

Memorandum of Understanding
between

Albemarle-Pamlico National Estuary Program
American Littoral Society
American Rivers
Atlantic States Marine Fisheries Commission
Chesapeake Bay Foundation
Connecticut Department of Environmental Protection
Delaware Department of Natural Resources and Environmental Control
Environmental Defense Fund
Florida Fish and Wildlife Conservation Commission
Georgia Department of Natural Resources
Houlton Band of Maliseet Indians
Maine Department of Marine Resources
Maryland Department of Natural Resources
Massachusetts Division of Marine Fisheries
National Oceanic and Atmospheric Administration
New Hampshire Fish and Game Department
New Jersey Division of Fish and Wildlife
New York Department of Environmental Conservation
North Carolina Department of Environment and Natural Resources
Oyster Recovery Partnership
Partnership for the Delaware Estuary
Pennsylvania Fish and Boat Commission
Rhode Island Division of Fish and Wildlife
South Carolina Department of Natural Resources
The Nature Conservancy
United States Fish and Wildlife Service
United States Geological Survey
Vermont Fish and Wildlife Department
Virginia Marine Resources Commission
Wells National Estuarine Research Reserve

For
Establishment of an
Atlantic Coastal Fish Habitat Partnership

Preamble

This Memorandum of Understanding (MOU) confirms the intent of the natural resource management agencies of the states along the Atlantic seaboard of the United States, the Atlantic States Marine Fisheries Commission, relevant federal agencies, tribal governments, and interested non-governmental organizations, to develop and implement an Atlantic Coastal Fish Habitat Partnership (ACFHP). The purpose of the ACFHP is to develop local, regional, state, tribal, federal, and private partnerships that extend beyond the traditional boundaries of resource management agencies and non-governmental organization responsibilities, and establish a commitment to work together for the benefit of aquatic resources. Efforts associated with the ACFHP will focus on supporting the following mission statement:

The mission of the Atlantic Coastal Fish Habitat Partnership is to accelerate the conservation, protection, restoration, and enhancement of habitat for native Atlantic coastal, estuarine-dependent, and diadromous fishes through partnerships between federal, tribal, state, local, and other entities.

Background

A partnership refers to any voluntary collaboration among organizations working toward a common objective. Used to its full potential, a partnership builds synergistically on the time, talent, and support of all partners to mutual benefit and interest. Benefits of partnerships include: 1) enhanced communication, 2) shared purpose, 3) increased resources, 4) shared efficiency, 5) innovative solutions to daunting problems, 6) increased public support, 7) more effective outreach to the public, and 8) increased organizational morale and image for the participants. Based upon the success of the North American Waterfowl Management Plan (NAWMP), the Southeast Aquatic Resources Partnership (SARP) developed an effort based on the concept that private, state, tribal, and federal partnerships must be fostered to accomplish the goals necessary to guide aquatic habitat conservation, protection, and management into the foreseeable future. Implementation of the SARP mission was, and is, dependent on the development of operational plans that are the joint focus of partners targeting high-priority aquatic habitats and ultimately site-specific projects. The success of the NAWMP joint ventures (widely recognized for the increased private and public land set aside for waterfowl and other migratory birds) has been the model for the successes of SARP partnership projects, and will be the guiding force behind those developed for the ACFHP.

A strategic plan for aquatic resource conservation, protection, and management, that articulates how the partnering entities can work together to conserve, protect, and manage coastal, estuarine-dependent, and diadromous fish habitat for the benefit of the American people is needed. The ACFHP will provide the framework for successful implementation of private, state, tribal, and federal partnerships.

The ACFHP was formed following a recommendation from managers at the Atlantic States Marine Fisheries Commission with the realization that many of the habitat issues needing attention fall outside of the jurisdiction of a single agency. Properly addressing these issues

requires collaboration and cooperation with other agencies and organizations to amplify the resources needed to accomplish priority projects.

The attributes under which the ACFHP will operate include the realizations:

- That coastal, estuarine-dependent, and diadromous fish habitats are declining or are in imminent danger of declining, and are rapidly reaching a crisis point, producing a sense of urgency;
- That a consensus-driven process is most efficient;
- That close coordination, trust, and commitment to common goals are mandatory;
- That representation and involvement of informed and supportive public and other stakeholders is both desirable and necessary for support;
- And, that having a positive, measurable impact on aquatic resources will be to the ultimate benefit of the public, states, tribes, and nation as a whole.

