

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE
U.S. DEPARTMENT OF AGRICULTURE
NATURAL RESOURCES CONSERVATION SERVICE
AND
DUCKS UNLIMITED, INC.**

This memorandum of understanding (MOU) is entered into between the U.S. Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) and Ducks Unlimited, Inc. (DU).

I. PRINCIPAL AUTHORITIES

This MOU is entered into under the following principal authorities: Soil Conservation and Domestic Allotment Act, as amended [Public Law 74-46, 49 Stat. 163, 16 U.S.C. 590b-f], Commodity Credit Corporation Charter Act as amended [15 U.S.C. 714c], Food Security Act of 1985 as amended [16 U.S.C. 3841 et seq.], Food, Agriculture, Conservation and Trade Act of 1990 [Public Law 101-624] and Federal Agriculture Improvement and Reform Act of 1996 [Public Law 104-127].

II. BACKGROUND

NRCS provides planning, technical and financial assistance for the conservation of natural resources on private lands. Wetlands and wildlife are considered to be two of several key resource concerns by NRCS in their ecosystem-based approach to conservation. Many wetland associated wildlife, including waterfowl, have specific habitat requirements that must be met to complete their life cycle. USDA conservation programs such as the Conservation Reserve Program (CRP), Wetlands Reserve Program (WRP), and Wildlife Habitat Incentives Program (WHIP) help protect, restore and enhance essential waterfowl, wetland associated wildlife, and upland wildlife habitats.

The mission of DU is to fulfill the annual life cycle needs of North American waterfowl. DU has accepted the basic principle that conservation of waterfowl and other wetland associated wildlife ultimately must focus on the protection and restoration of ecologically functional habitat complexes and systems on both public and private lands. DU embraces the concept of the North American Waterfowl Management Plan (NAWMP) as a continental strategy for restoring and maintaining waterfowl populations.

NAWMP is an international agreement signed by the United States, Canada, and Mexico seeking to recover and safeguard waterfowl populations by protecting and restoring wetland and associated upland habitat ecosystems upon which they depend throughout North America. NAWMP recognizes that USDA conservation programs and technical assistance significantly contribute towards meeting waterfowl habitat objectives in the U.S. Furthermore, NAWMP recognizes, and encourages the development of, conservation partnerships between the public and private sector.

III. PURPOSE

The purpose of this MOU is to provide a framework for cooperative activities between NRCS and DU necessary to maintain and enhance the productivity of wetland habitats and associated wildlife. Such activities can include but are not limited to waterfowl and wetland conservation projects, provision of technical assistance, delivery of information and educational materials, and collaboration on wetland and wildlife research, and development of habitat enhancement techniques.

IV. RESPONSIBILITIES

A. NRCS and DU mutually agree:

1. That each and every provision of this MOU is subject to the laws and regulations of the United States.
2. To attempt to identify and develop cooperative projects, including project title, description, scope, objectives, costs, anticipated outputs and period of performance for activities conducted under this MOU that advance waterfowl and wetland habitat conservation;
3. That implementation of cooperative projects developed under this MOU will be detailed under, and subject to, project specific cooperative agreements, grants, task orders or contracts mutually agreed to and entered into by NRCS and DU;
4. That either party may assume the responsibility for the design and implementation of projects under this MOU if such projects are completed subject to appropriate standards and specifications mutually agreed to by NRCS and DU in the project specific cooperative agreement, grant, task order or contract;
5. To collectively review programs and activities associated with this MOU to assess progress and to plan future program direction as appropriate;
6. That nothing herein shall be construed as obligating NRCS to expend, or as involving the United States in any contract or other obligation for the future payment of money in excess of appropriations authorized by law and administratively allocated for these projects by NRCS;
7. That nothing herein shall be construed as obligating DU to expend, or as involving DIJ in any contract or other obligation for the future payment of money in excess of budgeted and available funds allocated for these projects by DU; and,
8. That each party agrees that it will be responsible for its own acts and results thereof and shall not be responsible for the acts of other parties and the results thereof. Each party therefore agrees that it will assume all risk and liability to itself, its agents or its employees, for any injury to persons or property resulting in any manner from the conduct of its own operations, and the operations of its agents or employees, under this MOU, and for any loss, cost, damage, or expense resulting at any time from failure to exercise proper precautions, of or by itself or its own agents or its own employees, while occupying or visiting the projects under and pursuant to this MOU. The Government's liability shall be governed by the provisions of the Federal Tort Claims Act (28 U.S.C. 2671-80).
9. That each party recognizes that the other party may work independently and in cooperation with other entities in the completion of the type of conservation activities applicable to this agreement.

B. NRCS agrees:

1. To provide training as it deems necessary to its staff on wetlands and waterfowl conservation using as a technical source the current technical information provided by DU;
2. To utilize its public information program to inform private landowners about wetlands and waterfowl conservation practices and programs, including when appropriate, distribution of technical and financial assistance information available through DU;
3. To provide appropriate recognition of DU on all cooperative projects conducted under this MOU;
4. To actively participate in the implementation of NAWMP along with DU; and
5. To provide funds and unique technical assistance to DU for cooperative activities under this MOU subject to project specific cooperative agreements, grants, task orders, or contracts.

