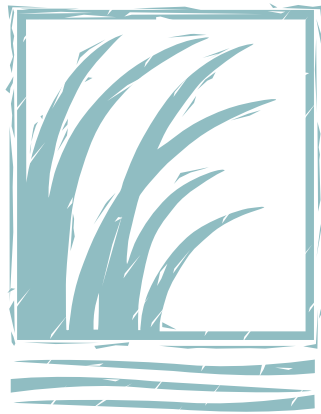


**NATIONAL ESTUARINE RESEARCH RESERVE  
DESIGNATION, SITE SELECTION AND NOMINATION**



NATIONAL  
ESTUARINE  
RESEARCH  
RESERVE  
SYSTEM

**May 2005**

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## **I. Designation Process Overview**

### **A. Key State Documents**

- Letter expressing interest in nominating a National Estuarine Research Reserve (reserve)
- Site selection document and official nomination letter
- Draft Environmental Impact Statement/Draft Management Plan (DEIS/DMP)
- Final Environmental Impact Statement/Final Management Plan (FEIS/FMP)
- Applications for financial assistance

### **B. Designation Process**

#### **Step 1. Letter of Interest**

The Governor sends a letter to the NOAA Administrator identifying:

- interest in developing a reserve program and nominating a site (do not indicate a specific site)
- need for funds for site selection (if applicable)
- lead agency or agencies for contact

NOAA will respond to the state with a determination of whether it can consider a nomination and provide funds.

#### **Step 2. Site Selection and Nomination**

Once NOAA determines that it can accept a new nomination, the lead agency may submit an application to NOAA for site selection funding (50/50 match requirement). A state is eligible for a total of \$100,000 in federal funds for pre-designation activities, which include site selection, preparation of the DEIS/DMP and FEIS/FMP, and a limited basic characterization of the physical, chemical and biological characteristics of the site. It is recommended that the preliminary application for the site selection phase request \$25-40K.

The application must identify the site selection agency, the potential managing agency, and a proposed site selection process that incorporates public participation. Steps for selecting a site include:

- The state develops a process for selecting a site that includes site selection criteria, and implements the process. It is recommended that the state establish a site selection committee comprised of key interested individuals (e.g. scientists, educators, resource managers, NGOs) for this purpose.
- The site selection process should cover the entire biogeographic subregion within the state and then narrow down the options. A site must contribute to the biogeographic and typological balance of the National Estuarine Research Reserve System, and be adequately protected for long-term research, education, and stewardship.
- Contacts must be made with affected landowners, potentially affected adjacent resource users, local governments, and state and federal agencies.
- The state, in conjunction with NOAA, holds a public meeting in the vicinity of the site or

sites being considered. The meeting is publicized in a local newspaper and in the Federal Register at least 15 days prior to being held.

- The state normally submits preliminary and final site selection documents. NOAA may request additional information or suggest changes to the nomination.

The Governor submits to the NOAA Administrator a site selection document and a nomination letter identifying the proposed site and confirming the lead state agency. NOAA reviews the site selection document and sends a letter to the Governor accepting, rejecting, or suggesting modifications to the nomination.

### **Step 3. Draft Environmental Impact Statement/Draft Management Plan**

After approval of the site nomination, NOAA will award funds to prepare the DEIS/DMP and FEIS/DMP. These funds are limited to that portion of the \$100,000 not allocated for the development of the site-selection document. The match requirement is 50/50. The state application for funding must include:

- a draft management plan outline
- an outline of a draft memorandum of understanding (MOU) between the lead state agency and NOAA to operate the reserve (as well as additional MOU's with land owning/leasing or managing partners, if applicable)

The state may use any funds remaining from the \$100,000 for conducting basic characterization studies, subject to the same match requirement.

Prior to preparation of the DEIS/DMP, NOAA publishes an intent to prepare an EIS in the Federal Register, and the state and NOAA hold a scoping meeting(s) (the state conducts the meeting) to solicit the views of the public regarding the proposed project before the DEIS/DMP is prepared. The meeting must be publicized at least 15 days prior to being held in both the Federal Register and local media. Comments are accepted and addressed in the DEIS.

The state, with assistance by NOAA, prepares a preliminary and final DEIS/DMP, including a MOU identifying the state and NOAA roles in managing the reserve. The state submits the preliminary and final documents to NOAA for review.

After NOAA approval, NOAA prints the document and distributes it to interested parties including federal, state, and local agencies.

NOAA announces the availability of the DEIS/DMP in the Federal Register. The date of publication begins the 45-day comment period on the DEIS/DMP. The state and NOAA hold a public hearing(s) 30-45 days after the announcement. Notice of the public hearing(s) is placed in the Federal Register and the local media 15 days prior to the meeting.

If, during the comment period, NOAA determines that critical information was omitted in the DEIS that would have a bearing on the decision, a supplement to the DEIS may need to be published to incorporate this new information.

**Step 4. Final Environmental Impact Statement/Final Management Plan**

The state, with assistance by NOAA, prepares the FEIS/FMP as follows:

- NOAA works with the state to respond to comments on the DEIS/DMP.
- The state makes necessary changes to the DEIS/DMP and submits preliminary and final documents to NOAA for review. The FEIS/FMP includes:
  - proposed MOU between NOAA and the state (not signed)
  - draft or final MOU(s) among reserve partners establishing roles and responsibilities (these must be finalized prior to designation but should not be signed in the FEIS/FMP)
- Upon approval, NOAA prints the FEIS/FMP and distributes it to those who provided comments, to other interested parties, and to the NEPA distribution list posted on the Council on Environmental Quality web site and available from the NOAA Office of Public and Constituent Affairs.
- NOAA publishes a Federal Register notice announcing the availability of the FEIS/FMP. The date of publication begins the 30-day “cooling-off” period. During this time, NOAA may receive comments but is not obligated to respond to them. This is essentially a time to address any minor issues or major litigious issues.

**Step 5. Final requirements, Designation Findings and Certificate; Record of Decision, Signing of the MOU**

- After the 30-day cooling-off period is over and all issues have been addressed, the following steps need to be finalized:
  - NOAA and the state sign the MOU. If revisions to the MOU have been made to address site-specific issues, NOAA will clear the MOU through DOC. After DOC has approved the MOU, five original copies will be signed by the Director of the Office of Ocean and Coastal Resource Management (OCRM), and sent to the appropriate official in the state for signature. Three original copies should be returned to OCRM.
  - MOU(s) among reserve partners establishing roles and responsibilities are signed.
  - NOAA will make a CZMA federal consistency determination for the designation of a reserve in a state with a federally approved coastal management program.
  - Endangered Species Act section 7 consultation with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service should be completed.
- NOAA prepares designation findings for signature by the NOAA Administrator. Once the designation findings are signed, the designation is official.
- NOAA prepares a certificate of designation for signature by state and NOAA Administrator.
- NOAA prepares a record of decision for signature by the OCRM Director.
- NOAA publishes a Federal Register notice announcing the reserve designation, the consistency determination, and the NEPA record of decision. An announcement of designation should also be published in the local media.

**Step 6. Designation Ceremony**

- The state normally organizes a designation ceremony with Congressional and state participation.
- NOAA can provide an invitation list of NOAA personnel, arrange for speakers from NOAA, and assist with publicity.
- NOAA presents the certificate of designation to state officials and Congressional

representatives.

### **C. Reserve Funding and Implementation**

Upon publication of the FEIS/FMP, the reserve is eligible for implementation funding as follows:

- operations funds (70/30)
- construction (70/30) and acquisition (50/50) funds
- graduate research fellowship funds
- other NOAA funds as available

NOTE: This is an overview of the designation process. Situations may vary within a state or NOAA, resulting in slight modifications to some of the designation steps. More detailed information on the designation process is available from ERD. Prior to undertaking any step, please contact ERD staff to discuss logistics and timelines.

