

MEMORANDUM OF UNDERSTANDING
PARTNERSHIP¹ TO RESTORE NEW HAMPSHIRE'S ESTUARIES

AMONG THE NATIONAL OCEANIC & ATMOSPHERIC ADMINISTRATION, NEW HAMPSHIRE DEPARTMENT OF ENVIRONMENTAL SERVICES, PISCATAQUA REGION ESTUARIES PARTNERSHIP, THE NATURE CONSERVANCY, UNIVERSITY OF NEW HAMPSHIRE, U.S.D.A. NATURAL RESOURCES CONSERVATION SERVICE, NEW HAMPSHIRE FISH AND GAME DEPARTMENT, AND U.S. FISH & WILDLIFE SERVICE

I. PARTIES

This Memorandum of Understanding (MOU) is made and entered into by the following parties: National Oceanic & Atmospheric Administration National Marine Fisheries Service; New Hampshire Department of Environmental Services, acting through its New Hampshire Coastal Program and Watershed Assistance Program; Piscataqua Region Estuaries Partnership; The Nature Conservancy; University of New Hampshire, acting through its Marine Program; U.S.D.A. Natural Resources Conservation Service; New Hampshire Department of Fish and Game and its Great Bay National Estuarine Research Reserve; and U.S. Fish and Wildlife Service, acting through its Fisheries Program and Partners for Fish & Wildlife Program. Hereinafter, these agencies shall be collectively referred to as “the Parties.”

II. PURPOSE

This MOU is intended to memorialize the Parties’ commitment to the purpose, vision, and functions of the Partnership to Restore New Hampshire’s Estuaries (“Partnership”), and to define the Parties’ roles and responsibilities as leaders of the Partnership.

The Partnership is being formed to increase the pace and scale of restoration efforts to improve the long-term sustainability of the State’s estuaries. The vision is to promote cooperative restoration and conservation activities in New Hampshire’s coastal watersheds to improve the health, productivity, and resiliency of its two major estuaries – Great Bay and Hampton-Seabrook – so that fish, shellfish, crustaceans, plants, waterfowl, piscivorous birds, and other native species flourish, and local communities recognize and derive societal benefits provided by healthy estuary ecosystems including clean water, vibrant fisheries, abundant recreation opportunities, beautiful scenery, stable shorelines, and diverse wildlife populations.

The Partnership is comprised of organizations that have a role or interest in estuary restoration and conservation in New Hampshire, and that are working to bring together a broad base of expertise, capacity, and local knowledge to advance restoration goals.

The Partnership will undertake collaborative actions to accomplish the following: assess current conditions and establish restoration targets and goals; develop strategic, science-based

¹ The word “Partnership” as used herein refers to a cooperative understanding and is not intended to imply any legal relationship between the parties hereto. See section VII.B.

restoration priorities and actions plans; provide the rationale for restoration to decision-makers and the general public; share information, ideas, and lessons; foster peer review of restoration project designs; support efforts to seek funding to implement Partnership workplans and priority projects; identify, develop, and/or endorse specific restoration projects; implement and provide technical assistance to restoration projects; and track restoration projects and progress toward goals.

The Parties have mutual goals to understand, restore and maintain the health and productivity of New Hampshire's estuaries and their associated wildlife and natural resources, and as such, will constitute a Steering Committee of the Partnership. The Steering Committee is comprised of one individual from each of the Parties identified in Section I. Besides providing overall strategy and direction for the Partnership, additional roles and responsibilities of the Steering Committee are specified in Section IV. This cooperative effort will achieve better management and protection of New Hampshire's estuaries.

III. AUTHORITIES

The National Oceanic & Atmospheric Administration National Marine Fisheries Service enters into this Agreement under the authority of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. Sec.1801 et seq.; Fish and Wildlife Act of 1956, 16 U.S.C. Sec. 742a, et seq.; Fish and Wildlife Coordination Act, 16 U.S.C. Sec. 661-667.; and the Fish and Wildlife Act, 16 U.S.C. 753a.

The U.S. Fish and Wildlife Service enters into this agreement under the authority of Section 7 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742f(a)(4)).

U.S.D.A. NRCS authority to enter into this MOU is the Conservation Technical Assistance Program (CTA) 16 U.S.C. 590a-590f, 590q, 7 CFR Part 610 (CFDA 10.902); and the Food, Conservation, and Energy Act of 2008 (PL 110-234).

IV. SPECIFIC OBLIGATIONS OF THE PARTIES

To advance the purpose and vision of the Partnership, the Parties further agree to the following provisions:

A. General Provisions

Each of the Parties shall:

1. Appoint a representative and alternate to serve on the Partnership Steering Committee and to participate in Steering Committee meetings, which are expected to occur approximately four times per year. The initial composition of the Steering Committee and the principal contact for each of the Parties as of the date of execution of this MOU is identified in Appendix A, Principal Contacts.
2. Assist in the development and, to the extent practicable, implementation of the Partnership's priorities and work plans.
3. Work to integrate the Partnership's annual priorities into their respective organization/agency's priorities and work plans, to the extent practicable.

