

Appendix E

Bill Thompson/ USFWS



Green-winged Teal

Memorandum of Understanding between the National Park Service and U.S. Fish and Wildlife Service for Interagency Cooperation at Assateague Island National Seashore and Chincoteague National Wildlife Refuge

MEMORANDUM OF UNDERSTANDING

Agreement Number G4190120001
FWS Agreement Number FF05R00000-12-K002
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**Memorandum of Understanding
between the
National Park Service and U.S. Fish and Wildlife Service
for Interagency Cooperation at
Assateague Island National Seashore and Chincoteague National Wildlife Refuge**

This Memorandum of Understanding (hereinafter “Agreement”) is entered into by and between the National Park Service (hereinafter “NPS”), U.S. Department of the Interior, acting through the Superintendent of Assateague Island National Seashore, and the U.S. Fish and Wildlife Service (hereinafter “FWS”), U.S. Department of the Interior, acting through the Refuge Manager of Chincoteague National Wildlife Refuge.

ARTICLE I – BACKGROUND

Chincoteague National Wildlife Refuge (CNWR) was established on Assateague Island in 1943 to be administered by the FWS under the authority of the Migratory Bird Conservation Act. In 1959, under the authority of Public Law 85-57, the Secretary of the Interior granted to the Chincoteague-Assateague Bridge and Beach Authority (Beach Authority) an easement to build a bridge to and roadway across CNWR to the Toms Cove Hook area. Coincident to the easement, the FWS entered into an agreement with the Beach Authority allowing the development and operation of a public beach and recreational facilities. These actions were taken in recognition of the need for public recreational facilities on the Virginia portion of Assateague Island and under the assumption that regulated public use of the Toms Cove area could be permitted without preventing accomplishment of the purposes for which CNWR was established.

Assateague Island National Seashore (ASIS) was established in 1965 under Public Law 89-195 and its boundary drawn to encompass CNWR. Section 2(c) of P.L. 89-195 authorized the Secretary of the Interior to acquire all of the rights, title, or interests of the Beach Authority, including its real and personal property. When the acquisition was accomplished with NPS appropriations in 1966, the former Beach Authority easements merged with the United States' ownership interests.

Section 6(a) of Public Law 89-195 directs the Secretary of the Interior to administer ASIS for the general purposes of outdoor public recreation. This has been interpreted by the Secretary as also directing the NPS to aid the FWS in providing public recreation within the boundaries of CWNR. Public Law 89-195 stipulates, however, that the "land and waters in CNWR, which are a part of the seashore, shall be administered for refuge purposes under laws and regulations applicable to national wildlife refuges, including administration for public recreation uses in accordance with the provisions of the Refuge Recreation act of September 28, 1962 (P.L. 87-714)." The act authorizes the Secretary to administer refuges for recreational use, when such uses do not interfere with the area's primary purposes.

Amendments to the National Wildlife Refuge System Administration Act in 1976 (P.L. 94-223) direct that all areas in the system "shall be administered by the Secretary through the United States Fish and Wildlife Service", and that the FWS has ultimate decision-making authority within refuges. Subsequent opinions by Department of the Interior solicitors affirmed the authority of the FWS to cooperate with other Federal agencies in carrying out their responsibilities, and the NPS role in administering public recreation in the Toms Cove area as approved by the FWS.

The National Wildlife Refuge System Improvement Act of 1997 (P.L. 105-57) provides guidance to the Secretary for the overall management of the Refuge System. Key components of the Act include a strong wildlife conservation mission for the Refuge System; a process for determining compatible uses of refuges; a recognition that wildlife-dependent recreational uses involving hunting, fishing, wildlife observation and photography, and environmental education and interpretation, when determined to be compatible, are appropriate public uses of refuges; and

that compatible wildlife-dependent recreational uses are the priority public uses of the Refuge System.

Although beach recreation is not one of the priority public uses of refuges, legislative directives related to the management of Assateague Island by the FWS and NPS have made clear that beach recreation is an appropriate activity within CNWR so long as it remains compatible with the overall purposes of the Refuge. The continued appropriateness of beach recreation at CNRW was affirmed in an approved 2004 Compatibility Determination.