## II. Site Selection Criteria and Process

### A. Introduction

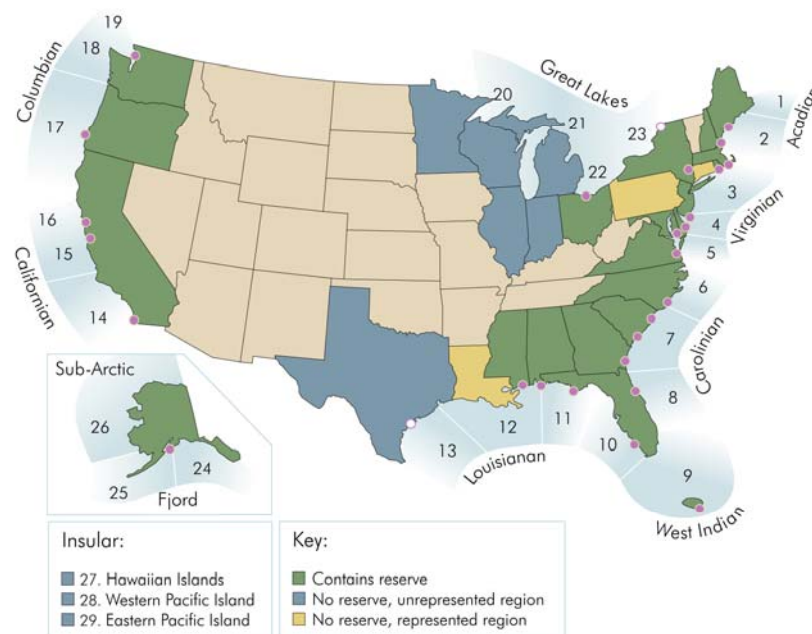
The following set of site selection criteria is designed as a model for states that plan to propose new sites for the National Estuarine Research Reserve System (NERRS). It can be modified in consultation with ERD to reflect regional differences in the ecological characteristics of the habitats to be considered. The relative "values" placed upon the criteria can also be modified as appropriate.

The criteria fall into the four major categories:

- I. Environmental Representativeness
- II. Value of the Site for Research, Monitoring, and Resource Protection
- III. Suitability of the Site for Education and Interpretation
- IV. Acquisition and Management Considerations.

These categories reflect the major considerations associated with addressing the goals of the NERRS program. The format used in presenting each selection criterion includes a (1) brief description and/or definition of the criterion with underlying assumptions about its use and (2) scoring levels.

An extremely important site selection criterion, at the very outset of the site selection and site nomination process, is whether there is an existing site located in the particular biogeographic subregion and typologic classification scheme under consideration. A site proposal for a biogeographic region that is not represented is automatically of high value to the NERRS Program. The map of existing and proposed sites and the biogeographic regions indicates which regions and subregions still require site representation.



## **B. Preliminary Site Screening Process**

Prior to the application of the full suite of site selection criteria detailed above, it may be appropriate for the state, in consultation with ERD, to utilize a simplified procedure to screen the proposed sites to eliminate those areas that are clearly not suitable candidates. A preliminary screening should reduce the amount of time and effort that is required to apply the full suite of criteria to all sites. A candidate site which does not appear to meet each of the following criteria should be eliminated from the site selection process.

- The candidate site is a representative estuary in the biogeographic region or subregion.
- The proposed boundaries of the candidate site include sufficient land and water area to maintain the integrity of the ecosystem.
- The candidate site consists of publicly owned lands and/or demonstrates sufficient potential for land acquisition and adequate land use control to meet NERRS objectives.
- The candidate site is accessible by normal modes of transportation.
- The candidate site is suitable for research, monitoring, and resource protection activities.
- The candidate site is suitable for education, training, and interpretation activities.
- The candidate site is suitable to address key local, state, and regional coastal management issues.

### **C. Site Selection Criteria and Process for their application to screened sites**

There are a variety of ways that the application of the full set of site selection criteria to the screened sites can be undertaken. An initial step is to identify who will be responsible for this phase of the site selection process. Normally, these individuals become members of a site selection committee. Once the site selection committee has been identified, it is recommended that each member preliminarily assess and score each of the candidate sites individually. If necessary, the scoring within each criterion may be crafted to help better evaluate the proposed sites.

Field visits to each site will allow the committee members an opportunity to gain first hand knowledge of the characteristics of each site. They should also give everyone a better understanding of the factors to be considered under each selection criterion and how these factors should be taken into account. Field trips may be appropriate before scoring the sites. However, the committee members should be familiar with the site selection criteria prior to visiting the candidate sites.

After site selection committee members have assessed the candidate sites individually, the site selection committee should convene to assess the sites collectively and determine one site for nomination to the Governor. Several options exist for this collective decision making. Three options are described below:

#### **Option 1. Strict Averaging of the Individual Scores**

All committee member scores for each criterion would be averaged, then totaled and weighted to arrive at one site to recommend to the Governor for nomination.

#### **Option 2. Working Group Discussions**

The site selection committee would be divided into two to three small working groups to assess all of the candidate sites, taking their individual assessments and scores into account. Each working group would then reach consensus as a group on an appropriate score for each criterion.

Thereafter, the working groups would reconvene in full committee and compare their collective decision making with the goal of overall consensus on the scoring for each candidate site. One site would be recommended to the Governor for nomination.

#### **Option 3. Committee Discussion**

The committee as a whole would assess each site, taking individual assessments and scores into account. Members would reach consensus as a group on each criterion and ultimately select the site to be recommended to the Governor for nomination.

## Site Selection Criteria

### 1. Environmental Representativeness: Ecosystem/Ecological Characteristics

In order to determine the representativeness of a candidate site relative to ecosystem type (as defined in Appendix 2 of NERRS Program Regulations (15 CFR Part 921)), the site will be evaluated using the following suite of ecological, biological, physical, and chemical characteristics that fall under the general category of "Ecosystem/Ecological Characteristics." The first five criteria for ecological and biological characteristics focus primarily on factors concerning a site's diversity and balance in regard to the types of ecosystems and habitats present, as well as any significant and/or unique biotic trait. The remaining criteria for physical/chemical characteristics focus on a site's position within the watershed to which it belongs, geological and salinity characteristics, water quality, and the degree to which it is developed.

A. Ecosystem Composition. This is a measure of the diversity of ecosystem types present within the boundaries of the site. This criterion is based on the assumption that sites that have a high diversity of major ecosystem types are of higher relative "value" for protection and management than those with low ecosystem diversity (unless the ecosystem in consideration is rare or unique: see "Biotic Uniqueness of the Site"). Use the following ecosystem type designations (Appendix 2 of NERRS Program Regulations (15 CFR Part 921)). Modify as appropriate.

#### Group I - Shorelands

- A. Maritime Forest-Woodland
- B. Coastal Shrublands
- C. Coastal Grasslands
- D. Coastal Tundra
- E. Coastal Cliffs

#### Group II - Transition Areas

- A. Coastal Marshes
- B. Coastal Swamps
- C. Coastal Mangroves
- D. Intertidal Beaches
- E. Intertidal Mud and Sand Flats
- F. Intertidal Algal Beds

#### Group III - Submerged Bottoms

- A. Subtidal Hard Bottoms
- B. Subtidal Soft Bottoms
- C. Subtidal Plants

3 Points      The site has a high diversity of ecosystem composition, i.e., it contains at least one representative habitat from each of the three main ecosystem groups listed above (e.g., maritime forest, coastal marsh, and oyster reef).

- 2 Points      The site has a moderate diversity of ecosystem composition, i.e., it contains at least one representative habitat from two of the three main ecosystem groups listed above (e.g., maritime forest and coastal marsh).
- 1 Point      The site has a low diversity of ecosystem composition, i.e., it contains at least two representative habitats from only one of the three main ecosystem groups listed above (e.g., coastal marsh and mud flat).
- 0 Points      The site has a very low diversity of ecosystem composition, i.e., it contains only a single habitat type within any one of the three main ecosystem groups listed above (e.g., maritime forest).

B. Balanced Ecosystem Composition. This is a measure of the relative composition of ecosystem types within the boundaries of a site. This criterion is based on the assumption that sites with a balanced proportion of ecosystem types are of higher relative "value" for protection and management. High, moderate, and low values are assigned to sites that contain variations in the proportions of all three ecosystem types. A value of zero is assigned to a site that is dominated by one ecosystem type or contains less than three ecosystem types.

- 3 Points      The site contains representative upland, intertidal, and subtidal habitats in relatively equal proportions (i.e., areal cover of any one ecosystem type not less than 25% of the total area).
- 2 Points      The site contains representative upland, intertidal, and subtidal habitats, with the areal cover of any one type not less than 10% of the total area.
- 1 Point      The site contains representative upland, intertidal, and subtidal habitats, with the areal cover of any one type less than 10% of the total area.
- 0 Points      The site contains representative upland, intertidal, and subtidal habitats, with the areal cover of two types being less than 10% of the total area or the site consists of habitats from only one or two of the three major ecosystem types.

