

PARTNERING AGREEMENT
Between the
DETROIT DISTRICT CORPS OF ENGINEERS
and the
GREAT LAKES FISHERY COMMISSION (GLFC)

Dec 94

I. PURPOSE

The purpose of this agreement is to identify interrelated responsibilities of the Detroit District, U. S. Army Corps of Engineers (COE) and the Great Lakes Fishery Commission (GLFC), and to continue to foster interagency coordination for efficient accomplishment of agency missions. This Agreement establishes procedures through which the COE and the GLFC will interact and resolve issues to meet joint agency goals regarding an integrated sea lamprey management program that supports the fish community objectives for each of the Great Lakes and that is ecologically and economically sound, and socially acceptable. This Agreement also identifies liaisons within each agency to coordinate matters regarding COE and GLFC interactions.

II. GOALS

1. Improve interagency coordination for efficient accomplishment of agency missions.
2. Promote a cooperative relationship for achievement of mutual and beneficial goals.
3. Provide for fair and equitable treatment of each agency's concerns involving, or affected by, a COE project.
4. Contribute to a more thorough understanding of each agency's functions, responsibilities, and mission.

III. AGENCY RESPONSIBILITIES

A. COE Mission

The Detroit District's established geographical limits include all of the State of Michigan, and portions of Minnesota, Wisconsin, and Indiana, an area covering over 85,000 square miles, as well as 53,000 square miles of water (to international boundaries). In addition to its main office in Detroit, area offices are located at Kewaunee, Wisconsin; Duluth, Minnesota; and Grand Haven, Sault Ste. Marie, Saginaw, and Detroit, Michigan.

The Detroit District is a Civil Works District responsible for administering water resource programs in most of the Great Lakes Basin. Its mission includes the following activities: Investigate, plan, design, construct, operate and maintain projects authorized by the Congress, and the HQUSACE's Continuing Authorities Program, relating to rivers, harbors and waterways including the Soo Locks multi-purpose project. Such projects include navigation, hydropower, flood control, beach erosion, environmental restoration, waste water management, recreation, museums, visitor centers and other authorized purposes. The mission further involves administering of the Corps regulatory and readiness programs, and Flood Plain Management Services, Planning Assistance to States, and Partners for Environmental Progress Programs. Its activities are undertaken in accordance with the National Environmental Policy Act and other applicable laws.

B. GLFC Mission

1. The GLFC has two major responsibilities; first, to develop coordinated programs of research in the Great Lakes and, on the basis of findings, recommend measures which will permit the maximum sustained productivity of stocks of fish of common concern; second, formulate and implement a program to eradicate or minimize sea lamprey populations in the Great Lakes.

2. In 1990, the Commission reviewed its current programs and developed a Strategic Vision to provide an explicit statement of the focus, intent, and direction of Commission programs through the year 2000. The Strategic Vision is composed of specific statements covering three areas:

- Healthy Great Lakes ecosystems;
- Integrated Management of Sea Lamprey; and
- Institutional/Stakeholder Partnerships.

The Integrated Management of Sea Lamprey Vision Statement, which is applicable to this partnering agreement, states "The Commission will provide an integrated sea lamprey management program that supports the Fish community objectives for each of the Great Lakes and that is ecologically and economically sound and socially acceptable." Milestones are established for each vision statement. The applicable milestones for Integrated Management of Sea Lamprey are:

(a) Establish target levels of sea lamprey abundance by 1994 that maximize net benefits of sea lamprey and fisheries management.

(b) Suppress sea lamprey populations to target levels through an optional program of control, assessment, and research. This program will be characterized by:

- (i) Maintenance of lampricide registrations with environmental agencies;
- (ii) Development and use of alternate control techniques to reduce reliance on lampricides to 50% of current levels;
- (iii) Development of quantitative assessment and improved control technologies for lentic areas and connecting channels; and
- (iv) Improvement of information gathering and research through program coordination among sea lamprey control agents, fish management agencies, other agencies, private groups, and researchers.

3. The Commission has developed a policy statement on the role of barriers in an integrated sea lamprey control program. The Commission's barrier policy covers lamprey trapping and fish passage. A barrier may be any device or structure which blocks or limits the migration of sea lamprey to spawning habitat in a river. These devices include low-head and electrical barriers which are currently in use, the modification of existing dams or structures into barriers, and potential new technologies as they become available. The benefits from barriers designed specifically for sea lamprey control outweigh the disadvantages. Proper design and knowledgeable selection of streams and sites minimize adverse effects on the ecosystem. The Commission is in the process of finalizing a sea lamprey barrier implementation strategy. This implementation strategy will provide a priority-ranked list of all potential barrier projects using existing technologies.