Purpose

Having determined that there is a need for developing a joint responsibility to better address the coastal, estuarine-dependent, and diadromous fish habitat resources of the coastal Atlantic states, the partners in this MOU confirm their intent to establish an Atlantic Coastal Fish Habitat Partnership. This partnership will require that all partners move to a higher level of coordination and facilitation of mutually desirable goals, built upon a mutual trust that will focus on successfully completing on-the-ground projects supported by the ACFHP. This will require all partners to rely on closer coordination of those coastal, estuarine-dependent, and diadromous fish habitat conservation, protection, and management activities that are of mutual concern, and work to jointly accomplish those activities through the ACFHP.

The ACFHP is therefore intended to provide overall coordination to conduct and complete work supported by the ACFHP that focuses on coastal, estuarine-dependent, and diadromous fish habitat resource issues and projects throughout the Atlantic States. The need for a unified approach to coastal, estuarine-dependent, and diadromous fish habitat resource management in the Atlantic states is recognized by all of the signatories of this MOU.

Proposed Program

On a watershed, ecosystem, or regional scale, the ACFHP will focus on three primary issue areas that the partners can collaboratively work on to provide the greatest benefit to the coastal, estuarine-dependent, and diadromous fish habitat resources. The primary issue areas are: ecological connectivity, water quality and quantity, and habitat alterations and modifications. Examples of specific concerns that pertain to these issues include, but are not limited to: the effects of land use, improvements to fish passage, advances in sediment management, and aquatic/riparian habitat restoration and protection. These issue areas do not cover everything the partners do, however the ACFHP will focus on those projects that should be joint work efforts.

Authority

Authorization of the parties to this MOU to establish and participate in an ACFHP to jointly address the coastal, estuarine-dependent, and diadromous fish habitat resource issues of the Atlantic states includes the appropriate statutes from each partnership entity (Appendix I).

Commitments of the Parties

The partners to this MOU, to the extent practicable, hereby affirm their mutual understanding and agree to use their best effort to take the following steps:

1. To carry out their mutual intent to design and implement an ACFHP plan that will address on-the-ground coastal, estuarine-dependent, and diadromous fish habitat resource needs throughout the Atlantic states.
2. To work together to facilitate current and future mutually agreed upon joint coastal, estuarine-dependent, and diadromous fish habitat resource activities for the benefit of Atlantic fish habitat resources.
3. To use the resources of their agencies and organizations in a manner consistent with their mission and the mission of ACFHP, that avoids duplication and that mutually supports the efforts of other parties involved.
4. To collectively pursue funding initiatives to support the ACFHP through private, corporate, state, and federal government, and any other means that may be available.
5. To collectively pursue interagency/organization agreements, cooperative agreements, grants, and/or contracts to fund approved projects.
6. To encourage and support the participation of other appropriate agencies and organizations by mutual agreement of the partners.

Resources

Participants in this MOU recognize the critical need for an ACFHP to effectively work for the benefit of coastal, estuarine-dependent, and diadromous fish habitat resources. Participants acknowledge that existing personnel and funding resources are inadequate to fully address fish habitat issues in Atlantic states. Participants also agree that cooperative agreements, grants, and/or contracts are appropriate to fund approved projects, subject to the availability of funds, and in accordance with applicable agency administrative policies and procedures.

Amendments/Termination

Applicable laws and regulations shall govern the liability of the parties to this MOU, to each other, and to third parties, now and hereafter in force. All parties to this MOU must mutually consent to any changes to this agreement. An addendum, signed by all parties will be attached to the original MOU denoting any and all changes.

Period of Performance

This MOU will become effective upon the date subscribed by the last charter signatory and shall continue in force from year to year. Any charter signatory party may revoke their signature with no less than sixty (60) days written notice to the other parties. After such an action, the MOU will no longer be in force for that charter signatory entity. This MOU may be amended by mutual consent of the parties.