C. Habitat Composition/Complexity. This is a measure of the diversity of habitat types present within the major ecosystem type found within the boundaries of the site. This criterion is based on the assumption that sites that have a high diversity of habitat types are of higher relative "value" for protection and management than those with a low diversity of habitat types. Major ecosystem type is defined here as that type that comprises approximately 40% of the site. Use the habitat type designations listed above for "ecosystem composition."

- 3 Points      The candidate site has a high diversity of habitat composition within its major ecosystem type, i.e., it contains three or more habitat types or subtypes within its major ecosystem type (e.g., site consists of a combination of swamps, coastal marshes, and mud flats) or has a combination of multiple coastal marsh types

(e.g., high, mid, and low marsh zones).

2 Points The site has a moderate diversity of habitat composition within its major ecosystem type, i.e., it contains only two habitat types or subtypes within its major ecosystem type (e.g., consists of a combination of swamps and a single coastal marsh type).

1 Point The site has a low diversity of habitat composition within its major ecosystem type, i.e., its major ecosystem type consist of a single habitat type (e.g., maritime forest or *Juncus* marsh).

D. Habitat Uniqueness of the Site. This criterion is a measure of the presence of rare or unique habitat types within a candidate site. This criterion recognizes the importance of emphasizing unique areas in the selection process, in addition to the representativeness of the candidate site in terms of ecosystem and habitat diversity. Unique habitat is defined here as a habitat type of "limited" known occurrence within the biogeographic region/subregion. This criterion can be a simple "yes/no" question.

3 Points The site contains one or more "unique" habitat types within its boundaries.

0 Points The site contains no "unique" habitat types within its boundaries.

E. Significant Faunal and Floral Support. This is a measure of the degree to which a site supports significant faunal and/or floral components. This criterion focuses on a site's contribution (i.e., function) toward supporting the activities (e.g., feeding, nesting) of the following suite of significant faunal and/or floral components. The list of components includes groups or organisms that are known to be dependent upon estuarine habitats for the entire or a crucial part of their life cycle.

- Fish and Shellfish Spawning and Nursery Grounds (includes use by either freshwater, estuarine, or estuarine-dependent marine species)
- Migratory Bird and/or Waterfowl Use
- Bird Nesting and/or Roosting Area
- Critical Mammal Habitat
- Non-Game Animals (amphibians, reptiles, etc.)
- State or Federally Listed Species (animal or plant - including candidate species)

3 Points The candidate site supports or serves as an important site for a wide range of the faunal and floral components listed above (4 of 6) and/or is an extremely important site for any threatened or endangered species.

2 Points The site supports or serves as an important site for a moderate range and diversity of the significant faunal and floral components listed above (3 of 6).

1 Point            The site supports or serves as an important site for one or two of the significant faunal and floral components listed above.

0 Points           The site does not support significant faunal and floral components.

F. Site's Relationship to Its Tidally Influenced Drainage Basin. This is a measure of relative proportion and/or juxtaposition of a site relative to the greater tidally-influenced drainage basin to which it belongs. This factor assumes that, except for the deltaic portions of major river systems, most coastal drainage basins are relatively small, tidally-influenced, coastal plain drainages, and that a site's "value" increases as a function of how much of the overall drainage basin is encompassed within its boundaries. Aerial photos and detailed topographic maps should be used for judging this criterion.

3 Points           The site encompasses a relatively large percentage (> 75%) of the tidally influenced portion of the drainage basin to which it belongs.

2 Points           The site is not large relative to the overall drainage basin (<75 but >25%), but is situated either near the mouth or headwaters of the drainage basin.

1 Point            The site is small relative to the overall drainage basin (<25%), but is situated either near the mouth or headwaters of the drainage basin.

0 Points           The site is small relative to the overall drainage basin (<25%) and does not encompass either the mouth or headwaters of the drainage basin.

G. Geologic Representativeness/Diversity/Uniqueness of the Site. This is a measure of the representativeness/diversity/uniqueness of the geologic characteristics that define part or the whole of a candidate site. This criterion attempts to consider both the surface and subsurface geologic formations that may be representative or unique within a site, particularly as they affect and/or define associated biotic habitats. Included in these considerations are the ways that local geology affects surface hydrology, such as drainage systems, and subsurface hydrology, such as shallow-water aquifers. Geologic and hydrologic maps should be used to evaluate this criterion.

3 Points           The site has numerous representative geologic characteristics, two or more unique geologic characteristics and contains a high diversity of formation types or strata within its boundaries.

2 Points           The site has a moderate number of representative geologic characteristics and at least one unique geologic characteristic, and contains a moderate diversity of formation types or strata within its boundaries.

1 Point            The site has a moderate number of geologic characteristics, no unique geologic characteristics, or contains a moderate diversity of formation types or strata within its boundaries.

0 Points      The site has few or only one representative geologic characteristics, no unique geologic characteristics, or contains few or only one formation type or strata within its boundaries.

H. Salinity Gradient. This is a measure of the range of salinity within a candidate site's boundaries. This criterion recognizes the effect of salinity on the biotic structure of estuarine habitats (including the plants communities and faunal components that inhabit them). It makes the assumption that a site with a greater range of salinity will support a broader range of habitat types and organisms.

3 Points      The site encompasses a 25 ppt or greater range of salinity within its boundaries (e.g., 0-25 ppt, 5-30 ppt).

2 Points      The site encompasses a 15-24 ppt range of salinity within its boundaries (e.g., 0-15 ppt, 5-25 ppt, 10-30 ppt).

1 Point      The site encompasses a 6-14 ppt range of salinity within its boundaries (e.g., 0-8 ppt, 10-22 ppt, 25-32 ppt).

0 Points      The site encompasses a 5 ppt or less range of salinity within its boundaries (e.g., 0-5 ppt, 8-10 ppt, 20-25 ppt).

I. Degree Developed and Potential Impacts to Water Quality. This is a measure of the degree to which the site and its surrounding area are developed and the relative impacts to surface waters from human activities. This criterion is based on the assumption that human impacts to a site are directly proportional to the degree of development. Exceptions to this assumption may need to be considered where development at a site and its surrounding area have been subject to high levels of control. Data on land use and water quality measurements from local, county, and state government agencies should be used to judge this criterion.

3 Points      The site is relatively undisturbed and the watershed contains low intensity development (e.g., few residences, minimal agricultural or silvicultural activity) and/or the land is in protected status.

2 Points      The site is relatively undisturbed and the watershed contains moderate development (e.g., relatively few residences, moderate agricultural or silvicultural activity, minimal commercial development).

1 Point      The site has been moderately disturbed and the watershed contains relatively intensive development (e.g., moderate density of residences, and/or the presence of industrial activity).

0 Points      The site has been extremely disturbed and the watershed contains very intensive development (e.g., high density residential, and/or commercial or industrial activity).

## 2. Value of the Site for Research, Monitoring, and Resource Protection

A. Value of Site for Research: This is a measure of the opportunities offered by characteristics of the site for research, such as a high diversity of ecosystems/habitat types, a balanced habitat composition, a wide salinity range, biotic or geologic representativeness of the site, known historic uses or archaeological sites, and unique opportunities to conduct applied research regarding important local, state, and regional coastal management issues (including past and potential management activities). The assumption is that a site with representative, unique, and highly diverse characteristics will provide greater research, monitoring, and resource protection opportunities than one lacking these characteristics. Ratings generated for these factors under previous selection criteria can be used as a guide for rating this overall factor.

3 Points        The site has (1) a high diversity of ecosystem/habitat types, (2) moderate salinity range, (3) representative biotic and geologic sites or characteristics, (4) state and federally listed species, (5) historic and archaeological significance, and (6) opportunities to address important habitat or resource management issues.

2 Points        The site has four or five of the six above.

1 Point         The site has two or three of the six above.

0 Points        The site has one or none of the six above.

B. Previous Research and Monitoring Efforts: This is a measure of the degree to which the site has been used for past research and monitoring, including considerations of the diversity of inquiry (fields of research), and the availability of data (the form and availability of documentation, e.g., peer reviewed papers, grey literature, inventory reports). The assumption is that an area with previously established research and monitoring interest offers greater opportunity for future projects than an area that has not sparked such an interest in the past.

3 Points        The site has a long history of well documented research and monitoring projects in a wide variety of topics. Data is readily available.

2 Points        The site has had major and well documented research and monitoring efforts, generating data that is readily available. It has not had a long history of research and monitoring.