IV. AGENCY AUTHORITIES

A. COE AUTHORITIES

The U. S. Army Corps of Engineers has a number of authorities for assisting in preserving, protecting, and restoring the environment which could be applicable to a sea lamprey management program. The following discusses three (3) authorities that may be applicable:

1. Project Modifications for Improvement of the Environment (Section 1135(b)), Water Resources Development Act of 1986, as amended). The COE may provide up to \$5,000,000 in one locality during any fiscal year for modifications in structures or operation of a project constructed by the Secretary of the Army (i.e., a COE project). Such modifications should result in improvement of the quality of the environment. The goal should be the restoration of habitat that could be expected to sustain modern historic fish and wildlife resources, and there must be a clear connection between the location of the proposed modification and the original project. If work is proposed on lands not contiguous to existing project lands, then the areas must be within the area impacted by the original project; the acquisition of additional lands should be kept to a minimum; and modifications may address non-project induced degradation as long as the resource is not restored beyond modern historic conditions and only existing project lands are required. Section 1135(b) is a cost shared authority where a non-Federal project sponsor shares 25% of the study, design, and construction cost of the modification. Operation and maintenance of the project would be 100% non-Federal. Non-Federal sponsors may include private interests and non-profit environmental groups as well as government agencies and international commissions.

2. Great Lakes Remedial Action Plans (Section 401 of the Water Resources Development Act of 1990, as amended). This section authorizes the Corps of Engineers to provide technical, planning, and engineering assistance to states and local agencies in the development and implementation of Great Lakes Remedial Action Plans (RAP). A 50% non-Federal contribution to the costs of such assistance is required.

3. Planning Assistance to States (Section 22 of the Water Resources Development Act of 1974, as amended). The Corps of Engineers is able to support States and Tribes in their comprehensive planning for the development, utilization, and conservation of water and related land resources. Annual support of each State or tribe can not exceed \$300,000, and program activities are cost shared on a 50%-50% basis.

The COE also administers a Support for Others (SFO) Program (ER 1140-1-211). Under the SFO program, the Detroit District provides a variety of services to other non-DOD (Department of Defense) Federal and non-Federal agencies. The District provides planning, engineering, design, real estate, construction contracting and construction management services to others on a reimbursable basis. Construction management and oversight services to the Environmental Protection Agency's Superfund program, and support of the Federal Emergency Management Agency's (FEMA) Flood Insurance Program are two examples of activities that fall in the SFO category.

B. GLFC AUTHORITIES

1. The GLFC was established by the Convention on Great Lakes Fisheries between Canada and the United States, which was ratified on October 11, 1955. It was organized in April 1956 and assumed its duties as set forth in the Convention on July 1, 1956.

2. The Commission is funded annually by the United States and Canadian Governments on a ratio of 69% and 31% respectively, based on historical commercial catches of lake trout before the impact of the sea lamprey. The Commission works on the United States Government fiscal year of October 1 to September 30. The Commission enters into annual memoranda of agreement (MOA) with the U. S. Fish and Wildlife Service and the Canada Department of Fisheries and Oceans as its agents to carry out the operational phase of the sea lamprey program. It is in the MOA that the annual barrier maintenance and construction elements of the program are addressed.

3. The Commission will provide financial assistance through a grant program of funds available for barriers, directly to agencies of the eight Great Lakes States, the U.S. and Canadian agent, the Province of Ontario, Tribal governments, and other public and private interests as applicable for the acquisition or leasing of sites for sea lamprey barriers, for the design and construction of barriers, for the modification of existing structures to make them effective lamprey barriers, and for the annual operation and maintenance of barriers. The Commission will seek appropriations for funds from Canada and United States governments commensurate with program requirements as set forth in a coordinated strategic plan developed by its barrier program coordinators and recommended by its advisory committees.

4. Partner agencies of the Commission may acquire or lease barrier sites and design, construct, operate, and maintain sea lamprey barriers. The title, lease or agreement for a barrier site and for barrier appurtenances shall be held by the appropriate agency. All responsibility and liability for the acquisition of the site and construction, operation and maintenance of the barrier will lie with the partner agency as applicable law may provide.

The Commission recognizes the institutional limitations of some Great Lakes partner agencies to fully deliver the barrier program within their respective jurisdiction. In such instances, the Commission will utilize the expertise of the contract agent, other partners, or outside consultants to plan, engineer, design, and construct lamprey barriers while maintaining the interest of the partner agency. For example, agreements with the U. S. Army Corps of Engineers may be possible where the Corps performs preliminary design, engineering and environmental assessment activities and oversees construction. It is understood that each partner agency will retain final approving authority.

V. AGREEMENT

A. COE Procedures

1. The COE will provide the GLFC with a list of all COE Civil Works projects in the Great Lakes, including past, current, and planned projects. The COE will provide an update of this list on no less than an annual basis. The GLFC will use this list to identify where the COE authority may coincide with locations and priorities the Commission has for the construction of new barriers or the modification or maintenance of existing barriers.

