



**Memorandum of Understanding between
The Nature Conservancy, U.S. Environmental Protection Agency,
and Association of Clean Water Administrators
to Promote the Healthy Watersheds Initiative**

I. Purpose

The purpose of this Memorandum of Understanding (MOU) is to formalize a mutual collaboration between The Nature Conservancy's (the Conservancy) North America Conservation Region, the U.S. Environmental Protection Agency's (EPA) Office of Water/Office of Wetlands, Oceans and Watersheds, and the Association of Clean Water Administrators (ACWA), as all three parties strive to develop and implement Healthy Watersheds Initiative (HWI) programs throughout states and regional aquatic ecosystems.

II. Background

The mission of The Nature Conservancy is to conserve the lands and waters on which all life depends. The Conservancy's North America Freshwater Strategy (Strategy) calls for the protection of key physical and ecological processes, and encourages system-scale basin management across river and freshwater systems in the U.S. This Strategy was established to advance national policies, programs, and partnerships that promote sustainable management of large river and lake systems.

As the national voice of State and Interstate water programs, ACWA strives to protect and restore watersheds to achieve "clean water everywhere for everyone." The Association strives to maintain a vibrant national organization that serves as the national voice for State clean water program concerns, facilitates technical and policy innovation among national and State water programs (best practices), and fosters the collaboration needed for sound public policy.

EPA's mission is to protect human health and the environment. EPA's Office of Wetlands, Oceans and Watersheds promotes a watershed approach to manage, protect, and restore the water resources and aquatic ecosystems of our marine and fresh waters. This strategy is based on the premise that water quality and ecosystem problems are best solved at the watershed level and that local citizens play an integral role in achieving clean water goals. As part of a well-balanced national water program, EPA's work with states, tribes, and other partners and stakeholders to meet the EPA strategic goal of protecting healthy watersheds and high quality waters and restoring watersheds and aquatic ecosystems, is a critical EPA priority. EPA's HWI is intended to protect the Nation's remaining healthy watersheds, prevent them from becoming impaired, and accelerate restoration successes.

The EPA HWI is a voluntary initiative whose key elements are to¹:

- 1) Work with our state and other partners to identify healthy watersheds state-wide and to develop and implement healthy watershed protection plans that set priorities and leverage programs and resources across state agencies and their partners,
- 2) Integrate protection of healthy watersheds into EPA programs, and

¹ *Healthy Watersheds Initiative: National Framework and Action Plan*. EPA, August 2011. Publication Number: EPA 841-R-11-005. http://water.epa.gov/polwaste/nps/watershed/hwi_action.cfm.

- 3) Increase awareness and understanding of the importance of protecting our remaining healthy watersheds including the ecological services, economic benefits, and cost savings they provide, as well as the range of management actions needed to protect and avoid adverse impacts to those healthy watersheds.

Given the aforementioned shared interest of EPA, the Conservancy, and ACWA, the collaboration and participation from each party in the implementation of the HWI and watershed protection strategies on a state and regional ecosystem scale can help sustain an integrated ecological network or infrastructure of healthy watersheds.

III. Authorities and Agency Priorities

- A. Promoting a national water program that restores impaired waters and considers as a priority the protection of healthy watersheds, including the maintenance of restored waters, will allow EPA to meet Strategic Plan Objectives efficiently and cost-effectively (*EPA Strategic Plan for 2011-2015*, Goal Two, Objective Two).
- B. EPA acknowledged the commitment of increased focus on protecting healthy waters and watersheds as a key action for achieving our clean water goals in EPA's *Coming Together for Clean Water: EPA's Strategy to Protect America's Waters*².
- C. If successfully implemented, the HWI promises to greatly enhance the ability to meet the Clean Water Act Section 101(a) objective of restoring and maintaining the chemical, physical, and biological integrity of the Nation's waters by protecting healthy watersheds as dynamic systems interconnected in the landscape.