1 Point         The site has had only minor research and monitoring projects generating limited data (e.g., inventories) that may be difficult to obtain.

0 Points        The site has no known history of research and monitoring.

C. Suitability of Site for Environmental Baseline Monitoring: This is a measure of the suitability of the site as a reference area for assessing long-term resource trends and/or ecological characteristics, based on the degree to which the site has been altered by land use practices on or near the site. The assumption is that a site that has relatively pristine land areas

and waters will be a more valuable reference area to generate baseline monitoring information than a site that has been extensively altered.

- 3 Points      The site has outstanding areas to generate environmental baseline data to assess long-term resource trends or ecological characteristics for a wide range of needs.
- 2 Points      The site has adequate areas to generate environmental baseline data to assess long-term resource trends or ecological characteristics for many needs.
- 1 Point        The site has marginal areas to generate environmental baseline data to assess long-term resource trends or ecological characteristics.
- 0 Points        The site has been so extensively altered by past activities that it is unsuitable for generating environmental baseline data.

D. Ability to Address Key Local, State, and Regional Coastal Management Issues: This is a measure of the degree to which the site is appropriate for investigating issues relevant to coastal management at the local, state, and regional levels. Solutions to these issues may require either the application of land management practices or habitat manipulations in order to perform meaningful research and assessment. As such, the site should offer both adequate control areas plus areas where demonstration projects and habitat manipulations can be accommodated in order to study many of the issues of concern. The assumption is that a site where coastal management issues arise and can be addressed will be of greater value from a resource protection standpoint than sites where these issues do not arise. The significant issues should be identified for each region and may include:

- wetlands development
- wetlands mitigation/restoration/creation
- dredging and spoil disposal
- beneficial uses of dredged materials
- shoreline erosion
- commercial and/or recreational fisheries
- waterfowl and other wildlife management
- best management practices for habitat protection and/or management (e.g., fire management)
- best management practices to limit impacts from agricultural, silvicultural, or development activities
- best methods to control pestiferous insects or undesirable vegetation
- effects of pollutants on water quality and living resources
- impacts of sea-level rise
- prehistoric and early historic settlement and land use

- 3 Points      The site is highly appropriate for investigating coastal zone management issues.
- 2 Points      The site is appropriate for investigating coastal zone management issues.
- 1 Point        The site is minimally appropriate for investigating coastal zone management issues.
- 0 Points        The site is not appropriate for investigating coastal zone management issues.

### **3. Suitability of the Site for Training, Education, and Interpretation**

A. Diversity and Quality of Training, Education, and Interpretation Opportunities: This is a measure of the variety and quality of training, education, and interpretation opportunities (i.e., ecological, archeological, cultural, historical, etc.) provided by the site for the different target audiences. The assumption is that a candidate site with a diversity of such opportunities of high quality will be utilized to a greater extent than one with fewer opportunities.

- 3 Points      The site has numerous different training, education, and interpretation opportunities of high quality.
- 2 Points      The site has several significantly different educational opportunities of good quality.
- 1 Point        The site has few significant educational opportunities.
- 0 Points        The site has insignificant educational opportunities.

B. Diversity and Availability of Target Audiences: This is a measure of the diversity and availability of target audiences (e.g., user groups, resource managers, residents, environmental groups, decision makers, teachers and students, the general public) which may routinely utilize the site for training, education, and interpretation. The assumption is that a candidate site with a variety of available target audiences will be utilized to a greater extent than one with fewer target audiences.

- 3 Points      The site is suitable for a variety of target audiences that are readily available.
- 2 Points      The site is suitable for a moderate number of target audiences that are readily available.
- 1 Point        The site is suitable for few target audiences that are available.
- 0 Points        The site is so remote or inaccessible that it is not suitable for any target audience.

### **4. Acquisition and Management Considerations**

#### **Acquisition, Facilities, and Proximity**

A. Land Ownership: This is a measure of the degree to which the property is divided (e.g., divided into only a few parcels or owned by many individuals). The assumption is that a candidate site with fewer property owners will be easier to acquire or control.

3 Points The property is relatively undivided.

2 Points The property is divided with few property owners.

1 Point The property is divided with many property owners.

B. Publicly Owned Lands and Feasibility of Land Acquisition: This is a measure of the degree to which the land within the site is currently owned by the state, federal government or local governments and/or environmental interest groups, and the degree to which there is interest in donating or selling property by its owners. The assumption is that the degree of control needed to maintain the site in relatively pristine conditions increases with publicly owned land and lands controlled by environmental groups, and that the chances of purchasing additional areas increase with private property owners who are willing to sell.

3 Points A large percentage (more than 50%) of the candidate site is currently owned by the state, federal, or local governments and/or environmental groups, and these entities have an interest in participating in a NERR.

2 Points State, federal, or local governments and/or environmental groups own 25-50% of the candidate site with the remainder in the hands of a few owners who have an interest in participating in a NERR.

1 Point State, federal, or local governments and/or environmental groups own less than 25% of the site with the remainder in the hands of a few owners who have an interest in participating in a NERR.

0 Points The site is owned by a large number of owners with little potential interest in sale or donation.

C. Availability of Facilities: The degree to which there are existing facilities or potential sites for future facilities that can be used by staff, researchers, classes and training groups (e.g., administrative building space, dormitories, labs, interpretive centers, trails and boardwalks, boat ramps, etc.). The assumption is that, due to limited NERR construction funds, a candidate site with existing facilities can meet the objectives of the NERRS Program sooner and more completely than a site without existing facilities. The availability of other sources of construction funds should be considered as part of this criterion.

3 Points The site has established structures and facilities that can be used for reserve activities.

2 Points The site has limited established structures and/or facilities that can be used for

reserve activities.

- 1 Point      The site has excellent potential for the development of facilities for reserve activities.
- 0 Points      The site has limited potential for the development facilities for reserve activities.

**D. Proximity and Accessibility of Site to Researchers, Educators, and Resource Management Decision Makers:** This is a measure of (1) the relative proximity of the site to urban centers, K-12 schools, research and education institutions, and resource management agencies which may routinely utilize the site and (2) the adequacy of the roads and/or points for boat access at the site. The underlying assumption is that the proximity and accessibility of the site will enhance its utilization for education, research, monitoring, and resource protection purposes.

- 3 Points      The candidate site can be utilized by the above listed entities during a single day trip. There are good roads and/or points for boat access at the site.
- 2 Points      The candidate site is relatively isolated and utilization would require an overnight stay from any of the above listed entities, but accommodations are readily available. There are adequate roads and/or points for boat access at the site.
- 1 Point      The candidate site is relatively isolated and reasonable accommodations for an overnight stay to utilize the site are limited. There are limited roads and/or points for boat access at the site.
- 0 Points      The candidate site is extremely isolated and accommodations to utilize the site are not available. There are inadequate or no roads and/or points for boat access at the site.

### **Management Considerations**

**E. Controlled Land and Water Access:** This is a measure of the degree to which land and water access to the candidate site can be controlled and limited. It is based on size, geography, proximity to adjacent development, and historical controls. The assumption is that the integrity and security of a potential NERR site can be better maintained with a higher level of controlled land and water access.

- 3 Points      The candidate site is relatively isolated and of a size that can be controlled. Historically, access has been controlled, and can easily be controlled in the future due to the presence of limited access points by boat or vehicle.
- 2 Points      The candidate site is not very isolated, but has a limited number of access points. Historically, site access has not been controlled, but the site is of a size that it can be controlled in the future.
- 1 Point      Site access will be difficult to control due to the large number of access points

and/or the size of the area. Historically, site access has not been controlled and it is unclear whether it can be controlled in the future.

0 Points Site access cannot be controlled due to the large number of access points, lack of historical controls, the size of the area, and/or dense adjacent development.

F. Compatibility with Existing Management Practices and Consumptive and Non-Consumptive Uses: This is a measure of the degree to which existing management practices (e.g., habitat manipulations, best management practices) and historic and current consumptive and non-consumptive uses might be in conflict with foreseeable management practices implemented under a NERR Program. The assumption is that sites with fewer conflicts are more likely to maintain both public support and the integrity of the site.

NOTE: This factor should be measured in light of special circumstances (such as the presence of unique habitats or of listed species) that might cause the state to limit what is now unlimited use or practices by groups or individuals and, in the process, cause some conflict in regard to designation of a NERR site. It should be measured with an eye toward balancing protection of critical sites or resources against reasonable access to other parts of the site.

