

APPENDIX J: RESERVE MEMORANDA OF UNDERSTANDING

ii. National Oceanic and Atmospheric Administration (NOAA) and DCM

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE STATE OF NORTH CAROLINA
AND
THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
CONCERNING THE
ESTABLISHMENT AND ADMINISTRATION OF
THE NORTH CAROLINA NATIONAL ESTUARINE SANCTUARY



WHEREAS, the State of North Carolina has determined that the waters and surrounding coastal habitats of the Zeke's Island, Masonboro Island, Rachel Carson, and Currituck Banks components provide unique opportunities for study of natural and human processes occurring within the estuarine ecosystems of the State and for increased public awareness and understanding of such systems, their natural values and benefits to society, and their susceptibility to degradation through natural phenomena and man's activities; and

WHEREAS, the National Oceanic and Atmospheric Administration (NOAA), U. S. Department of Commerce has concurred with that finding and pursuant to its authority under Section 315 of the Coastal Zone Management Act of 1972, as amended (CZMA), P.L. 92-583, 16 U.S.C. 1461, and in accordance with implementing regulations at 15 CFR 921.30, may designate these components as a National Estuarine Sanctuary; and

WHEREAS, the Governor of the State of North Carolina has designated the Division of Coastal Management (DCM) to act on behalf of the State in matters concerning the North Carolina National Estuarine Sanctuary (NCNES), the boundaries of which are delineated in the proposed Sanctuary Management Plan (Plan); and

WHEREAS, the DCM, as the agency designated in the Plan and by the State of North Carolina responsible for managing the NCNES, acknowledges the need and requirement for continuing State-Federal cooperation in the long-term management of the sites in a manner consistent with the purposes originally sought through their designation.

NOW, THEREFORE, in consideration of the mutual covenants contained herein it is agreed by and between the DCM and NOAA -- effective immediately for Sanctuary Components at Currituck Banks, Rachel Carson, and Zeke's Island, and in the case of Masonboro Island, on the date of its designation as a component of the NCNES -- as follows:

ARTICLE I: State-Federal Roles in Sanctuary Management

A. The DCM, as the principal contact for the State of North Carolina in all matters concerning the NCNES, will serve to ensure that the Sanctuary is managed in a manner consistent with the goals of the National Estuarine Sanctuary Program and the management objectives of the Plan. Its responsibilities for Plan implementation will include the following:

(1) Effect and maintain a process for coordinating the roles and responsibilities of all State agencies involved in the management of the Sanctuary, including but not limited to:

- (a) Enforcement programs regulating water quality, fish and wildlife habitat protection, sport and commercial fisheries, and non-consumptive recreational activities;
- (b) The administration of facilities, programs, and tasks related to Sanctuary management;
- (c) Activities and programs conducted pursuant to the State's Federally-approved coastal management program authorized under Section 306 of the CZMA; and
- (d) Research agenda developed and implemented in accordance with corresponding elements of the proposed Plan;

(2) As the Governor's designee under 15 CFR 921.50 and recipient State entity in matters concerning all financial assistance awards authorized under Section 315 of the CZMA, apply for, budget, and allocate such funds received for supplemental acquisition and development, operation and management, and research;

(3) Prepare and submit to NOAA for its approval an operational strategy which in coordination with the Plan describes how the State of North Carolina intends to meet its long-term commitment to the management of the Sanctuary. The strategy, at a minimum will describe the following:

- (a) Specific mediation procedures and resolution mechanisms, developed, jointly with the Sanctuary Programs Division (SPD) within the Office of Ocean and Coastal Resource Management (OCRM), for reaching mutually acceptable solutions for correcting or avoiding conflicts requiring action under 15 CFR 921.35;
- (b) The procedures developed in accordance with SPD guidelines and proposed by the State as a means for prescribing contingency responses to emergency conditions that exceed routine Plan implementation; and
- (c) The Plan's continuing function, after Federal financial assistance for operations and management ends, as a vehicle for carrying out the mission of the national program; i.e.,
 - (i) how the State intends to coordinate Sanctuary management with its coastal resource management decisionmaking process;
 - (ii) the anticipated work program, priorities, and sources of funding for ensuring the continued maintenance of the Sanctuary; and
 - (iii) the means relied upon by the State to assure NOAA that real property acquired with Federal funds for the purposes of the Sanctuary will continue to be used in a manner consistent with 15 CFR 921.21(e);

(4) Serve as principal negotiator on issues involving proposed boundary changes and/or amendments to the Plan;

(5) Submit annual reports to NOAA on the Sanctuary describing, in accordance with 15 CFR 921.34, program performance in Plan implementation

and a detailed work program for the following year of Sanctuary operations, including budget projections and research efforts;

(6) Respond to NOAA's requests for information and to evaluation findings made pursuant to Section 312 of the CZMA; and

(7) In the event that it should become necessary, based on findings of deficiency, serve as the point-of-contact for the State or North Carolina in actions involving the possible withdrawal of Sanctuary designation, as provided at 15 CFR 921.35, the SPD within NOAA will serve to administer the provisions of Section 315 of the CZMA to ensure that the NCNES is managed in accordance with the goals of the National Estuarine Sanctuary Program and the Plan.

B. In carrying out its responsibilities, the SPD will:

(1) Subject to appropriation, provide financial assistance to the State, consistent with 15 CFR 921 Subparts D, E, and F, for managing and operating the Sanctuary;

(2) Serve as the point-of-contact for NOAA in discussions regarding applications for and any financial assistance received by the State under Section 315 of the CZMA, including any and all performance standards, compliance schedules, or Special Award Conditions deemed appropriate by NOAA to ensure the timely and proper execution of the proposed work program;

(3) Participate in periodic evaluations scheduled by OCRM in accordance with Section 312 of the CZMA to measure the State's performance in implementing the Plan and conditions of the award or complying with the Sanctuary designation and, where required, advise the appropriate OCRM staff of existing or emerging Sanctuary issues which might affect the State's coastal management program; and

(4) Establish an information transfer/exchange network cataloging all available research data and educational material developed on each site included within the national system of estuarine sanctuaries.

ARTICLE II: Real Property acquired for the purposes of the Sanctuary

A. The NCNES agrees to the conditions set forth at 15 CFR 921.21(e) which specify the legal documentation requirements concerning the use and disposition of real property acquired for Sanctuary purposes with Federal funds under Section 315 of the CZMA.

ARTICLE III: Program Evaluation

A. During the period that Federal financial assistance is available for Sanctuary operations and management, the OCRM will schedule, pursuant to 15 CFR 921.34, periodic evaluations of the State's performance in meeting the conditions of such awards and progress in implementing the Plan and the provisions of this MOU. Where findings of deficiency occur, NOAA may initiate action in accordance with the procedures established at 15 CFR 921.35.

B. After Federal financial assistance under Section 315 of the CZMA is no longer available for the operation and management of the Sanctuary,

the OCRM will continue to evaluate, pursuant to Section 312 of the CZMA and the corresponding provisions of 15 CFR 921, the DCM's performance in implementing the Plan and strategy committing the State to the long-term management of the NCNES. Where findings of deficiency occur, NOAA may initiate action in accordance with the procedures established at 15 CFR 921.35.

IN WITNESS THEREOF, the parties hereto have caused this Memorandum to be executed.

David W. Owens

David W. Owens, Director
Division of Coastal Management
Natural Resources and Community
Development
State of North Carolina

S. Thomas Rhodes

S. Thomas Rhodes, Secretary
North Carolina Department of
Natural Resources and Community
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9/10/85

Date

9/10/85

Date

Nancy Foster

Dr. Nancy Foster, Chief
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10/1/85

Date

10-10-85

Date