Signatory Partners

William Crowell
Director
Albemarle-Pamlico National Estuary Program

Timothy P. Dillingham
Executive Director
American Littoral Society

Rebecca R. Wodder
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Oyster Recovery Partnership

Jennifer Adkins
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Partnership for the Delaware Estuary

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Pennsylvania Fish and Boat Commission

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John Cook
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The Nature Conservancy

Marvin E. Moriarty
Regional Director
Northeast Regional Office
United States Fish and Wildlife Service

William H. Werkheiser
Eastern Region Director
United States Geological Survey

Wayne Laroche
Commissioner
Vermont Fish and Wildlife Department

Steven G. Bowman
Commissioner
Virginia Marine Resources Commission

Paul Dest
Director
Wells National Estuarine Research Reserve

Appendix I

Authority

Authorization of the parties to this MOU to establish and participate in an ACFHP to jointly address the coastal fish habitat resource issues of the coastal Atlantic states includes the following statutes, rules, constitutional references, or organizational charters:

Albemarle-Pamlico National Estuary Program:

- State of North Carolina Executive Order No. 122: *Whereas, the mission of the APNEP is to identify, restore, and protect the significant resources in the Albemarle-Pamlico estuarine system in North Carolina and southeast Virginia;*

American Littoral Society:

- Mission: *The American Littoral Society promotes the study and conservation of marine life and habitat, protects the coast from harm, and empowers others to do the same.*

American Rivers:

- Bylaws, Article II, Purpose: *The mission of American Rivers is to protect and restore rivers and the variety of life they sustain, for people, fish and wildlife.*

Atlantic States Marine Fisheries Commission:

- Charter (2008)

Chesapeake Bay Foundation:

- Mission: *To restore and sustain the Bay's ecosystem by substantially improving the water quality and productivity of the watershed, with respect to water clarity, resilience of the system, and diversity and abundance of living resources, and to maintain a high quality of life for the people of the Chesapeake region.*

Connecticut Department of Environmental Protection:

- Section 22a-6 of the Connecticut General Statutes (CGS 22a-6)

Delaware Department of Natural Resources and Environmental Control:

- Title 7 Delaware Code, Chapter 903 (b)

Environmental Defense Fund:

- Mission: *...Environmental Defense Fund is dedicated to protecting the environmental rights of all people, including future generations. Among these rights are access to clean air and water, healthy and nourishing food, and flourishing ecosystems...*

Florida Fish and Wildlife Conservation Commission:

- Article IV Section 9, Florida Constitution

Georgia Department of Natural Resources:

- Official Code of GA Annotated 12-3-5(c) 2007

Houlton Band of Maliseet Indians:

- Mission: *To sustain and manage HBMI's natural resources for the continuing benefit of Maliseet human, cultural and ecosystem health.*
- Federal Register Notice published April 4, 2008 (Volume 73, Number 66). Summary: *This notice publishes the current list of 562 tribal entities recognized and eligible for funding and services from the Bureau of Indian Affairs by virtue of their status as Indian tribes. Supplementary Information: This notice is published pursuant to Section 104 of the Act of November 2, 1994 (Pub. L. 103-454; 108 Stat. 4791, 4792), and in exercise of authority delegated to the Assistant Secretary--Indian Affairs under 25 U.S.C. 2 and 9 and 209 DM 8.*

Maine Department of Marine Resources:

- Maine Revised Statutes §6051. General department activities

Maryland Department of Natural Resources:

- Annotated Code of Maryland, Natural Resources Article § 1-104 (a). Responsibilities and duties of Secretary, In general.
- Annotated Code of Maryland, Natural Resources Article § 8-203. Intergovernmental agreements to preserve resources of Chesapeake Bay.

Massachusetts Division of Marine Fisheries:

- M.G.L. c.130
- M.G.L. c.21, §§2, 3, 5, 16, 18 and 26

National Oceanic and Atmospheric Administration:

- Magnuson-Stevens Fisheries Conservation and Management Act (16 U.S.C. 1801 et seq.)
- Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.)
- Endangered Species Act of 1973 (16 U.S.C. 1531 et seq., as amended)
- Marine Mammal Protection Act (16 U.S.C. 1361 et seq.)
- National Marine Sanctuaries Act, (16 U.S.C. 1431 et seq.)
- Coastal Zone Management Act (16 U.S.C. 1451 et seq.)
- Atlantic Coastal Fisheries Management Act of 1993 (15 U.S.C. 5101 et seq.)
- Estuary Restoration Act (33 U.S.C. 2901 et seq. as amended)
- Federal Power Act (16 U.S.C. 791a et seq. as amended)

New Hampshire Fish and Game Department:

- RSA 206:23 and 206:23-a

New Jersey Division of Fish and Wildlife:

- N.J.S.A. 23: 2B-2(a)4
- N.J.S.A. 23:2B-8
- N.J.S.A. 23:2A-7

New York Department of Environmental Conservation:

- ECL 3-0301(1)(c)
- ECL 3-0301(1)(e)
- ECL 3-0301(1)(n)
- ECL 3-0301(1)(r)
- ECL 3-0301(1)(w)
- ECL 3-0301(2)(b)
- ECL 3-0301(2)(d)(3) & (4)
- ECL 3-0301(2)(f)
- ECL 3-0301(l)

North Carolina Department of Environment and Natural Resources:

- NC G.S. 113-305
- NC G.S. 143B-24
- NC G.S. 113-8
- NC G.S. 113-16

Oyster Recovery Partnership:

- *Mission: Chesapeake Appreciation, Inc., dba Oyster Recovery Partnership (ORP), is an educational, scientific, 501(c)(3) nonprofit organization whose purpose is to promote, support and restore, through 'in-the-water' and 'on-the-land' recovery efforts and through public outreach and education, the preservation and protection of the environment, heritage, history, ecology and knowledge of the Chesapeake Bay, its marshes and rivers, and the life that it sustains.*

Partnership for the Delaware Estuary:

- *Mission: The mission of the Partnership for the Delaware Estuary, one of 28 National Estuary Programs, is to lead collaborative and creative efforts to protect and enhance the Delaware Estuary and its tributaries for current and future generations.*

Pennsylvania Fish and Boat Commission:

- Section 328 of the Fish and Boat Code, 30 Pa. C.S. section 328

Rhode Island Division of Fish and Wildlife:

- Rhode Island General Law 20-2.1-9 Powers and duties of the Director of Environmental Management
- Rhode Island General Law 20-3-4 Shellfish and Marine Life Management Areas
- Rhode Island General Law 20-8-1 Atlantic States Marine Fisheries Commission Compact
- Rhode Island General Law 20-8-5 Delegation of Powers by Director of Environmental Management
- Rhode Island General Law 20-9-3 Assent to Fish Restoration and Management Projects

South Carolina Department of Natural Resources:

- Code of Laws of South Carolina 1976, as amended. Sections 49-3-40; 50-5-20, and 50-3-90

The Nature Conservancy:

- Mission: *The mission of The Nature Conservancy is to preserve the plants, animals and natural communities that represent the diversity of life on Earth by protecting the lands and waters they need to survive.*

U.S. Fish and Wildlife Service:

- Fish and Wildlife Coordination Act (16 U.S.C. 661)
- Fish and Wildlife Act of 1956 (16 U.S.C. 742 f(a)(4))
- Endangered Species Act (ESA) of 1973 (16 U.S.C. 1531 et seq., as amended)
- Under the authority of Secretarial Order Number 3175, Department Responsibility for Indian Trust Resources and the U.S. Fish and Wildlife Service Native American Policy signed by the Director on June 28, 1994, the Service can work with Native American Tribes on resource issues
- Mission: *Working with others to conserve, protect and enhance fish, wildlife, and plants and their habitats for the continuing benefit of the American people and future generations.*

U.S. Geological Survey:

- Fish and Wildlife Coordination Act of March 10, 1934, (P. L. 79-732) (16 U.S.C. 661 et seq.)
- Fish and Wildlife Act of 1956 (16 U.S.C. 742(a)-742d, 742e-742j-2)
- Fish and Wildlife Improvement Act of 1978 (16 U.S.C. 753a, as amended by P.L. 95-616)
- Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1362, 1372-1384, 1401-1407, as amended)
- Endangered Species Act of 1973 (16 U.S.C. 1531-1543, as amended)
- National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4331 et seq.)
- Outer Continental Shelf (OCS) Lands Act (43 U.S.C. 1334; 43 U.S.C. 1346)
- Coastal Zone Management Act of 1976 (46 U.S.C. 31(a) and (b))
- National Geologic Mapping Act of 1992 (P.L. 102-285)

Vermont Fish and Wildlife Department:

- Vermont Statutes, Title 10, § 4081(a)
- Mission: *The mission of the Vermont Department of Fish and Wildlife is the conservation of fish, wildlife and plants and their habitats for the people of Vermont.*

Virginia Marine Resources Commission:

- Title 28.2 of the Code of Virginia

Wells National Estuarine Research Reserve:

- Mission: *The Wells National Estuarine Research Reserve is dedicated to protecting and restoring coastal ecosystems of the Gulf of Maine through integrated research, stewardship, environmental learning, and community partnerships.*