3 Points Existing management practices and consumptive and non-consumptive uses would not be in conflict with any foreseeable management policy of a NERR.

2 Points Due to the presence of proportionately small areas of unique habitat/ endangered species or threats to the integrity of the ecosystem, there is the potential for limited restrictions on existing management practices and/or consumptive and non-consumptive uses of a site.

1 Point Due to the presence of areas of unique habitat/ endangered species and threats to the integrity of the ecosystem, some restrictions on existing management practices and/or consumptive and non-consumptive uses of a site are likely.

0 Points Large areas of unique habitat and threats to the integrity of the ecosystem will require restrictions on existing management practices and/or consumptive and non-consumptive uses of a site.

G. Compatibility With Adjacent Land Use: This is a measure of the potential conflicts between management practices on a NERR site with land use practices on adjacent lands. It is also a measure of the adequacy of land use regulations, plans, or other controls to sustain the site's resources for long-term research, education, and resource protection. The assumption is that a candidate site with compatible land use practices on adjacent lands is more likely to maintain the integrity of the reserve.

NOTE: As with the previous factor, this issue should be evaluated with an eye toward the potential for present and/or future conflicts with adjacent lands and the potential to designate buffer zones around a site.

- 3 Points A large percentage of the land adjacent to the site is not currently used for activities that might impact the site (and therefore, may be obtainable as a buffer) and/or the land use practices on adjacent lands would not have any negative impacts on a possible NERR.
- 2 Points A large to moderate percentage of the land adjacent to the site is not currently used for activities that might negatively impact the site, and/or the land-use practices on adjacent lands either could be negotiated or would have only minor impacts a possible NERR.
- 1 Point Some of the land adjacent to the site is currently used for activities that would have negative impacts on a possible NERR and may not be negotiable.
- 0 Points A large percentage of the land adjacent to the site is currently used for activities that would have negative impacts on a possible NERR and would lead to conflicts.

H. Future Development Plans: This is a measure of the potential level of future development in areas on or adjacent to a candidate site which would impact the site. The assumption is that a candidate site with minimal to no development plans on-site and on adjacent lands is more likely to maintain the integrity of the reserve.

NOTE: Even more so than the previous factor, this issue involves the degree to which adjacent lands are currently being used and/or may be attainable as buffer areas for the NERR.

- 3 Points A large percentage (more than 50%) of the land adjacent to the site is currently undeveloped and/or is, for whatever reason, very unlikely to be developed in the near future (e.g., consisting of marginally developable property, such as wetlands, which could be obtained as buffer).
- 2 Points A moderate percentage (between 25-50%) of the land adjacent to the site is currently undeveloped and/or is not likely to be developed in the near future.
- 1 Point A small to moderate percentage (10-25%) of the land adjacent to the site is currently undeveloped and/or is not likely to be developed in the near future, with limited levels of development on other lands.
- 0 Points A large percentage (more than 50%) of the land adjacent to the site is developed and the area is likely to continue to be developed in the future.

### III. Site Nomination Review Checklist

#### Fulfillment of National Estuarine Research Reserve System Program Regulations 15CFR 921.11

The following is a checklist that will be used by ERD to ensure that a site nomination package fulfills the reserve system program regulation requirements.

#### **Contents of the Site Nomination Package in Fulfillment of 15 CFR 921.11 (b) & (d)**

- \_\_\_\_\_ Nomination of the proposed site by the Governor
- \_\_\_\_\_ Description of the site selection process
- \_\_\_\_\_ Identification of the site selection agency and potential management agency
- \_\_\_\_\_ List of all sites considered
- \_\_\_\_\_ Brief statement of the reasons why a site was not preferred
- \_\_\_\_\_ Description of the proposed site in relationship to each of the guiding principles (15 CFR 921.11 (c))
- \_\_\_\_\_ Analysis of the proposed site based on the biogeographic scheme/typology
- \_\_\_\_\_ Description of the proposed site and its major resources.
  - \_\_\_\_\_ location
  - \_\_\_\_\_ proposed boundaries
  - \_\_\_\_\_ adjacent land uses
  - \_\_\_\_\_ maps
- \_\_\_\_\_ Description of the public participation process
- \_\_\_\_\_ Summary of public comments
- \_\_\_\_\_ Documentation that Governor(s) of other affected states has been contacted if interstate issues are involved
- \_\_\_\_\_ Copies of all correspondence, including contact letters to affected landowners

#### **Fulfillment of Procedural Requirements in 15 CFR 921.11 (b) and (d)**

- \_\_\_\_\_ The state sought the views of:
  - \_\_\_\_\_ affected landowners
  - \_\_\_\_\_ local governments
  - \_\_\_\_\_ other state agencies
  - \_\_\_\_\_ federal agencies
  - \_\_\_\_\_ other parties interested in the area

\_\_\_\_\_ The state held at least one public meeting in the vicinity of the proposed site.

\_\_\_\_\_ Fifteen days prior to the meeting, notice of the meeting was placed:

- \_\_\_\_\_ in the area's principle newspaper
- \_\_\_\_\_ by NOAA in the Federal Register

**Conformity of the Proposed Site with Guiding Principles in 15 CFR 921.11(c)**

- \_\_\_\_\_ The site contributes to the biogeographic and typological balance of the NERRS.
- \_\_\_\_\_ The site is located in a biogeographic region and subregion not represented in the system.
- \_\_\_\_\_ The site is a representative estuarine ecosystem.
- \_\_\_\_\_ The site's ecological characteristics will attract a broad range of research interests.
- \_\_\_\_\_ The site is suitable for long-term estuarine research based on ecological factors and proximity to research facilities and educational institutions.
- \_\_\_\_\_ The site's ecological characteristics will attract a broad range of educational interests.
- \_\_\_\_\_ The site is important to education and interpretive efforts.
- \_\_\_\_\_ The site is, to the maximum extent possible, minimally affected by human activity or influence.
- \_\_\_\_\_ The site is compatible with existing and potential land and water uses in contiguous areas.

- \_\_\_\_\_ The site is compatible with approved coastal and estuarine management plans.
- \_\_\_\_\_ The site boundaries encompass an adequate portion of key land and water areas to approximate an ecological unit.
- \_\_\_\_\_ The site boundaries encompass an adequate portion of key land and water areas to ensure effective conservation.
- \_\_\_\_\_ Less than 50% of the proposed reserve is currently federally protected.
- \_\_\_\_\_ The managing entity has or will establish adequate control over human activities occurring within the area.

**Conformity of State's Request for Funds for EIS and Management Plan with 15 CFR 12**

- \_\_\_\_\_ Request for funds for EIS and Management Plan  
(Amount: \$\_\_\_\_\_)
- \_\_\_\_\_ Request for funds for limited site characterization  
(Amount: \$\_\_\_\_\_)
- \_\_\_\_\_ Draft management plan outline
- \_\_\_\_\_ Outline of draft MOU between state and NOAA

## **IV. Boundary Delineation**

### **A. Introduction**

Criteria for setting boundaries are contained in NERRS regulations (Title 15 of the Code of Federal Regulations Part 921, Section 921.11). The main factor in delineating reserve boundaries is a determination that the site's boundaries encompass an adequate portion of the key land and water areas of the natural system to approximate an ecological unit and to assure effective conservation. Boundary size will vary greatly depending on the size of the ecosystem. Reserves may include existing Federal or state lands already in a protected status where mutual benefit can be enhanced. Limits do apply, however, to the extent of Federal lands that can be included in a Reserve. NOAA will not approve a site that is dependent primarily upon the inclusion of Federal lands.

Once a site is selected by a state, the delineation of proposed boundaries is the next important step prior to approval of the site by NOAA. The establishment of final boundaries is a difficult process that requires consideration of many factors, environmental and administrative. The regulations intend that environmental and scientific factors be given primary consideration in the initial delineation of proposed boundaries.

A balance must be sought in determining the overall size of a reserve between encompassing enough area to include an ecosystem large enough to make long-term estuarine research viable yet having a discrete contiguous area that can be effectively managed. The reserve boundary must provide protection for the ecosystem but may not be arbitrary (i.e., based on the availability of property nearby which may be available for purchase). This guidance document is, in part, an effort to ensure that property interests purchased in an effort to establish adequate state control of a reserve are actually required for the integrity of the reserve.