IV. Collaboration Objectives

Through this MOU, the Conservancy, ACWA, and EPA (collectively referred to hereafter as "Parties") have as their objective to formalize a mutual collaboration with the purpose to develop and implement HWI programs in states and regional aquatic ecosystems (regions). Program development and implementation can include the following activities occurring within states and regions as mutually agreed upon by the Parties:

- identification of potential HWI implementation projects with states;
- assessment of all elements of watershed health (green infrastructure, hydrology, geomorphology, and biotic, habitat, and chemical condition);
- identification of existing studies, field projects, and operational programs that can serve as a foundation for implementation of a healthy watershed program;
- strategic planning to identify whole-system protection priority actions and restoration actions to achieve healthy watershed goals;
- stakeholder dialogue to define commitments and capacity to implement healthy watershed program plans;
- identification of opportunities to integrate Federal and state government policies and programs to support implementation of healthy watershed strategies;
- dissemination of technical tools and resources to support healthy watershed program implementation;
- development and sharing of educational and scientific information important to the identification and protection of healthy watersheds and high quality waters; and
- data gathering/data sharing and evaluation of conservation and environmental outcomes resulting from the implementation of state and regional healthy watershed programs.

This MOU seeks to facilitate the abovementioned efforts by outlining means of collaboration, communication mechanisms, and methods for the implementation of activities.

² <https://blog.epa.gov/waerforum/wp-content/uploads/2011/04/ComingTogether-for-CleanWater-FINAL.pdf>

This MOU does not preclude the Parties from establishing similar agreements and/or contracts with other individuals, corporations, agencies, and public or private organizations. The Parties recognize the importance of continuing to cooperate and work with other partners in programs of mutual interest and to be able to, by means of a written document signed by all Parties, invite other partners to participate in the activities implemented under this MOU.

V. Responsibilities of the Parties

Within the context of this MOU, the parties intend to work collaboratively to achieve the following goals:

A. The Conservancy Responsibilities

Within the context of this MOU, the Conservancy intends to work collaboratively with EPA and ACWA to assist in developing HWI programs through the following activities undertaken at the national level and through the selective actions of individual Conservancy state field offices:

- Providing technical tools, resources, and expertise to support HWI national program goals (e.g., promoting greater use of the Conservancy's Active River Area and ELOHA flow models);
- Providing technical input as needed for developing integrated healthy watershed assessments, setting watershed protection and restoration goals, and devising strategic healthy watershed program plans in states and regions;
- Providing in-kind support for program development in the form of technical assistance, facilitation of dialogue, communication of information, and in-kind capacity-building for healthy watershed program start-up activities (e.g., scientific assessment and pilot testing of innovative healthy watershed program approaches);
- Facilitating dialogue and fostering constructive participation by Conservancy contacts in government at all levels and in communities and non-governmental organizations;
- Providing field projects and programs as mechanisms for testing and implementing HWI approaches in states and regions;
- Gathering data and tracking progress of HWI projects under this MOU, in collaboration with EPA and other stakeholders, and disseminating information through reports, public meetings, and by other means; and
- Identifying this healthy watershed program partnership as a strategic priority for the Conservancy for the duration of this MOU, to be reflected in strategic plans and program guidance, including operating guidance to field offices.

B. EPA Responsibilities

Within the context of this MOU, EPA intends to work collaboratively with the Conservancy and ACWA to achieve HWI objectives in states and regions. EPA's responsibilities under this MOU include the following:

- Supporting the development of integrated healthy watershed assessments, goals, and program plans in states and regions, together with the Conservancy and ACWA;
- Providing support for healthy watershed program development in the form of technical assistance, facilitation of dialogue, and communication of information for program activities such as data gathering, scientific assessment, program inventories, and pilot testing of innovative watershed protection and restoration approaches;
- Facilitating dialogue with and fostering constructive participation from essential contacts throughout EPA, including regional and geographic program offices;
- Participating in and supporting the implementation of agreed upon state and regional HWI action plans, including necessary EPA regional and geographic office support;
- Considering government policy actions to support implementation of state and regional HWI programs;
- Gathering data and tracking progress of HWI projects under this MOU, in collaboration with the

Conservancy and other stakeholders, and disseminating information through reports, public meetings, and by other means; and

- Identifying the healthy watershed program as a strategic priority for EPA's Office of Wetlands, Oceans and Watersheds for the duration of this MOU, to be reflected in strategic plans and program guidance, including operating guidance to field offices; today's MOU is an important action to help implement this priority.

