

**MEMORANDUM OF UNDERSTANDING
AMONG**

**The Indiana Department of Natural Resources
The Indiana Department of Environmental Management
The United States Department of the Interior, Fish and Wildlife Service
The Lake County Park and Recreation Board and
The Lake Heritage Parks Foundation**

**PERTAINING TO
THE ACQUISITION, RESTORATION AND MANAGEMENT
OF CERTAIN REAL PROPERTY IN LAKE COUNTY, INDIANA
IN FURTHERANCE OF THE RESOLUTION
OF CERTAIN NATURAL RESOURCE DAMAGE CLAIMS
ASSOCIATED WITH THE AMERICAN CHEMICAL SERVICE SUPERFUND SITE,
GRIFFITH, LAKE COUNTY, INDIANA**

I. INTRODUCTION; PARTIES, PURPOSE, AND AUTHORITY

The Indiana Department of Natural Resources ("IDNR"), the Indiana Department of Environmental Management ("IDEM"), the Lake County Park and Recreation Board (LCPB), the Lake Heritage Parks Foundation, Inc. ("LHPF") and the United States Department of Interior Fish and Wildlife Service ("FWS") (collectively "Parties") enter into this Memorandum of Understanding ("MOU") to further the purposes of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 *et seq.* ("CERCLA") and the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.*; and, pursuant to the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. §§ 668dd, 668ee), the National Wildlife Refuge System Volunteer and Community Partnership Enhancement Act (Pub. L. 105-242), the Fish and Wildlife Coordination Act (16 U.S.C. § 661), the North American Wetlands Conservation Act (16 U.S.C. § 4401 *et seq.*), the Indiana Interlocal Government Cooperation Act (I.C. 36-1-7-12) and the Indiana Park Board Act (I.C. 36-10-3 thru 45 inclusive), enter into this MOU for the purpose of providing a portion of the funds to be used to purchase the real property described in Exhibit A attached hereto (referred to as "the property") and to provide the framework for the acquisition, restoration and/or management of the property, through the use of certain funds to be derived from the settlement of certain natural resource damage ("NRD") claims associated with the American Chemical Service Superfund Site, Griffith, Lake County, Indiana ("ACS Site").

A. Purpose

The general purpose of this MOU is to ensure the coordination and cooperation of the Parties hereto in the implementation of natural resources restoration activities for natural resources alleged to have been lost or injured by contamination at the ACS Site and to provide the method governing the receipt, management and expenditure of funds obtained by IDEM, IDNR and FWS as a result of their participation in the NRD settlement. Specifically, the LHPF agrees to receive, manage and expend the \$250,000 land acquisition

funds to be paid pursuant to the NRD settlement to acquire the property for restoration of natural resources, taking title in the LHPF and IDNR as specified in II. A., below.

B. Parties

The following officials or their designated representatives are Parties to this MOU:

1. Chief of Staff/Chief Counsel, Indiana Department of Natural Resources,
2. Chief of Staff, Indiana Department of Environmental Management,
3. Regional Director, Region 3, Department of the Interior, Fish and Wildlife Services, (collectively referred to as Natural Resource Trustees or Trustees);
4. Executive Director, Lake Heritage Parks Foundation,
5. Superintendent, Lake County Parks and Recreation Department; (collectively referred to as Partners).

The Natural Resource Trustees will act on behalf of the public as trustees for natural resources under this MOU, and the Partners will cooperate with the Trustees in creating and implementing plans for restoration, rehabilitation, or replacement of natural resources lost, injured, or destroyed at the ACS Site.

II. OBJECTIVE AND GENERAL RESPONSIBILITIES OF THE PARTIES

The objective of this cooperative MOU is to create a mechanism for the FWS, IDEM & IDNR, acting as Natural Resource Trustees, to obtain assistance of the Partners to implement the natural resource restoration objectives.

A. Acquisition of the Property

1. The IDNR and the LHPF will acquire the property, holding same as tenants-in-common, each with an undivided one-half (1/2) interest. The acquisition will be carried out expeditiously in accordance with applicable requirements including LCPB providing relocation assistance as required by applicable regulations.
2. The LHPF may, at its discretion, quit-claim its undivided one-half (1/2) interest in the property to LCPB. (The IDNR, LCPB and LHPF shall be referred to as the Acquiring Parties.)
3. The property acquired shall be subject to deed restrictions under the North American Wetlands Conservation Act. The property acquired shall also have a perpetual conservation easement(s) in favor of at least one of the Trustees, requiring use of the land for restoration of natural resources and related purposes. See Exhibit B.

B. Funding

1. The LHPF will be provided the sum of Two Hundred Fifty Thousand Dollars (\$250,000.00) through the NRD-Only Consent Decree with the Settling Defendants in the *United States vs. American Chemical Services, Inc. et al.*, which sum shall constitute a portion of the purchase price for the property. The NRD-Only Consent Decree provides for payment of said funds directly to LHPF from Settling Defendants within five (5) business days of approval of the NRD-only Consent Decree by the parties thereto.
2. The Acquiring Parties shall, through such grants, gifts and appropriations as are available to them, provide the remainder of the purchase price for the property.