ARTICLE II – PURPOSE AND OBJECTIVES

The cooperative relationship between the NPS and FWS on Assateague Island has been defined in a series of agreements dating back to 1966; all of which have assigned certain management responsibilities to each of the two agencies. The agreements have evolved over time, reflecting changes in management goals as well as legislative changes to agency authority and administrative requirements.

The purpose of this Agreement is to provide an updated and contemporary framework for effective and efficient interagency cooperation on Assateague Island. This Agreement, unless otherwise specified, applies to the management of that portion of Assateague Island in the general vicinity of Toms Cove referred to as the “Assigned Area”, depicted on a map attached to and made a part of this Agreement. Should the Assigned Area change, this Agreement will be amended to address any associated changes in management responsibilities or administrative requirements.

The specific objectives of both the FWS and NPS with respect to management of the Assigned Area on Assateague Island are:

- A. To protect and enhance refuge and park resources, as well as the appropriate enjoyment and appreciation of same by the public;

- B. To provide high quality recreational, interpretive, and educational opportunities for the visiting public;
- C. To reduce confusion regarding each agencies' roles and responsibilities
- D. To eliminate unnecessary duplication of services, permitting, paperwork, and reviews.
- E. To effectively utilize the experience, skills, and expertise of the two agencies' personnel.

This Agreement supersedes and replaces the General Agreement dated October 18, 2001 between the FWS and NPS pertaining to the administration, development, and use of the Assigned Area on Assateague Island. Cooperative operational activities covered by this Agreement include visitor services, interpretive services, visitor and resource protection, facility management, land and resource management, and interagency communications. Cooperative law enforcement activities are further defined under a separate agreement.

ARTICLE III – AUTHORITY

Pursuant to 16 U.S.C. §1a-2(*l*), the NPS is authorized to cooperate with Federal, State and local park agencies for the more effective and efficient management of adjacent park areas, so long as the administrative responsibilities for any unit of the National Park System are not transferred.

ARTICLE IV – STATEMENT OF AGREEMENT FOR OPERATIONAL ACTIVITIES

A. Visitor Services

- 1. The NPS will:
 - a. Plan, facilitate, support, and manage appropriate recreational activities within the Assigned Area and other areas of NPS jurisdiction. Activities include swimming,

- fishing, motorized and non-motorized boating, clamming and crabbing, bird watching, beach combing, sightseeing, and other similar visitor uses compatible with the FWS and NPS missions.
- b. Consult with FWS prior to initiating or allowing any new or non-traditional recreational activities within the Assigned Area.
 - c. Assist in the day to day management of over-sand vehicle (OSV) use within the designated OSV zone by issuing permits, educating permit holders on OSV use regulations, and assisting the FWS with enforcing OSV use regulations, limits, and closures. Vehicle and equipment standards will be as defined by 36 CFR, 7.65(b).
 - d. Operate and manage a lifeguarded beach during the peak visitor use season in accordance with NPS policies and practices. The NPS will:
 - i. Have sole supervisory responsibility for lifeguards and lifeguard operations, including closure of the lifeguard protected beach for public safety. All beach closures require the approval of the Chief Lifeguard or his delegated supervisor.
 - ii. Use all-terrain vehicles (ATVs) in conducting lifeguard operations (including emergency medical response) within the Assigned Area.
 - iii. Provide 'First Responder' response by lifeguards to medical emergencies within the Assigned Area with continued emergency medical services as per the existing Memorandum of Agreement with the FWS and Town of Chincoteague.
2. The FWS will:
- a. Provide annual guidance for management of the OSV zone, to be defined and agreed to in advance through the Annual Operating Plan (AOP) as per Article V of this Agreement.
 - b. Define, on an annual basis through the AOP, the locations, circumstances, and conditions under which NPS lifeguards may operate outside of the Assigned Area (including use of ATVs for emergency response).
 - c. Assume primary responsibility for permitting all special park uses (Special use, research, photographic, etc.) within the Assigned Area.
 - d. Consult with the NPS about any special park uses with potential to affect normal visitor use or NPS operations within the Assigned Area. If it is determined that the

