

MEMORANDUM OF AGREEMENT
BETWEEN
THE FISH AND WILDLIFE CONSERVATION COMMISSION (FWC)
AND
THE DEPARTMENT OF ENVIRONMENTAL PROTECTION (DEP)
RELATED TO THE FWC FLORIDA MARINE RESEARCH INSTITUTE (FMRI)

The legislature has defined the general mission of the Florida Marine Research Institute within the Fish and Wildlife Conservation Commission and has recognized that, at a minimum, the following FMRI mission elements are important to the continuing mission of the Department of Environmental Protection:

- (a) Environmental monitoring and assessment;
- (b) Restoration research and development of restoration technology; and
- (c) Technical support and response for oil spills, ship groundings, major marine species die-offs, hazardous spills, and natural disasters

The legislature has further recognized that a Memorandum of Agreement should establish the continued exchange of technical support between DEP and FMRI in the best interest of DEP and the FWC and the State of Florida. Each agency provides resources and technical expertise that can be critical to the success of the agency missions. This MOA provides the foundation for agency cooperation and continues interagency partnerships and responsibilities.

It is recognized by FWC and DEP that funding can limit support provided by FMRI or DEP. The agencies shall work together to ensure that the minimal amount of funding is available to perform expected tasks and technical support where appropriate.

I. ENVIRONMENTAL MONITORING AND ASSESSMENT

A. The FMRI will continue to the extent that funding is available, existing environmental monitoring and assessment programs that provide data and information on the ecological condition of Florida's estuarine waters and provide that information to the DEP in a timely fashion.

B. The FMRI will provide monitoring (status and trends) information consisting of measurements and indices related to the sustained ecological health of estuarine systems upon request. When collected, data will provide information on water quality, accumulation of pollutants, and the status of other habitats, coral reefs, fish and shellfish. DEP will provide to FMRI annual data, if the data is available, on the permitted alteration of marine resources. This shall include dredge and fill and other related permitting activities.

DEP will work cooperatively with FMRI in securing state and federal funds for enhancing the state's capability to monitor status and trends of marine resources. Staff of the DEP bioassessment program and other DEP programs and staff of FMRI will work in partnership, without duplication of effort, to monitor the status and trends of estuarine and marine resources.

C. The FMRI will assess the estuarine and marine component of acute environmental perturbations such as harmful algal blooms (HAB) and marine organism die-offs or disease. These data may include HAB cell counts, documentation of mortality events by species, water samples and biological samples for DEP analysis.

D. FMRI will work closely with the DEP Bureau of Laboratories to ensure that chemical, physical, and biological analyses of samples collected during marine monitoring activities will be conducted cost-effectively, using appropriate scientific techniques and quality assurance/quality control procedures. FMRI will annually establish a blanket contract for routine services provided by the Bureau of Laboratories. FWC and DEP will work to develop a funding source and mechanism to be used for natural resource emergencies for which both agencies have responsibility.

E. FMRI will continue to work closely with the bioassessment program and ambient monitoring program in the DEP Division of Water Resource Management (DWRM) to comprehensively assess the quality of all water resources in the state. The DEP DWRM will include FMRI in the planning process for developing and maintaining coastal water quality monitoring.

F. FMRI will provide technical guidance and assist the DEP Division of Resource Assessment and Management, Bureau of Laboratories and the DEP DWRM in developing biologically-based environmental indicators (biocriteria) for marine and estuarine waters in the state.

G. The DEP Office of Coastal and Aquatic Managed Areas (CAMA), Apalachicola Estuarine Research Reserve staff and FMRI staff will work cooperatively to mutually support the fisheries and environmental monitoring programs in the Apalachicola region. Pursuant to a separate agreement, FMRI will pay CAMA appropriately for office and other space being used and for utilities and other office services being provided.

H. The DEP's Florida Geological Survey and FMRI will continue to cooperate in the sharing of data, information, and resources concerning Florida's coastline, estuaries, and marine resources.