C. ACWA Responsibilities

Within the context of this MOU, ACWA intends to work collaboratively with EPA and the Conservancy to achieve HWI objectives in states and regions. ACWA's responsibilities under this MOU include the following:

- Supporting the development of integrated healthy watershed assessments, goals and program plans in states and regions, by facilitating dialogue and transfer of information amongst the states, and between the states, EPA, and the Conservancy;
- Supporting healthy watershed program development in the form of facilitation of dialogue and communication of information for program activities such as data gathering, scientific assessment, program inventories, and pilot testing of innovative watershed protection and restoration approaches;
- Facilitating dialogue and fostering constructive participation from essential state contacts;
- Supporting the implementation of agreed upon state and regional HWI action plans; and
- Sharing information pertaining to state protection efforts, including 319 Program Reforms, 303(d) Program Vision and Source Water Protection efforts, and facilitating the transfer of such information.

VI. Collaboration Outcome Measures

On a periodic basis, the Parties intend to develop and publish a report detailing the progress made toward promoting the protection of healthy watersheds via the collaborated efforts of the Conservancy, EPA, and ACWA. This jointly developed report will focus on tracking the programmatic and environmental outcomes resulting from the implementation of state and regional healthy watershed projects under this MOU including any field projects and programs that test and implement HWI approaches in states and regions. More specifically, information will be provided on efforts to establish healthy watershed partnership programs with participating states, starting with: Minnesota, Tennessee, Virginia, Washington, and Wisconsin. The report will be shared with states and regions.

The Parties intend to meet periodically to track the progress related to the abovementioned activities. During these meetings, attention will also be directed at efforts to promote the sharing of educational and scientific information such as, but not limited to, data gathering/data sharing of watershed health assessments and healthy watershed implementation projects, as well as efforts to explore the opportunities to provide for temporary personnel exchanges between the Parties.

VII. Principal Contacts

The principal contacts for each of the Parties will be:

For EPA:

Denise M. Keehner
Director, Office of Wetlands, Oceans and Watersheds
U.S. Environmental Protection Agency
Phone: 202-566-1566
E-Mail: keehner.denise@epa.gov

Laura Gabanski
National Program Manager for the Healthy Watersheds Initiative
U.S. Environmental Protection Agency
Phone: 202-566-1179
E-Mail: gabanski.laura@epa.gov

For the Conservancy:

Scott Davis
Director of Conservation Programs, Central Division
The Nature Conservancy
Phone: 615-383-9909
E-Mail: sdavis@tnc.org

Lise Hanners
Director of Conservation, Eastern Division
The Nature Conservancy
Phone: 203-226-4991
E-Mail: lhanners@tnc.org

Laura Hubbard
Director, Conservation Western Division
The Nature Conservancy
Phone: 208-788-8988
E-Mail: lhubbard@tnc.org

For ACWA:

Alexandra Dunn
Executive Director and General Counsel
Association of Clean Water Administrators
Phone: 202-756-0600
E-mail: adunn@acwa-us.org

These principal contacts may be changed at any time by means of advance notice to the other Party.

VIII. Enforceability

This is a voluntary agreement that expresses the good-faith intentions of the Parties and is not enforceable by any party. This MOU is not intended to be legally binding nor is it capable of generating any contractual obligations.

IX. Limitations

- A. This MOU is neither a fiscal nor funds obligation document. All of EPA's activities are subject to the availability of appropriations.
- B. This MOU does not create any right or benefit, substantive or procedural, enforceable by law or equity, by persons who are not party to this agreement, against the Conservancy, EPA, or ACWA, their officers or employees, or any other person. This MOU does not direct or apply to any person outside of the Conservancy, EPA, or ACWA.
- C. The Conservancy and ACWA may make factual statements to the public which describe their cooperation with EPA. Under Federal ethics rules, EPA may not endorse products or services provided by non-federal entities. Nothing in this MOU constitutes an endorsement by any party of the products, services, and/or fundraising activities of the others. The Conservancy and ACWA agree not to make any statements to the public at workshops or meetings, in news releases, product brochures, on web sites or in any media that imply that EPA or any of its employees supports or endorses the Conservancy or ACWA, their products or services. In addition, the Conservancy and ACWA agree not to make statements that imply that EPA supports the Conservancy's or ACWA's efforts to raise public or private funds. Any formal or official statements or promotional materials prepared by the Conservancy or ACWA that describe this MOU must be approved in advance by EPA.