- proposed use will affect visitor use or NPS operations in the assigned area, the NPS will manage the permitting process.
- e. Provide government-owned housing, as available, at standard rates for NPS seasonal employees and volunteers working in the Virginia District of ASIS. The amount of housing available for NPS employees and volunteers will be defined and agreed to in the AOP, as per Article V of this Agreement.
3. The NPS and FWS will jointly:
- a. Define the size of the lifeguarded beach, dates and times of operation, staffing levels, and the number, type and location of lifeguard stands on an annual basis in the AOP.
 - b. Honor entrance passes issued by the other agency
 - i. NPS will, in Maryland, honor valid daily and seven-day entrance passes, Federal Duck Stamps, and CNWR Annual Passes issued by the FWS.
 - ii. FWS will, in Virginia, honor valid seven-day entrance passes, National Park Passes, and ASIS Annual Passes issued by the NPS.
 - iii. Both agencies will honor valid “America the Beautiful” Annual, Senior, Access, and Volunteer passes.

B. Interpretive Services

1. The NPS will:
 - a. Plan, develop, and provide to the public appropriate interpretive and educational programs and activities (including the placement of waysides, kiosks, etc.). Unless otherwise approved by the FWS, these actions will take place exclusively within the Assigned Area or other areas of NPS jurisdiction including NPS-owned bridges, NPS visitor center, and waters within the Seashore boundary.
 - b. Operate the NPS visitor center within the assigned area with sole responsibility for thematic content, activities, staffing, and maintenance.
 - i. Coordinate operation of an Eastern National (EN) sales outlet in visitor center.
 - ii. Avoid the duplication of sales items with the Chincoteague Natural History Association operated sales outlet in the FWS visitor center.

- c. Recruit, train, supervise, and manage volunteers in accordance with NPS policies and practices to assist in providing those visitor services in the assigned area for which the NPS has primary responsibility.
2. The FWS will:
 - a. Allow intermittent use of the FWS visitor center, as available, without charge by NPS for special interpretive programs and events. The schedule and purpose of these special events will be defined and agreed to in the AOP.
 - b. Avoid the duplication of sales items in the FWS visitor center with the Eastern National operated sales outlet in the NPS visitor center.
3. The NPS and FWS will jointly:
 - a. Define the emphasis of each agency's interpretative programs and the locations where each will provide interpretive services to avoid overlap and/or duplication of effort. The types and location of activities will be defined and agreed to in the AOP.
 - b. Consult with one another prior to conducting activities which overlap with the other agency's interpretive activities or locations.
 - c. Define the locations within the Assigned Area where cooperators may provide interpretive services, and adopt scheduling protocols and lines of communication to assure that cooperator programs do not conflict with agency activities. The types and location of cooperator activities will be defined and agreed to in the AOP.
 - d. Provide mutual assistance in interpretive planning and programming. Major or recurring assistance requires advanced approval and will be defined and agreed to in the AOP.
 - e. Review and approve, as appropriate, any materials distributed by the other agency or their authorized cooperators dealing with agency policies and/or management. Review/approval will be by the CNWR Refuge manager and ASIS Superintendent.
 - f. Collaborate in training or cross-training volunteers as necessary to meet shared objectives.
 - g. Share volunteers as necessary and desirable to meet shared objectives. Major or recurring sharing of volunteers will be defined and agreed to in the AOP.

C. Visitor and Resource Protection

1. The NPS and FWS will jointly:
 - a. Integrate the law enforcement operations and activities of both agencies within ASIS/CNWR to enhance the existing agency partnership, eliminate employee confusion and lack of direction during incidents, and provide quality resource and visitor protection services within the limits of existing resources and staffing.
 - i. All activities of the NPS/FWS integrated law enforcement operation will be conducted as per the ASIS/CNWR Cooperative Law Enforcement Agreement.
 - ii. For the purpose of this Agreement, ASIS/CNWR is defined as the NPS and FWS lands and waters within the Virginia portion of ASIS, and the lands and waters within CNWR and Wallops Island NWR.
 - c. Provide 'First Responder' response to medical emergencies with continued emergency medical services provided as per the existing Memorandum of Agreement between the NPS, FWS and Town of Chincoteague.
 - d. Respond to and support emergency operations within ASIS/CNWR including, but not limited to wild land fires, hazardous material spills, storms and other weather related emergencies as per the ASIS/CNWR Cooperative Law Enforcement Agreement.
 - e. Support the operation and maintenance of existing and future radio communications equipment and infrastructure.