I. FMRI and DEP will cooperate and support partnerships with the West Coast Inland Navigation District (WCIND). When appropriate, FMRI will provide technical information and advice to DEP and WCIND on environmental issues related to WCIND activities.

II. RESTORATION RESEARCH AND DEVELOPMENT OF RESTORATION TECHNOLOGY

A. FMRI will provide technology transfer of propagation and planting techniques for sea grasses as they are developed. DEP will assist in securing funding to continue this valuable program as long as the program continues to be useful to DEP.

B. DEP recognizes that many restoration and research activities conducted by FMRI are likely to produce only minimal or insignificant individual or cumulative adverse impacts

on the water resources of Florida. These activities are generally described in the workplan of FMRI. Such activities may be authorized by the DEP as follows:

1. For projects needing emergency action for immediate restoration or repair, FMRI may either:

a. Request the Secretary of the DEP to issue an emergency order authorizing the activities under section 373.119, F.S.;

b. Submit an application for an environmental resource permit under the emergency authorization provisions in: rules 40B-1.709(7) or 40B-4.1150, F.A.C. (Suwannee River Water District); rules 40C-4.451 or 40C-4.481, F.A.C. (St. Johns River Water Management District); rules 40D-1.907, 40D-4.451, or 40D-4.481, F.A.C. (Southwest Florida Water Management District); or rule 40E-4.451, F.A.C. (South Florida Water Management District) to the appropriate district office of the DEP; or

c. Request authorization for temporary measures under the Class A or Class B procedures under section 62-312.090, F. A. C., within the geographic limits of the Northwest Florida Water Management District from the Northwest District office of the DEP.

2. For other projects which are not expected to require emergency relief from the Department, specific project descriptions and requests for a *de minimis* exemption will be submitted by FMRI in writing to the district office of the DEP for consideration under 373.406(6), F.S. At the same time, DEP, as staff to the Board of Trustees of the Internal Improvement Trust Fund, will as expeditiously as possible, provide a decision on the use of sovereign submerged lands, where such lands are affected by the project. In instances where such activities are determined by the DEP to not qualify for a *de minimis* exemption, FMRI will apply for an individual or noticed general permit for the work. (FMRI may also seek the DEP or a WMD to be a co-applicant for a noticed general permit under 62-341.485/40X-400.485, F.A.C.).

Whenever feasible, FMRI staff agrees to first discuss the nature of proposed projects with DEP district staff in advance of making any application. DEP staff agree to provide FMRI staff with information on the most expeditious mechanism to authorize the work, and to discuss any informational needs.

DEP will provide training to district staff that includes reference to this MOA and the procedures that may be used by FMRI for restoration and research activities. In turn, FMRI will provide training to its staff to assure compliance with district processes for evaluating the above forms of authorization.

C. FMRI will provide technology transfer of coral repair and replanting techniques.

D. FWC will provide an annual transfer of Marine Resource Conservation Trust Fund (MRCTF) Marine Life Endorsement revenue to support mooring buoy maintenance in the Florida Keys. This transfer shall be subject to annual review of expenditures and revenues.

III. TECHNICAL SUPPORT AND RESPONSE

A. Oil Spills and Hazardous Spills

1. FMRI will maintain the Marine Spill Analysis System (MSAS) for the DEP Bureau of Emergency Response (BER) and provide system updates as needed. FMRI and BER will cooperate to develop an annual CAMRA (Coastal and Marine Resource Assessment program) Spill Response Plan.

2. FMRI will provide training in MSAS capabilities and use to designated BER personnel on a yearly scheduled basis.

3. FMRI will participate with BER in a minimum of two spill exercises during each year, preferably with the U.S. Coast Guard and industry participation.

4. FMRI will provide scientific support and coordination to BER on spill response methodologies and emerging technologies as they relate to enhanced environmental protection and injury assessment.

5. When significant spills occur, FMRI will provide BER with enhanced MSAS and scientific support coordination. This may require dispatching personnel and appropriate equipment to the Incident Command headquarters to enable optimal assistance in spill response and the initiation of injury assessment for use in Natural Resource Damage Assessment (NRDA) claims. In such cases, FMRI will represent the interests of biological divisions and units of the Fish and Wildlife and Conservation Commission, and solicit necessary FWC staff input or staff participation during Incident Command meetings.