4. Serve as a liaison between the Partnership and their organization/agency, such that relevant staff and programs in the organization/agency are aware of the Partnership, its purpose and its priorities.
5. Serve as a reviewer for projects and proposals developed to advance the purpose and priorities of the Partnership.

B. Partnership Coordinator

1. A Coordinator will provide organization, leadership, technical support, and limited administrative support to advance priorities of the Partnership.
2. The Coordinator shall prepare a written summary of each meeting that includes decisions, key outcomes of discussion, and next steps or agreed-upon actions to be taken.
3. The Nature Conservancy's representative to the Partnership shall serve as the Coordinator at the onset of the Partnership, although there is no obligation for any of the Parties to fund this position. The Parties shall appoint or re-appoint a coordinator annually, per the Decision-Making Process defined below in Section E

C. Funding

Each of the Parties shall:

1. Notify the Partnership of funding opportunities that are relevant to the Partnership's purpose, vision, and then-current priorities.
2. Assist in the development and review of funding proposals for Partnership priorities, to the extent practicable.

D. Communications

1. The Parties shall work to enhance public visibility and understanding of the need to restore New Hampshire's estuaries.
2. Communications on behalf of the Partnership shall be determined by the Steering Committee and will recognize all Parties.
3. All project funders shall be recognized in any Partnership communication about a project or activity undertaken by the Partnership.

E. Decision Making Process

1. The Parties, through their representatives on the Steering Committee, shall determine whether an issue or decision requires a vote. Voting is a necessary administrative function for tasks such as accepting meeting minutes, adding new Parties (Section VII, C), and appointing/re-appointing a Coordinator. Affirmation votes to support funding proposals, priorities, and the like, may also be taken, but Parties will not be asked to vote in support of, or opposition to, specific non-Partnership projects, rules, regulations, or actions.
2. For a vote to count:

- a. A majority of the Steering Committee members or alternate representatives must vote (excluding those who have recused themselves from the vote due to conflicts of interest); and,
 - b. A supermajority, consisting of greater than or equal to 2/3 of the members voting on the issue, will be required for a decision.
3. Each Steering Committee member or alternate representative shall have one vote.
 4. Steering Committee members may vote by telephone, e-mail, proxy, or letter/fax if unable to attend meetings in person.
 5. The Coordinator will work with the Steering Committee to elicit all views and concerns prior to bringing a decision to a vote. The Coordinator will record votes.

V. LIABILITY

- A. Each of the Parties shall participate in this MOU at its own risk, and shall be solely responsible for administration of claims for loss, personal injury, death, or property damage arising out of any act or omission of its employees in connection with the activities contemplated herein.
- B. Each of the Parties shall also be responsible for any and all costs it incurs in connection with its participation in the activities contemplated herein.

VI. CONFLICTS OF INTEREST

Representatives of the Parties who exercise any functions or responsibilities in the approval or funding of projects shall not participate in any decision relating to this Partnership which affects his or her personal interests or the interest of any corporation, partnership, or association in which he or she is directly or indirectly interested, nor shall he or she have any personal or pecuniary interest, direct or indirect, in this MOU or the proceeds thereof.

VII. SPECIAL PROVISIONS

- A. This MOU is neither a fiscal nor a funds obligation document. Specific work projects or activities that involve the transfer of funds, services, or property among the various agencies and offices will require execution of separate agreements and be contingent upon the availability of appropriated funds. Such activities must be independently authorized by appropriate statutory authority. This MOU does not provide such authority. Negotiation, execution, and administration of each such agreement must comply with all applicable statutes and regulations.
- B. The Parties specifically disavow any intention to create a joint venture, unincorporated association, corporation or any other form of legal entity through this MOU.
- C. This MOU is not intended to, and does not create, any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity, by a party against the United States, its agencies, its officers, or any person.

- D. This MOU may be modified, amended, or supplemented by the written agreement of all Parties.
- E. Other organizations, agencies, or programs may be added as additional Parties to this MOU, by a written amendment properly executed by all the Parties and upon unanimous approval of the existing Parties. Added Parties will, by extension, serve on the Partnership's Steering Committee.
- F. This MOU may be executed in multiple counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one document.

VIII. PERIOD OF AGREEMENT

- A. The term of this MOU shall be for the period beginning with the execution of the Agreement by all Parties, and shall remain in effect for five years unless terminated or modified.
- B. Any Party may withdraw from this MOU, with 30 days notice in writing to the Partnership Coordinator.
- C. The Parties may agree to extend the term of this MOU, provided that the agreement to extend is in writing and is signed by all Parties.