2. The COE will provide to GLFC, upon request, access to project data, including soil borings, environmental studies, water quality analyses, land and aerial surveys, and topographic data, and photographs.

3. The COE, to the extent authorized and compatible with Federal Laws and Regulations, will comply with GLFC and State permit submittal requirements, as well as any other applicable local requirements, where the COE becomes involved in a Commission barrier project.

4. Where the COE agrees to enter into a specific Commission barrier project, the COE will participate in the development of a separate agreement with the Commission and applicable State or Tribal agency. This agreement will identify what aspects of the barrier project each cooperator is responsible for, the time frame involved, and how all costs will be shared.

5. The COE staff will report, semi-annually, to the Detroit District Engineer on the progress resulting from the partnering agreement with the Commission and any specific barrier contracts resulting from the partnering agreement.

B. GLFC Procedures

1. Upon Commission approval of the GLFC barrier implementation strategy, the Commission's Sea Lamprey Program Manager and U. S. and Canadian Barrier Coordinators will meet with the appropriate COE Detroit District Office staff to determine where there are opportunities for cooperation in the delivery of the GLFC's barrier program. Where specific barrier project opportunities are identified, a follow-up meeting will be held with COE staff, the GLFC's barrier coordinators, and appropriate State or Tribal representatives, to develop project details.

2. Where staff agreement is reached on a potential cooperative barrier project, a draft agreement will be developed. Each agency representative will be responsible for getting their agency's official approval of the draft. The GLFC approval and funding decisions on barrier projects in a given fiscal year will occur at the GLFC Interim Meeting in December. The approval review process will require proposals to be completed by mid-October. Further considerations or additional projects could be considered at the GLFC Annual Meeting in June. Proposals would have to be available in mid-April for this meeting. If any one agency is unable to obtain approval of the draft proposal, the representatives that drew up the proposal will meet again and attempt to resolve any difficulties.

3. Once a year, the Sea Lamprey Program Manager will report to the Commission on the progress resulting from the partnering agreement with the COE and any specific barrier contracts resulting from the partnering agreement.

VI. LIAISON CONTACTS

The COE and the GLFC agree to establish liaison contacts for each agency's critical functions.

A. Liaisons for the COE are:

Regulatory Function: Mr. Gary Mannesto, P.E., Chief, Regulatory Functions Branch,
(313)226-2432.

Dredging: Mr. Douglas Zande, P.E., Chief, Operation and Maintenance Branch,
(313)226-6796.

Planning Activities: Mr. Dale Monteith, P.E., Chief, Planning Branch, (313)226-7474.

Section 401 Coordination: Mr. Les Weigum, Chief, Environmental Analysis Branch,
(313)226-6752;
Ms. Colette Luff, Planning Branch (313)226-7485.

Section 1135(b) Coordination: Ms. Jinane Karmo, Planning Branch, (313)226-2205;
Mr. Terry Long, Planning Branch (313)226-6758.

B. Liaisons for the GLFC are:

Commission Barrier Program: Mr. Mike Millar, Sea Lamprey Program Manager,
(313)662-3209.

U. S. Agent and State/Tribal: Ms. Ellie Koon, U.S. Barrier Coordinator,
(616)845-6205.

Engineering: Mr. Tom McAuley, Canadian Barrier Coordinator, (705)941-3013.

VII. PROBLEM RESOLUTION

The purpose of this Agreement and the establishment of liaison contact is to avoid, whenever possible, disagreement between the two agencies. When a disagreement cannot be resolved to the satisfaction of either agency through the liaisons listed in section VI, the problem will first be referred to the following for resolution:

For the COE: Mr. David Dulong, P.E., Chief, Engineering & Planning Division,
(313)226-6766;
Mr. William Willis, P.E., Acting Chief, Construction-Operations
Division, (313)226-6794.

For the GLFC: Mr. Chris Goddard, Executive Secretary, (313)662-3209.

VIII. OTHER

A. Nothing in this Agreement alters the statutory authority of either the COE or the GLFC, or transfers any authority from one agency to the other.

B. This Agreement is not a contract and it does not create any enforceable contract rights, duties, or obligations.

C. The COE and the GLFC understand and agree that obligations under this Agreement are subject to the availability and allocation of appropriated funds for such purpose.

IX. REVIEW PROCEDURES

The COE and the GLFC will review this Agreement at least once annually, beginning within one year of signature by both parties. During the annual review meeting, updated organization charts and other relevant documents will be exchanged, as discussed in previous sections of this Agreement. The COE and the GLFC will notify each other in a timely manner of any changes in liaison contacts or agency heads.

Signed:

Handwritten signature of Randolph O. Buck, dated 13 Dec 94.

RANDOLPH O. BUCK, COL.
District Engineer
U. S. Army Corps of Engineers

Handwritten signature of C. D. Besadny, dated 14 Dec 94.

C. D. BESADNY
Chairman
Great Lakes Fishery Commission