D. Facility Management

1. The NPS will:
 - a. Visitor Use Facilities and Infrastructure
 - i. Conduct all normal maintenance, repair, and upkeep of NPS visitor use facilities and infrastructure, including roads, bridges, and parking lots within the Assigned Area and other locations of NPS jurisdiction. All such activities shall be consistent with NPS policies, procedures, and standards.
 - ii. Consult with FWS prior to initiating any new construction or substantive modification/repair/rehabilitation of NPS visitor use facilities and infrastructure,

- including the use or movement of sand resources within the Assigned Area, to ensure compatibility with the CNWR mission.
- iii. Conduct all necessary compliance and permitting actions associated with facility management activities in the Assigned Area and other locations of NPS jurisdiction.
- b. Operational Facilities and Infrastructure
 - i. Conduct all maintenance, repair, and upkeep of NPS operational facilities and infrastructure in the areas assigned for that purpose by the FWS within CNWR and Wallops Island NWR.
 - ii. Consult with FWS prior to initiating any substantive modification/repair/rehabilitation of NPS operational facilities and infrastructure to ensure compatibility with the CNWR mission.
 - iii. Conduct all necessary compliance and permitting actions associated with the management of NPS operational facilities and infrastructure.
 - c. Assateague Beach Coast Guard Station
Provide normal maintenance, repair, and upkeep of the former Assateague Beach Coast Guard Station complex and associated utility systems.
 - d. Signage
Provide and maintain appropriate and adequate signage in the Assigned Area and other locations of NPS jurisdiction.
 - e. State Line Fence
Maintain the state line fence separating ASIS and CNWR for the primary purpose of restricting the movement of NPS horses and permitted OSVs onto the Refuge
2. The FWS will:
 - a. Provide sites within the CNWR complex on both the Island and mainland sufficient to support NPS operational activities including vehicle/equipment storage, facility management, and other operational needs including housing for seasonal/temporary NPS employees.

- b. Provide the NPS with year round access across CNWR lands to the former Assateague Beach Coast Guard Station. The presence of sensitive resources may require the NPS to coordinate travel through certain areas with the FWS.
 - c. Maintain access to the Maryland/Virginia state line, as feasible, and assist the NPS in state line fence maintenance activities when requested and as available.
 - d. Take the lead role in all required compliance and permitting actions related to any future relocation of the Assigned Area and associated construction of new visitor use facilities and infrastructure.
3. The NPS and FWS will jointly:
- a. Assist one another in maintenance and facility management activities to the extent practicable or as agreed to by the Park Superintendent and Refuge Manager. This may include the sharing of equipment, staff, or facilities. Major or recurring assistance will be defined and agreed to in the AOP.
 - b. Identify essential maintenance employees in the AOP who will report during winter weather emergencies to conduct response activities such as snow removal.
 - c. Cooperate in sign management for the Park and Refuge. Except as otherwise agreed to, all signs within the Park/Refuge should be consistent in appearance and refrain from identifying agency names. The exceptions to this general rule are directional signs outside of the Park/Refuge, signs at the Park/Refuge entrance where both agencies should be given full recognition, and signs for the visitor centers which may recognize the operating agency only.