### **B. Basic Scientific Principles in Establishing Reserve Boundaries**

1. Reserve boundaries are proposed by coastal states and approved by NOAA. It is preferable that boundaries include contiguous land and water areas which are essential to the reserve, i.e., to establish a natural field laboratory capable of supporting NERRS long-term research and educational objectives.
2. Boundaries should encompass an entire ecological unit (habitats and communities), including adjacent terrestrial areas, especially watersheds and drainage areas. However, to protect a whole watershed will, in most cases, be extraordinarily difficult and prohibitive in cost. The solution is to establish and protect a core area which incorporates the critical portions of the estuarine ecosystem.
3. Key land and water areas comprise a core area which preserves for research purposes a full range of significant physical, chemical and biological factors contributing to the diversity of fauna, flora, and natural processes occurring within the estuary.

4. The determination of which water and land areas are "key" to a particular reserve must be made based upon specific scientific knowledge of the area. A basic principle to follow when deciding upon key land and water areas is that they should encompass resources that are representative of the total ecosystem and which if compromised could endanger the research objectives of the reserve.
5. An area adjacent to or surrounding the core and on which the integrity of the core area depends is the buffer zone. Buffer zones protect the core and provide additional protection for estuarine-dependent species. The buffer zone may also include an area best-suited for facilities required for research and interpretation. Additionally, buffers must encompass an area sufficient to accommodate the shift of the core in case of biological, ecological, or geomorphologic change.
6. Buffers are usually of the same biome as the core and may accommodate NOAA-approved manipulative research which should not be carried out in the core. They may encompass wetlands not in the core area, ecotones, and upstream effects where practical, as well as shoreland and contiguous ocean or bay water.
7. Determination of the landward boundary of a reserve is difficult because of transitional zones, the slope of the upland, the size of the estuary and other factors. At a minimum, the landward boundary should encompass wetlands that contribute to estuarine processes. Wetlands may be defined in terms of vegetation, and the upland limit of wetlands can be defined accordingly. There is generally a transitional zone (ecotone) in which vegetative types from two or more ecological groups mix together. Ecotones combine the characteristics of the communities they join and often have an unusually high abundance and diversity of life and serve a unique function to the ecosystem. The emergence of upland vegetation will indicate in general terms where the landward boundary of a reserve should be drawn. However, how much, if any, of the uplands are included in the proposed boundary must be determined on the basis of scientific judgment and not property lines or the availability of land for acquisition.
8. Estuarine resources do not necessarily end at the shoreline, but may include adjacent open water areas.

### **C. General Principles**

Boundaries of reserves connote some degree of control by the managing entity over human activities and the natural resources occurring within the reserve. Generally, reserve boundaries will include two areas: key land and water areas, or a "core" area, and a buffer zone. Control on the landward side may involve direct ownership or jurisdiction of the agency which manages the core area; it may also mean control exercised by administrative action, easements, or by other means. Federal and state lands contiguous with the reserve maybe included within the boundaries only after formal agreements approved by NOAA have been established through proper administrative or legal measures.

## **D. Recommended General Procedure for Proposed Boundary Delineation**

### **I. Conduct a scientific survey of the proposed site(s)**

#### **A. Identify proposed boundary on the landward side**

- vegetation types
- landform/physical (natural or man-made)
- land use
- estuarine dependent physical processes, biological components, (flora/fauna) or combination.

#### **B. Identify proposed boundary on the water side**

- natural delineation between discrete or separable landforms
- natural delineation between discrete or separable water bodies or portions of the same water body.

### **II. Identify key land and water areas (Core Area)**

#### **A. Within the boundary established on the basis of the scientific survey**

(see I. above), identify, and rank in order of their importance, the most important ecological units of the proposed area, i.e., those units most important to the integrity of the area and its resources. (See Nos. 3 and 4 of the Basic Scientific Principles listed in these guidelines.)

- Why are these units important?
- What is the minimum land and water area needed to protect these highest priority ecological units?

### **III. Identify buffer area**

A. Within the boundary established on the basis of the scientific survey (see I. above) and in consideration of the core area identified in II.A., identify the minimum buffer area required to ensure the long-term viability of the core area for research purposes and to provide for required research or interpretive support facilities. (See Nos. 5 and 6 of the Basic Scientific Principles listed in these guidelines.)

## **V. Multi-Component Reserves**

A multi-component reserve has two or more noncontiguous protected areas, or components, that are under the managerial jurisdiction of the reserve. Multiple components are appropriate when a state has a complex coast that makes it impossible for a single component to represent the habitat diversity in a biogeographic region. They should not be considered solely as a means for increasing protected land within a State.

A multi-component reserve is “treated as one reserve in terms of financial assistance and development of an overall management framework and plan” (NERRS regulations, §921.10b). It is subject to the same funding limits as single-component reserves, and it must function as one unit and not as individual "mini" reserves. ERD will look for strong administrative, education, research and monitoring plans that preserve an identity for the reserve and the national system. A state may choose to develop a multi-component reserve at any time during designation or operation of the reserve. The number of components is not limited, but the benefit of additional components must be balanced against increased management responsibility and program dilution. ERD and the state will determine the feasibility of planned components with each reserve on a case-by-case basis.

## **VI. Guidelines for Memorandums of Agreement**

### **A. Introduction**

Memorandums of Agreement (MOA) are made to form partnerships and work with other federal agencies, universities, state, local and international governments, tribes, private institutions and other organizations. The process of initiating, extending and/or modifying these agreements involves clearance of the official MOA and required supporting documentation which can often be time consuming. Approval and clearance signatures are obtained during a controlled routing of the MOA package through the program office, NOS senior management, NOAA General Counsel, and if required the Office of the Executive Secretary, and Department of Commerce (DoC) General Counsel. As a general rule, if you are trying to establish a relationship with any party outside of NOAA, and it involves the use of money, property and/or employee time, you should contact the DoC General Law Division (202-482-5391) as early as possible to get some guidance. Information on agreements is also available online at [www.ogc.doc.gov/ogc/admin/general.html](http://www.ogc.doc.gov/ogc/admin/general.html).

Several steps need to be taken in order to process agreements including:

- advanced planning
- choosing the right type of agreement
- drafting the terms and conditions
- reviewing and clearing the agreement
- executing the agreement
- administering the agreement

### **B. Choosing the Correct Authority and Type of Agreement**

The name Memorandum of Agreement or MOA carries no legal authority, but is simply a way to refer to an agreement with another organization. However, it is important to choose the correct authority and type of agreement for the relationship you are about to establish. Agreements between NOAA and other agencies are important for several management and legal reasons. You may want to keep track of funds, justify program activities, or ensure that a job gets done. There are also legal reasons such as 31 U.S.C. §1301 “only for purpose of appropriation,” 31 U.S.C. § 1501 “obligation only when in writing,” and 31 U.S.C. §1532 “no transfer without authority.” If you feel that drafting an agreement with another agency is needed, you must first determine what type of agreement is necessary.

There are essentially five types of agreements:

- 1) Contracts
- 2) Economy Act Agreements (31 U.S.C. § 1535)
- 3) Joint Projects (15 U.S.C. § 1525)
- 4) Grants and Cooperative Agreements
- 5) Other Types of MOAs and Agreements**

## **Other types of MOAs and Agreements**

Some relationships are formed because of unique statutory authority or they do not involve expenditure of funds or property. The Office of General Counsel is available to help draft these types of agreements and can offer advice on traps for the unwary.

A template for the afore mentioned agreements can be viewed on the DoC Office of General Counsel Web site at <http://www.ogc.doc.gov/ogc/admin/general.html>. Please consult this Web site before you draft a document. Additionally, the director of this office, Brian DiGiacomo, has a link on this page to his email.

### **C. MOA Clearance Process (For ERD Use)**

You will save time if your agreement is well drafted and contains all necessary supporting documentation. Once you have drafted a document with legal consultation it is ready for review and clearance. **NOTE:** This process takes approximately two months, so please allow enough time for clearance, especially if a timely financial transfer is involved. NOS has created an electronic MOA Tracking System which serves as a database for MOA documents and their status. The NOS MOA point of contact is Martin Freeman. Martin can be reached at (301)713-3070 or at [martin.freeman@noaa.gov](mailto:martin.freeman@noaa.gov). His office is located on the 13<sup>th</sup> floor. Martin ensures that all information has been entered into the tracking system correctly and moves MOAs through the clearance process. Below are the eight steps required to process an original MOA and an amendment or annex to an MOA. **NOTE:** You will want to start with at least three copies of your original document for signature since a signed original copy should reside with Veronica, you and the other party. You may want more copies if there are several partners.