IX. ASSETS

The Parties and their respective agencies and offices will handle their own activities and use their own resources, including the expenditure of their own funds, in pursuing these objectives. Each Party will carry out its separate activities in a coordinated and mutually beneficial manner.

Nothing in this MOU shall require any party to obligate or transfer any funds. Specific work projects or activities that involve the transfer of funds, services, or property among the various agencies and offices of the parties will require execution of separate agreements and be contingent upon the availability of appropriated funds. Such activities must be independently authorized by appropriate statutory authority. This MOU does not provide such authority. Negotiation, execution, and administration of each such agreement must comply with all applicable statutes and regulations.

The Parties shall each own the assets they bring to and employ in their participation in the activities contemplated herein and shall be entitled to take those assets with them when the MOU expires or is terminated or the Party withdraws from continued participation in this MOU as provided for in Section VIII. B, above.

In witness whereof, the Signatories hereto have executed this MOU as of the last written date below:


 Patricia A. Montanio
 National Oceanic & Atmospheric Administration

9/28/09
 Date


 Thomas S. Burack, Commissioner
 New Hampshire Department of Environmental Services

9/10/2009
 Date


 Jennifer Hunter, Director
 Piscataqua Region Estuaries Partnership


7-29-09
 Date


 Daryl Burnett, Executive Director
 The Nature Conservancy

7-29-09
 Date


 Thomas R. Chapman, New England Field Office
 United States Fish and Wildlife Service


10 Sept 2009
 Date


 Joseph F. McKeon, Central New England Fishery Resources Office
 United States Fish and Wildlife Service

9/22/09
 Date


 George W. Creek, IV, State Conservationist
 United States Department of Agriculture, Natural Resources Conservation Service

9-16-09
 Date


 Jonathan Pennock, Director
 University of New Hampshire Marine Program

7.29.09
 Date


 Glenn Normandeau, Executive Director
 New Hampshire Fish and Game Department

10/12/09
 Date

Appendix A

Partnership to Restore New Hampshire's Estuaries Principal Contacts

1. National Oceanic & Atmospheric Administration: Eric Hutchins, NOAA NMFS, 55 Great Republic Drive, Gloucester, MA 01930; telephone: 978 281-9313; email: Eric.Hutchins@noaa.gov
2. New Hampshire Department of Environmental Services/New Hampshire Coastal Program: Kevin Lucey, New Hampshire Department of Environmental Services, 50 International Drive, Portsmouth, NH 03801; telephone: 603 559-0026 email: kevin.lucey@des.nh.gov
3. New Hampshire Department of Environmental Services/Watershed Assistance Section: Sally Soule, New Hampshire Department of Environmental Services, 50 International Drive, Suite 200, Portsmouth, NH 03801; telephone: 603 559-0032 email: sally.soule@des.nh.gov
4. Piscataqua Region Estuaries Partnership: Derek Sowers PREP, 131 Main Street, Nesmith Hall Room 121, Durham, NH 03824; telephone: 603 862.2641; email: Derek.Sowers@unh.edu
5. The Nature Conservancy: Ray Konisky, The Nature Conservancy, New Hampshire Chapter, 112 Bay Road, Newmarket, NH 03857; telephone 603 659-2678; email: rkonisky@tnc.org
6. University of New Hampshire Marine Program: David Burdick, Jackson Estuarine Laboratory, University of New Hampshire, 85 Adams Point Road, Durham, NH 03824; telephone: 603 862-5129; email: dburdick@cisunix.unh.edu
7. U.S.D.A. Natural Resources Conservation Service: Jody Walker, USDA-NRCS, Federal Building, 2 Madbury Road, Durham, NH 03824; telephone: 603 868-9931; email: jody.walker@nh.usda.gov
8. U.S. Fish & Wildlife Service/Fisheries Program: Joe McKeon, Central New England Fishery Resources Office, U.S. Fish and Wildlife Service, 151 Broad Street, Nashua, NH 03063; telephone: 603 595-3586; email: Joe_McKeon@fws.gov
9. U.S. Fish & Wildlife Service/Partners for Fish & Wildlife Program: Eric Derleth, U. S. Fish and Wildlife Service, New England Field Office, 70 Commercial Street, Suite 300, Concord, NH 03301; telephone: 603 223-2541; email: eric_derleth@fws.gov
10. New Hampshire Fish and Game Department: Peter Wellenberger, Great Bay National Estuarine Research Reserve, NH Fish and Game Department, Marine Fisheries Division, 225 Main Street, Durham, NH 03824, telephone: 603-868-1095, email: Peter.Wellenberger@wildlife.nh.gov