C. DU agrees:

1. To provide NRCS with information regarding the status of waterfowl populations, waterfowl habitat management techniques, and progress in implementing NAWMP;
2. To inform its members and the general public about waterfowl and wetland conservation projects conducted cooperatively with NRCS;
3. To assist NRCS in the training of its personnel in wetlands and waterfowl conservation and management;
4. To provide funds and unique technical assistance to NRCS for cooperative activities under this MOU subject to project specific cooperative agreements, grants, task orders or contracts; and
5. To provide appropriate recognition of NRCS, DU members, and the general public on all cooperative projects conducted under this MOU.

V. FUNDING

This MOU is to define, in general terms, the basis on which the parties concerned will cooperate, and as such, does not constitute a direct financial obligation for expenditures.

VI. ADMINISTRATIVE/TECHNICAL CONTACTS

A. NRCS—

1. Lloyd E. Wright, Director, Conservation & Ecosystem Assistance Division (Administrative Contact)
USDA Natural Resources Conservation Service
P.O. 2890, Room 6024-S
Washington, DC 20013-2890
2. Warren M. Lee, Director, Watersheds and Wetlands Division (Administrative Contact)
USDA Natural Resources Conservation Service
P.O. 2890, Room 6014-S
Washington, DC 20013-2890

3. Mike W. Anderson, National Wildlife Biologist (Technical contact)
USDA Natural Resources Conservation Service
P.O. Box 2890, Room 6150-S
Washington, DC 20013-2890

B. DU—

1. Alan Wentz, Group Manager of Conservation
Ducks Unlimited, Inc.
One Waterfowl Way
Memphis, TN 38120-2351
2. Jack Payne, National Director of Conservation
Ducks Unlimited, Inc.
One Waterfowl Way
Memphis, TN 38120-2351
3. Eric Schenck, Manager of Agricultural and Conservation Policy
Ducks Unlimited, Inc. Suite 202
1709 New York Ave., NW
Washington, DC 20006

VII. SPECIAL PROVISIONS

- A. This MOU will be in full force and effect for a period of 5 years, beginning March 17, 1997, and continuing through March 16, 2002.
- B. This MOU, or any cooperative agreement(s), grant(s), task order(s) or contract(s) written hereunder, may only be amended, extended, or modified in writing with the mutual consent of the authorizing officials of NRCS and DU provided that no extension of a cooperative agreement(s) or other document(s) written hereunder may be: beyond the term of this MOU.
- C. This MOU, or any cooperative agreement(s) written hereunder, may be terminated by authorized officials of any party hereto with written notification to the other party at least 60 calendar days in advance of the termination. This MOU, or any cooperative agreement(s), grant(s), task order(s), or contract(s) written hereunder may be terminated by either party because of failure to comply with the provisions of this MOU, or any cooperative agreements, grants, task orders, or contracts written hereunder.
- D. None of the signatories of this MOU or agreement(s) written under this MOU are bound individually by any obligation in this MOU or cooperative agreement(s) written hereunder or any supplement thereto.
- E. This MOU shall be enforced and interpreted in accordance with applicable federal laws and regulations, directives, circulars, or other guidance. When signed, this MOU will become binding on DU and NRCS to be administered in accordance with OMB Circular A-110 (19 Nov. 93), OMB Circular A-133, Audits of Institutions of Higher Learning and Other Non-Profit Institutions (Mar. 1990); Public Law 100-690, (Title 5, Subtitle D) the "Drug-free Workplace Act of 1988", and regulations at 7 C.F.R. o3018 concerning lobbying activities. In the event of a conflict between the provisions of this MOU and the referenced laws, regulations, and OMB Circulars, the latter shall govern.
- F. In accordance with NRCS Property Management Regulation, Temporary Regulation A-2, "The program or activities conducted under this agreement of memorandum of understanding will be in compliance

with the nondiscrimination provisions contained in Titles VI and VII of the Civil Rights Act of 1964, as amended; the Civil Rights Restoration Act of 1987 (Public Law 100-259); and other nondiscrimination statutes: namely, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendment of 1972, and the Age Discrimination Act of 1975. They will also be in accordance with regulations of the Secretary of Agriculture (7 C.F.R. 15, Subparts A & B), which provide that no person in the United States shall on the grounds of race, color, national origin, age, sex, religion, marital status, or handicap be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance from the Department of Agriculture or any agency thereof. “

(signed)
PAUL W. JOHNSON
Chief
Natural Resources Conservation Service

(3-17-97)
DATE

(signed)
ALAN WENTZ
Group Manager of Conservation
Ducks Unlimited, Inc.

(17 March 1997)
DATE