#### **1) A new record must be created in the MOA Tracking System by the program officer**

To access this system, you must have Filemaker Pro on your desktop. The file is located on P:\Estuarine Reserves Division\MOA\FMP client. If you do not have Filemaker Pro, please see Erica Seiden for assistance in entering your data into the system. Each division has an MOA specialist. Currently, Debra Persons is serving that role for CPD and Erica Seiden for ERD.

#### **2) The MOA package must be routed through OCRM**

After the data is input into the database, the program officer prints a tracking control sheet from the MOA tracking system and attaches this to the folder containing the MOA paperwork and supporting documentation. Within OCRM, MOAs must be routed through ERD Chief, OCRM Director and OCRM Financial Officers if transfer of funds is involved. Once you have sign off dates from these individuals, that data must be entered into the MOA tracking system. Additionally, at this time you must complete the checklist of requirements on the tracking system and forward the electronic record and any other electronic supporting files to the NOS MOA official.

#### **3) A hard copy of the MOA must be submitted to the NOS MOA official -Veronica Harvey**

Once all required information and office level signatures are obtained, the package should be delivered to Veronica. Additionally, make sure that you have sent the tracking system record and any electronic copies of supporting documentation to Veronica for review.

#### **4) NOS MOA official accepts or rejects the record**

Veronica will review the database record and any supporting material. She will either forward it on for NOS clearance or she will reject the record and ask you for specific items to ensure a complete package. Once you have revised or obtained additional information to complete the package, you will resubmit the record via the tracking system and supply hard copies to Veronica if necessary. A copy of the MOA package should be filed in a central place within ERD.

#### **5) The approved record is transferred to the NOS MOA master system**

Veronica will approve the database record and make it a permanent part of the system. It is at this point that it will be assigned an official MOA tracking code.

#### **6) The MOA package is routed through the NOS chain of clearance**

When official signatures are obtained, an approval memo is signed and the MOA package is returned to you for signatures from the outside parties involved in the agreement.

#### **7) The final signed and fully executed agreement document is filed with the NOS MOA official and the database record is closed**

You should submit a complete copy to Veronica. She will mark the record as “closed”, but remains active during the period of performance. An agreement must be in existence, completed and approved with all necessary signatures before work or transfer of funds can occur. Please keep this in mind if funds will need to be transferred within a specific time frame as the clearance process takes approximately 2 months.

#### **8) Amendments can be added to the system**

If you should want to amend an MOA and the official MOA was not logged into the tracking system, you must recreate a record. Once a record is created, the amendment can be forwarded to Veronica to be incorporate into the master system.

#### **Agreements involving no funds**

Description	Approval level	Signature authority
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general agreements not affecting delegation of Under Secretary's authority, positions, and operations with other NOAA line offices and other agencies	program/staff office director	program/staff office director
general agreements affecting delegation of Under Secretary's authority, positions, and operations with other NOAA line offices and other agencies	Under Secretary for Oceans and Atmosphere	Under Secretary for Oceans and Atmosphere

## **Appendices**

**Appendix A: Examples of MOAs**

The 2 MOA examples included in this section are:

1. MOA between NOAA and San Francisco State University.
2. MOA between San Francisco State University, East Bay Regional Park District, Solano Land Trust, California Department of Parks and Recreation, The Bay Conservation and Development Commission and the California State Lands Commission.

**1. NOAA and San Francisco State University:**

**Memorandum of Agreement**  
**Between the**  
**National Oceanic and Atmospheric Administration**  
**and the**  
**San Francisco State University**  
**Detailing the State-Federal Roles in the**  
**San Francisco Bay National Estuarine Research Reserve**

This Memorandum of Agreement (MOA) serves to establish the framework for coordination, cooperation and communication regarding the San Francisco Bay National Estuarine Research Reserve (SFBNERR). This agreement concerns the Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), whose address is 1305 East-West Highway N/ORM, Silver Spring, Maryland, 20910, and the San Francisco State University (SFSU), whose address is 1600 Holloway Avenue, San Francisco, CA 94132.

WHEREAS, the State of California has determined that certain waters and coastal habitats of the San Francisco Bay system provide representative opportunities to study natural estuarine and human processes occurring within an estuarine ecosystem; and

WHEREAS, the State of California finds that the resources of San Francisco Bay and its value to the citizens of California and the United States will benefit from the management of this site as part of the National Estuarine Research Reserve System; and

WHEREAS, NOAA has concurred with that finding, and may designate certain areas of San Francisco Bay as a National Estuarine Research Reserve 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; and

WHEREAS, SFSU is designated by the State of California and in the San Francisco Bay National Estuarine Research Reserve Management Plan (“Plan”) as the agency responsible for managing the reserve, as defined in the Plan; and

WHEREAS, the Plan describes the goals, objectives, plans, administrative structure, and institutional arrangements for the reserve, including this MOU and others; and

WHEREAS, SFSU acknowledges the need and requirement for continuing State-Federal cooperation in the long term management of the reserve in a manner consistent with the purposes sought through its designation.

NOW THEREFORE, in consideration of the mutual agreements contained herein it is agreed by and between SFSU and NOAA as follows:

#### ARTICLE 1: STATE-FEDERAL ROLES IN RESERVE MANAGEMENT

The following section describes the roles and responsibilities of the reserve partners. The obligations described for each reserve partner are subject to available funding.

##### A. State Role in Reserve Management

San Francisco State University, as the principal contact for the State of California in all matters concerning the reserve, will be responsible for ensuring that the reserve complies with management objectives of the Plan, the California Coastal Management Program, other applicable provisions of California law, Section 315 of the Federal Coastal Zone Management Act (CZMA), and the federal regulations of the National Estuarine Research Reserve System (NERRS). San Francisco State University will be the grant receiving office for the SFBNERR under Section 315 of the CZMA. Subject to available and authorized appropriations, SFSU’s responsibilities for plan implementation include the following:

1. Annually apply for, budget, and allocate funds received for SFBNERR operations, (e.g., education, research and monitoring programs), as well as for acquisition and facilities;
2. Conduct active research and monitoring programs that draw scientists from various institutions to work together on understanding coastal issues;

3. Conduct and maintain programs that provide materials, activities, workshops, and conferences that translate the research results to the resource users, regulators, and the public;
4. Provide a full-time, state-funded Reserve Manager, and endeavor to secure state-funding for Research and Education Coordinator positions to coordinate research, monitoring, education and translation of research results;
5. Secure facilities that will, among other things, include research laboratory, classroom, library, office, meeting, field equipment storage and interpretive display space;
6. Secure equipment to facilitate research and outreach activities that, among other things, will include boats, laboratory and field equipment, audiovisual, curriculum, reference materials and databases;
7. Maintain effective liaison with local, regional and state policy makers, regulators and the general public;
8. Serve as principal negotiator on issues involving proposed boundary changes and/or amendments to the Plan;
9. Respond to NOAA's requests for information and respond to evaluation findings made pursuant to Section 312 of the CZMA;
10. Expend funds in accordance with federal and state laws, the SFBNERR management plan, and annual appropriations; and
11. Ensure enforcement of the applicable provisions of California law, including the rules and regulations of the California Coastal Management Program, to protect the research reserve.
12. Coordinate and support research, monitoring, education, and management activities with staff at China Camp State Park, Rush Ranch, and Browns Island Regional Shoreline.

#### B. Federal Role in Reserve Operation

The Office of Ocean and Coastal Resource Management will serve to administer the provisions of Section 315 of the CZMA to ensure that the reserve operates in accordance with the goals of the NERRS and the Plan. These responsibilities are subject to the availability of appropriated funds. In carrying out its responsibilities, OCRM will:

1. Review and process applications for financial assistance to SFSU, consistent with 15 CFR Part 921 for acquisition, development, operations, education, research, and monitoring activities associated with the reserve;

2. This agreement does not create any obligation on the part of OCRM to award financial assistance.
3. Make periodic evaluations in accordance with Section 312 of the CZMA to measure SFSU's performance in Plan implementation;
4. Advise SFSU of existing and emerging national and regional issues; and
5. Establish an information exchange network cataloging all available research data and educational material developed on each reserve included within the reserve system.

#### C. General Provisions

1. Nothing in this agreement or subsequent financial assistance awards shall obligate any party in the expenditure of funds, or for future payments of money, in excess of appropriations authorized by law.
2. Both parties agree to comply with all applicable federal or State laws regulating ethical conduct of public officers and employees.
3. Each party will comply with all applicable laws, regulations, and executive orders relative to Equal Employment Opportunity.
4. Upon termination of this agreement or any subsequent financial assistance awards, any equipment purchased for studies initiated in furtherance of this agreement will be returned to the agency of initial purchase.
5. A free exchange of research and assessment data among agencies is encouraged and is necessary to insure the success of these cooperative studies.