X. Intellectual Property/Names and Logos

- A. Unless otherwise stated in an agreement executed under the authority of this MOU, EPA, the Conservancy, and ACWA agree that any copyrightable subject matter, including but not limited to journal articles, training, educational or informational material or software, created jointly by the Parties from the activities conducted under the MOU may be copyrighted by the Conservancy and/or ACWA. The Conservancy and ACWA hereby grant to the government a royalty-free, nonexclusive, irrevocable right to reproduce, distribute, make derivative works, and publish or perform the work(s) publicly, or to authorize others to do the same on its behalf. The Parties agree that any patented invention created by the Conservancy, EPA, or ACWA pursuant to the terms of this MOU will be jointly owned by the Parties regardless of inventorship, unless an alternative agreement indicates otherwise.
- B. Per EPA Order 1015.2A (December 27, 1978), the Agency's official seal and identifier may only be used for official purposes; they may not be used to promote commercial products or services. Use of the seal or identifier on the MOU document or in EPA's own written material/web content ("products") relating to the activities carried out under the MOU would meet the official purpose test. Additionally, a party to the MOU may be allowed to display the Agency seal on brochures and other materials relating to joint activities. However, any product, including those products of the Conservancy and ACWA, that use the Agency seal or identifier must first be reviewed and approved by EPA's product review process in the Office of Public Affairs before it can be released.
- C. The Parties of this MOU have trademarked names and logos; as such, the Parties' names and logos may not be used for any purpose without the prior express written permission of the given party. By signing this MOU, each of the Parties' consents to the use of its logo on this MOU.

XI. Proprietary Information

To carry out the joint work resulting from this MOU, the Conservancy and ACWA may need to disclose proprietary information to EPA. For the purpose of this MOU, proprietary information is defined as information that an affected business claims to be confidential and is not otherwise available to the public. The Conservancy and ACWA agree to clearly identify confidential information disclosed to EPA in writing; and to clearly memorialize in writing, within a reasonable time, any confidential information initially disclosed orally. EPA agrees not to disclose, copy, reproduce or otherwise make available in any form whatsoever to any other person, firm, corporation, partnership, association or other entity information designated as proprietary or confidential information without consent of the Conservancy except as such information may be subject to disclosure under the Freedom of Information Act (5 U.S.C. § 552), and EPA's regulations at 40 C.F.R. Part 2, or as otherwise authorized by law.

XII. Commencement/Duration/Modification/Termination

This MOU takes effect when signed by all Parties and will remain in effect for a period of four years. This MOU may be extended or modified at any time per the mutual written consent of the parties. Additionally, a party may terminate its participation in this MOU at any time by providing written notice to the other parties, at least 30 calendar days in advance of the desired termination date. Upon receipt of the termination notice, all Parties will take all necessary actions to cancel outstanding commitments relating to the work under this MOU and will remove all references, either statements or logos, of the party who terminated its participation.

XIII. Financial Provisions

All commitments made by EPA in this MOU are subject to the availability of appropriated funds. Nothing in this MOU, in and of itself, obligates EPA to expend appropriations or to enter into any contract, assistance agreement, interagency agreement, or incur other financial obligations that would be inconsistent with Agency budget priorities. This MOU does not exempt the Conservancy or ACWA from EPA policies governing competition for assistance agreements. The Conservancy and ACWA agree not to submit a claim for compensation for services rendered to EPA in connection with any activities it carries out in furtherance of this MOU. However, ACWA and the Conservancy may receive reimbursement for eligible and allowable costs under the terms of any financial assistance agreement between the EPA and ACWA or the Conservancy. Any

transaction involving reimbursement or contribution of funds between the Parties to this MOU will be handled in accordance with applicable laws, regulations, and procedures under separate written agreements.

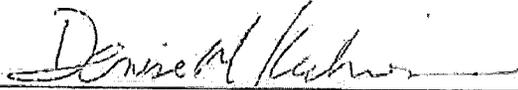
XIV. Compliance with Laws

The Parties will observe all the applicable laws and regulations during the execution of the work implemented under the provisions of this MOU.

XV. Approval

IN WITNESS WHEREOF, the Parties execute this Memorandum of Understanding in duplicate, effective as of the last date written below.

FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY



Denise M. Keehner, Director
Office of Wetlands, Oceans and Watersheds

2/20/13
Date

FOR THE NATURE CONSERVANCY



Mark Burget, Executive Vice President and Managing Director
North America Conservation Region

2/22/13
Date

FOR THE ASSOCIATION OF CLEAN WATER ADMINISTRATORS



Alexandra Dapolito Dunn, Executive Director and
General Counsel
Association of Clean Water Administrators

2/22/13
Date