6. In the event of a significant spill, FMRI will provide leadership and assistance in the collection of data for the protection of marine resources and assessment of injury to resources for damage assessments, and will, upon reasonable notice, make its personnel available for consultations, depositions, hearings, or trials when DEP seeks to recover natural resource damages.

7. DEP will provide funding to FWC for response activities related to pollutant discharges into or upon any coastal waters, estuaries, tidal flats, beaches and lands adjoining the seacoast of the state on an incident specific basis in an immediate and timely manner by a journal transfer or other appropriate means.

B. Ship Groundings

1. In the event of a significant vessel grounding or similar incident, FMRI will provide leadership and assistance in the collection of data for the protection of marine resources and assessment of injury to resources for damage assessments, may provide assistance with implementation of restoration, and will, upon reasonable notice, make its personnel available for consultations, depositions, hearings, or trials when DEP seeks to recover natural resource damages.

2. FMRI assessment, restoration, and monitoring costs will be included in damages which DEP attempts to recover from responsible parties. FMRI will provide

adequate cost documentation to assist in such cost recovery. To the extent such costs are recovered, FMRI and DEP will be reimbursed for their respective costs not yet paid.

3. To the extent funds are available for the purpose and with approval from the Board of Trustees, DEP and FMRI may both be advanced funds from the Ecosystem Management and Restoration Trust Fund (EMRTF) for anticipated travel and other out-of-pocket costs for damage assessment and litigation in ongoing grounding cases.

C. Major Marine Species Die-Offs

1. FMRI will maintain and update manatee epizootic contingency plan and provide real time data and findings from large-scale manatee mortality events.

2. In the case of fish kills, FMRI will provide real time data and findings from large events if water discharge or pollution under DEP jurisdiction is implicated, or if requested by DEP.

D. Natural Disasters

FMRI will provide technical assistance as needed in instances of natural disasters.

E. General

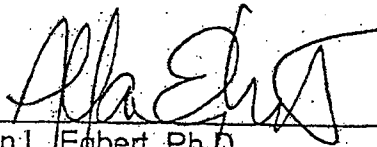
1. As necessary, FMRI will provide technical support in other matters within DEP authority, including but not limited to permitting decisions.

2. Whenever FMRI provides technical support to DEP in a matter for which DEP seeks to recover costs or damages, DEP will include FMRI's recoverable costs in the total amount sought. FMRI will provide adequate documentation to assist DEP in recovering FMRI's costs.

3. The FWC and DEP will meet annually to incorporate DEP research priorities into the FMRI operational plan as appropriate.

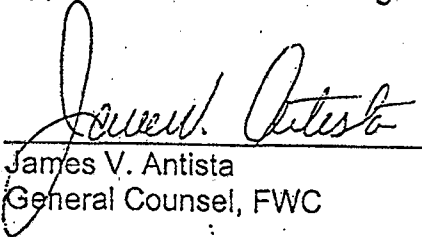
4. If at any time after the completion of this agreement either the FWC or the DEP need to modify or cease operating pursuant to the requirements of a particular provision within this agreement, the party needing to modify shall contact the other party to the agreement and request to hold a meeting to negotiate the necessary changes. Six weeks shall be allowed for the parties to arrange to initially meet to begin discussions on proposed amendments to the agreement. The parties shall operate in good faith, and shall meet as many times as is necessary to revise the agreement to both parties mutual satisfaction. Until such time as a new written agreement is reached, all parties shall operate under the terms of the existing MOA.

DONE AND AGREED TO this 31st day of January, 2000, in the City of Tallahassee, Leon County, Florida, by:



Allan L. Egbert, Ph.D.
Executive Director
Fish and Wildlife Conservation Commission

Approved as to form and legality:



James V. Antista
General Counsel, FWC



David B. Struhs
Secretary
Department of Environmental Protection

Approved as to form and legality:



David G. Pius
Senior Assistant General Counsel, DEP