#### D. Other Provisions

Nothing in this MOA diminishes the independent authority or coordination responsibility of each agency in administering its statutory obligations. Nothing herein is intended to conflict with current agency directives. If the terms of this MOA are inconsistent with existing directives of any agency entering into this agreement, then those portions which are determined to be inconsistent shall be invalid; but the remaining terms not affected by the inconsistency shall remain in full force and effect. At the first opportunity for review of this agreement, all necessary changes will be made by either an amendment to this MOA or by entering into a new MOA, which ever is deemed expedient to the interest of all Parties. Should disagreement arise on the interpretation of the provisions of this MOA, or amendments and/or revisions thereto, that cannot be resolved at the operating level, the area(s) of disagreement shall be stated in writing by each party and presented to the other parties for consideration.

ARTICLE II: REAL PROPERTY ACQUIRED FOR THE PURPOSE OF THE RESERVE

As well as agreeing to adhere to the rest of the provisions set forth at 15 CFR Part 921, SFSU 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 reserve purposes with Federal funds under Section 315 of the CZMA.

ARTICLE III. PROGRAM EVALUATION

OCRM will schedule periodic evaluations of the SFSU’s performance in meeting the terms of financial assistance awards, in implementing the Management Plan and in meeting the provisions of this MOA. Where findings of deficiency occur, NOAA may initiate action in accordance with the designation withdrawal procedures established by the CZMA and applicable regulations.

ARTICLE IV. EFFECTIVE DATE, REVIEW, AMENDMENT AND TERMINATION

This MOA is effective on the date of designation of the reserve. The MOA will be reviewed periodically. This MOA may be amended by the mutual consent of the parties. This MOA may be terminated by mutual consent of the Parties, or by NOAA if it withdraws designation of the areas as a National Estuarine Research Reserve, pursuant to applicable provisions of the CZMA and its implementing regulations as described under 15 CFR Part 923 Subpart L. Should this MOAU be terminated, reimbursement of unexpended funds shall be determined on a pro rata basis according to the amount of work done by the Parties at the time of termination. This MOA is subject to the availability of appropriated funds.

IN WITNESS THEREOF, the Parties hereto have caused this MOA to be executed.

\_\_\_\_\_  
Charles Ehler  
Acting Director  
Office of Ocean and Coastal  
Resource Management  
National Ocean Service  
National Oceanic and  
Atmospheric Administration  
U.S. Department of Commerce

\_\_\_\_\_  
Robert A. Corrigan  
President  
San Francisco State University

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**2: MOA between San Francisco State University, East Bay Regional Park District, Solano Land Trust, California Department of Parks and Recreation, The Bay Conservation and Development Commission and the California State Lands Commission.**

**MEMORANDUM OF AGREEMENT**

This Memorandum serves as an expression of intent among six parties-in-interest, to wit: San Francisco State University, the state lead agency; East Bay Regional Parks District; Solano Land Trust; California Department of Parks and Recreation; The Bay Conservation and Development Commission; and the California State Lands Commission.

Witnesseth:

WHEREAS, the State of California has received a grant from the United States Secretary of Commerce for the development and operation of certain portions of the San Francisco Bay Estuary (see Appended List) as the San Francisco Bay National Estuarine Research Reserve (the Reserve), and

WHEREAS, the purpose of this grant is to create new opportunities for coordinated San Francisco Bay estuarine resource management, research, monitoring, stewardship, and public education (the Program), and

WHEREAS, such Program has wide public support, as evidenced by the implementation of the Comprehensive Conservation and Management Plan for the San Francisco Bay Estuary, and the Baylands Ecosystem Habitat Goals Project and

WHEREAS, the parties-in-interest have evidenced support for such a Program through their approval of the 1992 Site Nomination Proposal for the San Francisco Bay National Estuarine Research Reserve,

NOW THEREFORE, in consideration of the mutual benefits to be derived from implementing this Program, the parties-in-interest agree to the following:

1. The lands described in the Appended List are hereby designated as sites belonging to the San Francisco Bay National Estuarine Research Reserve.
2. There shall be a program management plan for the reserve that provides a framework for conducting a specified Program on Reserve sites. Revisions of the program management plan shall be developed by the reserve staff and shall be subject to approval by a management advisory board composed of the parties-in-interest. The program management plan shall be reviewed periodically and revised as specified by NOAA and the management advisory board.

3. A primary purpose of the Program is to provide funding, staff, and other resources and guidance that will assist reserve land managing partners to develop site-specific activities that are consistent with the reserve management plan. This program will focus on identifying and conserving sensitive ecological resources, promoting on-site research and long term monitoring, engaging local communities in stewardship activities that support the conservation of sensitive reserve resources, and acting as a regional educational resource that serves the public of the San Francisco Bay and Delta region.

4. Reserve parties-in-interest agree to support the implementation of the reserve management plan. Issues that arise that may be contrary to the terms or intent of the management plan will be brought to the management advisory board for discussion and resolution by a consensus of its members. Irresolvable disputes will be mediated by State and Federal representatives approved by the management advisory board.

5. Multiple uses of reserve lands are encouraged to the extent that such uses are compatible with the program and its purpose as expressed in the management plan. Uses, and/or levels of use, which are not compatible with the goals of the reserve management plan shall be restricted by the agency having jurisdiction over the reserve site (or sites) in question.

#### 6. Management Structure

a. There shall be a management advisory board, comprised of one member from each of the parties-in-interest, that shall review the recommendations of reserve staff and shall act on behalf of the agencies having jurisdiction over sites comprising the Reserve. The advisory board will be a non-voting advisory body and will be supported by reserve staff. The management advisory board shall review the management plan periodically and shall advise SFSU regarding the adequacy of staff implementation of the management plan. A representative of NOAA shall serve as an ex-officio representative on the management advisory board.

b. SFSU shall implement the program by hiring and directing reserve staff, supervising and coordinating implementation of the provisions of the management plan, and by receiving and acting upon the recommendations of the management advisory board and participating site managers. The reserve staff will be directly responsible for program coordination with agency representatives having jurisdiction over reserve sites.

c. The Bay Conservation and Development Commission will assist in developing an advisory structure that provides the management advisory board with an appropriate linkage to the broader community so that its direction of the reserve reflects the concerns and ideas of this regional constituency.

8. No projects shall be carried out on reserve lands without the approval of the agency having jurisdiction over such lands. Such agency shall maintain all facilities built on its

lands in furtherance of a project, and shall cooperate with reserve staff in carrying out the approved program.

9. The reserve staff, management advisory board and appropriate advisory participants shall confer regularly to ensure coordination between the reserve program and the broader goals and mandates of regional coastal management programs that affect the San Francisco Bay Estuary.

10. This Memorandum shall not be construed to preclude additional transfers of property among the Signatories, nor to preclude additions of appropriate lands to reserve sites.

11. This Memorandum shall continue in perpetuity so long as the reserve program is funded and viable; additional participants may join by unanimous approval of the parties-in-interest, and this Memorandum may be amended or terminated by majority vote of the parties-in-interest at any time. Nothing in this Memorandum shall preclude the unilateral withdrawal of any of the parties-in-interest. In such an eventuality, it is understood that the lands of the withdrawing party would be de-designated from the reserve, and it is further understood that the federal Office of Management and Budget will take appropriate action with respect to repayment of grant funds as may be indicated by its regulations.

12. All Signatories agree that they will cooperate with the reserve program so that it can achieve its mission to serve as a regionally-scaled scientific and educational resource to help promote and recover the ecological health of the San Francisco Estuary and to create a more sustainable regional environment for future generations.

Signed,

San Francisco State University

By: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

San Francisco State University

By: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

California Department of Parks and Recreation

By: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

East Bay Regional Parks District

By: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

Solano Land Trust

By: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

San Francisco Bay Conservation and Development Commission

By: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

California State Lands Commission

By: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

Properties included in the San Francisco Bay National Estuarine Research Reserve

China Camp State Park – CA Department of Parks & Recreation.

Browns Island Regional Shoreline – CA State Lands Commission (owner) and East Bay Regional Parks District (lessee).

Rush Ranch Open Space Preserve – Solano Land Trust.

