through the Fort Worth, Galveston, Little Rock, and Tulsa Districts, represented by their respective District Commanders (hereinafter, SWD Districts), and The Nature Conservancy, acting through its Arkansas, Oklahoma, and Texas Chapters (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 SWD and the corresponding area of responsibility for the SWD's districts.

II. PURPOSE. The parties seek to facilitate effective and efficient management of important natural resources within the context of each SWD 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:

- A. Seek to restore and conserve key functions and attributes of floodplain habitats in a manner that meets human needs and protects the natural biological communities and diversity of the floodplain ecosystem.
- B. Seek to conserve, stabilize and restore key functions and attributes of stream/river channels and riverbanks in a manner that meets human needs and protects river and stream ecosystems and their native biological diversity.

- C. 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 riverine, riparian, and floodplain ecosystems and their native biological diversity.
- D. Seek new and innovative techniques and strategies for managing water resources and for restoring channels, streambanks, and floodplains. 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 USACE and Conservancy policies and within existing legal authorities, agree as follows:

- A. The SWD Districts will consider environmental sustainability concepts suggested by the Conservancy for incorporation into the conceptualization, evaluation, planning, construction, and operation of SWD 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 SWD Districts for their projects within the geographic scope of this Regional MOU.
- C. The SWD Districts 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 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.
- D. The SWD 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 SWD Districts and the Conservancy will work together to encourage and facilitate the broader use of restoration and water level management tools and techniques that have proven successful. This may include identifying and recommending policies and programs needed to implement them on a larger scale.
- F. The Conservancy will, as appropriate and subject to staff availability, participate in advisory groups to the SWD Districts, including such groups as the Navigation

Environmental Coordinating Committee, River Resources Forum, River Resources Coordinating Team, River Resources Advisory Team, and their respective committees and workgroups.

- G. The parties to this Regional MOU recognize that the SWD District projects must operate in accordance with authorized project purposes and funding limitations. All actions taken by the SWD 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, and private groups or individuals.
- J. The SWD 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.

IV. IMPLEMENTATION.

- A. This Regional MOU becomes effective when signed by all signatory parties and remains in effect until modified or terminated by either SWD or the Conservancy. This Regional MOU may be modified or amended at any time by mutual agreement of SWD 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. SWD and the Conservancy intend to conduct the activities contemplated in this agreement in accordance with existing authorities. If any provision of this Regional MOU are determined to be inconsistent with existing laws or regulations or directives governing the signatories, then 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.

Signatures redacted

JEFFREY J. DORKO
Colonel, EN
Commanding

9 July 2004
Date

JOHN R. MINAHAN
Colonel, EN
District Engineer
Fort Worth District

7/14/04
Date

LEONARD D. WATERWORTH
Colonel, EN
District Engineer
Galveston District

12 July 04
Date

BENJAMIN BUTLER
Colonel, EN
District Engineer
Little Rock District

16 Jul 04
Date

MIROSLAV E. KURKA
Colonel, EN
District Engineer
Tulsa District

16 Jul 04
Date

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DISTRICTS

WITNESSED ON THIS DAY July 16, 2004 BY:

Signatures redacted

JOHN PAUL WOODLEY, JR.
Assistant Secretary of the Army (Civil Works)

And

LEE MOORE
Lower Mississippi River Program Manager

THE NATURE CONSERVANCY

Signatures redacted

BY: _____
Scott Simon, Arkansas State Director

9 July 04
Date

BY: _____
Timothy Grogan, Oklahoma State Director

7/10/04
Date

BY: _____
Carter Smith, Texas State Director

July 7, 2004
Date