

DRAFT

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE NATIONAL PARK SERVICE AND
THE TOWN OF WELLFLEET
PROPOSED HERRING RIVER SALT MARSH RESTORATION

This Memorandum of Understanding is entered into this ____ day of ____, 2005, by and between the National Park Service, a bureau of the United States Department of Interior, acting through the Superintendent of the Cape Cod National Seashore, and the Town of Wellfleet, a municipal corporation located in Barnstable County, Massachusetts, acting through its Board of Selectmen. The purpose of this Memorandum of Understanding is to establish a process and framework that will determine whether a restoration of the Herring River is feasible and subsequently develop a conceptual plan of the restoration goals and objectives to meet stakeholder needs should restoration be deemed appropriate.

WITNESSETH

WHEREAS, the National Park Service (hereinafter "Park Service") administers and manages the Cape Cod National Seashore (hereinafter "CCNS"), a unit of the National Park System which is located partially within the Town of Wellfleet (hereinafter "Town") and includes more than 800 acres within the Herring River floodplain;

WHEREAS, the Town maintains ownership of the Herring River Dike which currently controls the tidal flow to the Herring River System;

WHEREAS, during a January 11, 2005 Board of Selectmen meeting, the Town agreed "..... in principle to the fact that restoring the Herring River salt marsh will be beneficial to the public interests and the environment and is a project worth proceeding with, with the caveat that a memorandum of understanding is signed between the National Park Service and the Town of Wellfleet and the development of a comprehensive restoration plan and filing for permits to proceed" (Board of Selectmen Minutes, January 11, 2005, http://www.wellfleetma.org/Public_Documents/WellfleetMA_SelectMin/S0052DB29-0052DB30)

WHEREAS, the Park Service is also interested in restoring ecosystem function to the Herring River System so as to improve the impaired water quality, enhance fisheries and encourage the re-establishment of native habitats. The Park Service would like to work with the Town to best address mutual goals and objectives for the restoration of system through the development of a framework that will determine whether a restoration of the Herring River is feasible and subsequently develop a conceptual plan to meet stakeholder needs should restoration be deemed appropriate;

WHEREAS, the parties have determined that it is in the public interest to enter into the Memorandum of Understanding setting forth a cooperative arrangement between the parties with respect to the proposed restoration of the Herring River Salt Marsh;

NOW THEREFORE, in consideration of the foregoing, the Town and the Park Service agree as follows:

1. The Town and Park Service agree to work cooperatively with one another towards addressing mutual salt marsh restoration goals through initiation of a technical committee and stakeholder group. The technical committee and the stakeholder group will be formed at the initiation of the Town within 30 days of signature of the MOU.

2. The technical committee will be composed of individuals selected by the Town and shall include a representative from the park and a representative from the Massachusetts Wetland Restoration Program, Coastal Zone Management. Potential participants could also include members of the Town Conservation Commission and/or Conservation Agent, Natural Resource Advisory Board, Board of Health, Barnstable County Department of Health and Environment, Open Space Committee, Shellfish Advisory Committee and /or Shellfish Constable, Cape Cod Cooperative Extension Marine Program, Town Board of Selectmen, and other local, state or federal interested parties. The technical committee will:
 - a. Review all existing scientific and technical reports in order to develop a common understanding of the Herring River System and issues. Provide a concise synopsis of these studies to the stakeholder group and the community.
 - b. Receive and consider input related to community concerns conveyed through the stakeholder group.
 - c. Upon review of existing literature and in consideration of stakeholder interests, the technical committee will submit recommendations to the Board of Selectmen as to the feasibility of implementing some level of restoration to the system.
 - d. Should some level of restoration be deemed appropriate and with the Board of Selectmen's concurrence, the technical committee shall then be tasked with developing a restoration plan.
3. The stakeholder group will be composed of individuals selected by the Town and shall include the Park Service Superintendent or designee. Potential participants could also include representatives of the Congressional District, the Wellfleet Town representative to the CCNS Advisory Commission, private landowners potentially affected by a restoration, Chequessett Neck Yacht and Country Club representatives, members of the shellfishing/fishing community, Cape Cod Mosquito Control, Division of Marine Fisheries, Natural Resources Conservation Service, National Oceanic and Atmospheric Administration Restoration Center, members of the Wellfleet Forum and other interested parties. The stakeholder group will:
 - a. Ensure that the technical committee understands the stakeholders direct interests and concerns and considers these perspectives in their recommendation process.
 - b. Communicate with diverse interests within the Town to ensure public and private concerns are well represented and considered by the technical committee in their review process and in the development of their recommendations to the Town.
 - c. Provide a forum by which the technical committee's findings can be communicated to the larger community.
 - d. Should some level of restoration be deemed appropriate and with the Board of Selectmen's concurrence, the stakeholder group shall continue to be responsible for providing community input into a draft restoration plan.
4. The Park Service Superintendent or his designate and a Board of Selectman representative or their designate shall meet quarterly to monitor progress in the first year to ensure goals and objectives are being attended, and make adjustments as necessary to fulfill the purposes of the MOU.
5. Should the Board of Selectmen concur that some level of restoration is deemed appropriate based on the recommendations of the technical committee (see 2d above); a restoration plan will be developed jointly between the Town and the Park Service and in association with any other interested parties. The restoration plan would address:
 - a. Restoration alternatives that consider potential restoration scenarios and adaptive management strategies to ensure restoration and community goals are achieved (e.g., degree of tidal influence).
 - b. Roles and responsibilities of each party in developing and implementing the plan with respect to funding, compliance, operations, monitoring, and reporting.
6. Within 60 days of receipt of a restoration plan, the Town through the Board of Selectmen will review the plan and initiate a motion to accept, revise or deny the restoration plan. Concurrently,

the Park Service Superintendent will also review the draft plan and determine if the park accepts the plan, proposed revisions or denies the plan.

7. In the event that the Town does not agree with any aspect of the proposed plan, the Town shall notify the Park Service and the parties agree to work cooperatively to resolve any disagreement. No aspect of this project may proceed, however, without the specific approval of the Town or the Park Service.
8. This Agreement and the obligations of the Park Service hereunder shall be subject to the availability of funding and staffing, and nothing contained herein shall be construed as binding the Park Service to expend in any one fiscal year any sum in excess of appropriations made by Congress or administratively allocated for the purpose of this Agreement for the fiscal year, or to involve the Park Service in any contract or other obligation for the further expenditure of money in excess of such appropriations or allocations.
9. This agreement and the obligations of the Park Service hereunder are subject to the laws, regulations and policies governing the Park Service and CCNS whether now in force or hereafter enacted or promulgated.
10. This agreement shall remain in effect for a period of five (5) years from the execution thereof and may be renewed by mutual agreement of the parties. This agreement may be terminated by either party, by providing a minimum of ninety (90) days notice in writing to the other party.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed by their respective duly authorized representatives on the day and year indicated above,

Board of Selectmen, Chair

Date

Superintendent, Cape Cod National Seashore

Date