E. Land and Resource Management

1. The FWS will:
 - a. As with the entire Virginia portion of Assateague Island, assume primary responsibility for managing the wildlife and other natural resources within the Assigned Area, with the understanding by both agencies that recreational use will be planned and carried out to minimize adverse impacts.
2. The NPS and FWS will jointly:

- a. Collaborate in natural and cultural resource management and related research activities including, but not limited to, invasive species control, threatened species management, and hunting management. Where appropriate, research findings and other resource information will be shared, activities of mutual interest will be planned jointly, professional expertise will be shared, and technology transfer will occur.
- b. Recognize that each agency has distinct policies and approaches to resource management but that management of the barrier island ecosystem as a whole is environmentally sound.
- c. To the extent allowed by their respective missions, seek to manage the land and waters of Assateague in a manner that protects, restores, and enhances the ecological health of the barrier island system.

F. Interagency Communications and Information Sharing

1. The NPS and FWS will jointly:
 - a. Notify one another as soon as possible about all incidents, problems, violations, or management actions (e.g weather emergencies, Refuge closures, storm response) with potential ramifications for the other agency.
 - b. Designate points of contact for each primary operational area covered by this Agreement (visitor services, interpretation, visitor and resource protection, maintenance, resource management, and administration). These individuals will meet at least twice annually (March-April and September-October) to identify and discuss the specifics of the AOP, operational problems or issues, and other matters of mutual concern.
 - c. Coordinate the production and release of all publications, press releases, and other publically distributed information related to the Assigned Area or other areas of shared responsibility.
 - d. Seek to keep one another informed about their respective activities and share all information of potential interest to the other agency.
 - e. Cooperate in the collection, analysis and reporting of visitor use statistics. Insofar as possible, similar methods will be used by both agencies to collect and tabulate visitor use data. Monthly visitor use statistics and reports will be shared between agencies.

ARTICLE V – ANNUAL OPERATING PLAN

The NPS and FWS will jointly develop an Annual Operating Plan by December 1st of each year covering cooperative activities for the following calendar year. The AOP will define specific details of the aforementioned cooperative operational activities authorized by this Agreement. The AOP will be approved annually by the ASIS Superintendent and the CNWR Refuge Manager.

ARTICLE VI – TERM OF AGREEMENT

This Agreement will be effective for a period of five years from the date of final signature, unless it is terminated earlier by one of the parties pursuant to Article VII below.

ARTICLE VII– MODIFICATION AND TERMINATION

- A. This Agreement may be modified only by a written instrument executed by the parties.
- B. Either party may terminate this Agreement by providing the other party with thirty (30) days advance written notice. In the event that one party provides the other party with notice of its intention to terminate, the parties will meet promptly to discuss the reasons for the notice and try to resolve their differences.

ARTICLE VIII – KEY OFFICIALS

- A. Key officials are essential to ensure maximum coordination and communication between the parties and the work being performed. They are:

1. For the National Park Service:

Patricia Kicklighter
Superintendent
Assateague Island National Seashore
7206 National Seashore Lane
Berlin, MD 21811
E-mail: trish_kicklighter@nps.gov
Telephone: (410) 629-6080
Facsimile: (410) 641-1099

2. For the U.S. Fish and Wildlife Service:

Louis Hinds
Refuge Manager
Chincoteague National Wildlife Refuge
PO Box 62
Chincoteague, VA 23336
E-mail: louis_hinds@fws.gov
Telephone: (757) 336-6122
Facsimile: (757) 336-5273

B. Changes in Key Officials – Neither the NPS or FWS may make any permanent change in a key official without written notice to the other party reasonably in advance of the proposed change.

ARTICLE IX – SIGNATURES

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date(s) set forth below.

FOR THE NATIONAL PARK SERVICE:

Signature: Patricia Kicklighter

Name: Patricia Kicklighter

Title: Superintendent, Assateague Island National Seashore

Date: 1/10/2012

Concur: Dennis R. Reidenbach

Name: Dennis R. Reidenbach

Title: Regional Director, Northeast Region

Date: 3/8/2012

FOR THE U.S. FISH AND WILDLIFE SERVICE:

Signature: Louis S. Hinds

Name: Louis Hinds

Title: Refuge Manager, Chincoteague National Wildlife Refuge

Date: 12, JAN. 2012

Concur: Wendi Weber

Name: Wendi Weber

Title: Regional Director, Northeast Region

Date: 1/31/12



National Park Service Assigned Area

Memorandum of Understanding G4190120001