III. OTHER TERMS AND CONDITIONS

- A. The Trustees and the Partners shall jointly provide the necessary services, personnel and funding to carry out the terms of this MOU as specified herein.
- B. The Acquiring Parties will manage the real property in a manner consistent with the furtherance of the natural resource restoration goals specifically tailored to effect restoration of those affected resources and/or services provided by natural resources injured, lost or destroyed at the ACS site.
- C. Any portion of the funds derived pursuant to this MOU that are not utilized for the acquisition described, along with accrued interest, herein shall be returned to the Natural Resource Assessment & Restoration ("NRDAR") fund.
- D. Nothing in the MOU shall be construed as obligating the United States, Indiana, LCPB, or any other public agency, their officers, agents or employees to expend any funds in excess of appropriations authorized by law.
- E. The rights and responsibilities contained in this MOU are subject to the availability of funding and are intended to be guidance for the respective Parties. They shall not be the basis of any third party challenges or appeals.
- F. This MOU may be executed in counterparts. A copy with all original executed signature pages affixed shall constitute the original MOU.

IV. MODIFICATION OR TERMINATION OF AGREEMENT


This MOU shall be in effect from the date of execution until termination by agreement of the Parties. This MOU may be modified or terminated only by written agreement of all of the Parties

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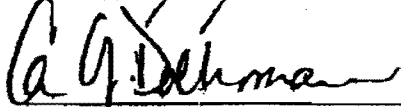
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In the event of the termination of this MOU, there shall be a full and complete accounting of all funds received, deposited, held, disbursed, managed, or expended pursuant to this MOU by the Partner(s), or otherwise controlled in any joint account by the Trustees as a result of any funds collected in connection with natural resource damages at the ACS Site.

V. SIGNATURES


Elizabeth Admire
Indiana Co-Trustee
Chief of Staff
Indiana Department
of Environmental Management

Date: 6/8/00


Carrie Doehrmann
Indiana Co-Trustee
Chief of Staff/General Counsel
Indiana Department
Of Natural Resources

Date: 6/8/00

Regional Director
U.S. Fish and Wildlife Service
Authorized Official, Department of the Interior

Date: _____

Executive Director
Lake Heritage Parks Foundation

Date: _____

Superintendent
Lake County
Parks and Recreation Department

Date: _____

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Elizabeth Admire
Indiana Co-Trustee
Chief of Staff
Indiana Department of
Environmental Management

Date: _____

Executive Director
Lake Heritage Parks Foundation

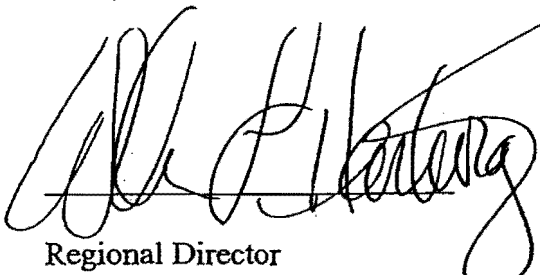
Date: _____

Carrie Doehrmann
Indiana Co-Trustee
Chief of Staff/General Counsel
Indiana Department
of Natural Resources

Date: _____

Superintendent
Lake County
Parks and Recreation Department

Date: _____



Regional Director
U.S. Fish and Wildlife Service
Authorized Official, Department of Interior

Date: 9/14/00
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Reviewed and approved by:

Susan F. Kozarek 9/14/00

Susan F. Kozarek
Contracting Officer

Exhibit B:

II. The Property to be acquired under the NRD-only Consent Decree and the MOU shall be held and used in perpetuity and consistent with CERCLA and other applicable federal and state laws.

Within 90 days after the last signature is affixed to the NRD-only consent decree, a conservation easement containing the following provision, shall be conveyed to an entity acceptable to the Parties:

Conservation Easement:

The land conveyed herein shall be held and used in perpetuity and consistent with CERCLA and other applicable federal and state laws to:

- (a) preserve, protect, and restore current or potential habitat for fish and wildlife, including migratory waterfowl;
- (b) preserve, protect, and restore current or potential habitat for endangered, threatened, and of special concern species, including, but not limited to, colonial water birds, fish, and certain endangered or threatened plant species;
- (c) preserve, protect and restore existing prairie, ground water recharge areas, and wetlands; and
- (d) restore, replace, or acquire the equivalent of any natural resources that have been alleged to have been injured by releases of Hazardous Substances at or from the ACS Site, including but not limited to wetlands and associated fauna and flora, and ground water.

II. The deed(s) conveying the Property shall contain the following deed restriction:

Deed Restriction:

In the event that either or both of the grantees cease to exist, then that grantee's interest in this property shall revert to the United States of America under the auspices of the Secretary of Interior, to be managed by the United States Fish and Wildlife Service.