

MEMORANDUM OF AGREEMENT

Among the members of the Midwest Natural Resources Group consisting of the:

U.S. DEPARTMENT OF AGRICULTURE: Forest Service (USFS), Natural Resources Conservation Service (NRCS)
U.S. DEPARTMENT OF COMMERCE: National Oceanic and Atmospheric Administration (NOAA)
U.S. DEPARTMENT OF DEFENSE: Army Corps of Engineers (USACE)
U.S. DEPARTMENT OF ENERGY (DOE)
U.S. DEPARTMENT OF THE INTERIOR: Bureau of Indian Affairs (BIA), Bureau of Land Management (BLM), National Park Service (NPS), United States Fish and Wildlife Service (USFWS), United States Geological Survey (USGS)
U.S. DEPARTMENT OF TRANSPORTATION: Federal Highway Administration (FHWA), Maritime Administration (MARAD)
U.S. DEPARTMENT OF HOMELAND SECURITY: United States Coast Guard (USCG)
And
U.S. ENVIRONMENTAL PROTECTION AGENCY (EPA)

Concerning:

A Collaborative Agreement to Meeting the Threat of Invasive Species

I. Purpose. This Memorandum of Agreement (MOA) provides objectives that that work toward achieving the overarching goal of the Midwest Natural Resources Group (MNRG)

"to develop processes, marshal resources among agencies and partners, seek opportunities for collaboration and communication, and provide timely assistance where it is needed"

The objectives are collaborative efforts to prevent, detect early, rapidly respond to, and control non-native invasive plants, animals and aquatic species (hereinafter referred to as non-native invasive species) while providing the public with the information, understanding, and opportunities they will need to join MNRG in these efforts.

We, the signatories of this MOA, recognize that current laws do not clearly address the prevention of non-native invasive species across foreseeable pathways nor give explicit direction on their management once introduced. This deficiency is especially apparent during the critical period between introduction and establishment of new non-native invasive species, when the focus of management must shift rapidly from prevention to control. We understand that this brief time span after introduction, when prevention has failed, may offer one last chance to stop the establishment of new harmful invasive species. We understand the economic hardships, social disappointments, and ecological threats associated with invasive species that become established. This is clearly demonstrated by past and present costs in the

control and clean-up of non-native invasive species such as the zebra mussel (expected to cost the power industry alone \$3 billion in the next decade, USGS website), purple loose strife (estimated \$45 million spent per year to control, Pimental 1999) and the current threat of Asian carp to our \$4.5 billion Great Lakes sports and commercial fishery. With this in mind, we realize that early intervention in the establishment of invasive species and successful control of those species early in their establishment would limit economic and ecological costs to the Basins.

Therefore, we agree to work together toward prevention and control of non-native invasive species by prudent application of our current laws and regulations while maintaining the missions of our current agencies. These authorities, along with our readiness to work collaboratively with our non-Federal partners in the Basins and the diversity of expertise among our agencies and our partners, will provide a basis for a high probability of success in our efforts toward the prevention and control of invasive species.

II. Objectives. The USFS, NRCS, NOAA, USACE, DOE, BIA, BLM, NPS, USFWS, USGS, FHA, USCG, MARAD, and EPA agree to work collectively to achieve the following objectives:

A. Develop draft Interagency Plans of Action that: 1) can be implemented within the current authorities and funding of the agencies, 2) are focused on meeting the challenges of early detection and rapid response to non-native invasive species, 3) may use the National Oil Spill Contingency Plan as a template, and 4) include outreach and education objectives to gain support from the public and other interested parties. Each Focus Area group will develop at least one Plan of Action and present their plan(s) to the MNRG Senior Managers for review to ensure consistency and achievability and gain approval.

B. Advocate the principles in the legislation, "National Aquatic Invasive Species Act (NAISA)," if enacted to replace the National Invasive Species Act (NISA) of 1996 by: 1) sharing data and resources, 2) educating all interested parties on the urgency of controlling aquatic invasive species and possible control techniques, and 3) ensuring the public is aware of NAISA, understands the essence of the proposed legislation, and is informed on the importance and urgency to prevent, detect, and control aquatic invasive species.

III. Authority. No comprehensive legislation on the treatment of non-native invasive species has ever been enacted. The Office of Technology Assessment wrote in 1993 that "The current Federal framework is a largely uncoordinated patchwork of laws, regulations, policies, and programs." Federal law concerning these species continues to be scattered, as indicated in the CRS Report to Congress in 1999 which states "Any change in Federal policy since 1993 appears incremental at most." In 1999, Executive Order 13112 was issued which directs Federal agencies to address invasive species concerns as well as to refrain from actions likely to increase invasive species problems. The National Invasive Species Council was formed to coordinate Federal agency efforts under a National Invasive Species Management Plan. The Council defined as one of its six guiding principles that of "pulling together" to work cooperatively among Federal, state, and county governments and other stakeholders in effective prevention and control of invasive species.

Although not comprehensive, the following are authorities that have been identified by the

Congressional Research Service or the National Invasive Species Council as Federal laws and regulations that can affect the introduction, prevention, and control of invasive species:

Lacey Act, Plant Protection Act, Animal Damage Control Act, Federal Seed Act, The Organic Act of 1944, Animal Quarantine Laws, Federal Noxious Weed Act of 1974, National Environmental Policy Act of 1970, Endangered Species Act, National Invasive Species Act, Alien Species Prevention and Enforcement Act of 1992, Wild Bird Conservation Act of 1992, and actions and decisions associated with the Clean Water Act.

If the draft NAISA reauthorizes the National Invasive Species Act, then Federal Rapid Response Teams will be formed not later than 1 year after enactment. Under NAISA, Federal Rapid Response Teams will: 1) implement rapid eradication or control responses for newly detected aquatic invasive species on Federal and tribal land, 2) carry out, or assist in carrying out, rapid responses for newly detected aquatic invasive species on non-Federal land at the request of a State, Indian tribe, or group of States or Indian tribes, 3) provide training and expertise for State, tribal, or regional rapid responders, 4) provide central sources of information for rapid responders, 5) maintain a list of researchers and rapid response volunteers, and 6) include representatives of the Animal and Plant Health Inspection Service when carrying out any rapid response activity with respect to an aquatic noxious weed listed under section 412(f) of the Plant Protection Act (7 U.S.C. 7712(f)).

We enter into this MOA to work within our existing authorities (current and new authorities, if enacted) to cooperatively detect, prevent, understand, and control invasive.

IV. Specific Work Tasks.

- A. Form a Rapid Response Task Group (Group), which will be a Group of the MNRG. Formation will result in one member being appointed from each participating MNRG agency. The Group may also ask experts from outside the Federal government to provide their expertise to the Group; Tribal and State participation will be particularly encouraged. Two co-chairpersons will lead the Group, and those representatives will be rotated every two years.
- B. The Group will ask each member to identify the authorities and potential roles of individual agencies or organizations he/she represents in execution of rapid response plans on Federal and Tribal lands. A summary of authorities and roles will be submitted to MNRG Senior Managers by August 2003 for review, and the approved document will be posted on the MNRG website within a web page created for the Group.
- C. The Group will survey member agencies and organizations to describe available biological expertise (e.g. specialists in identification and biology of potential invaders), technical expertise (e.g. specialists in various aspects of integrated pest management), availability of potential tools for control or elimination of new

invaders, availability of funding to execute aspects of rapid response plans, legal expertise (to aid in preparing the plan and permits needed for rapid response methods), availability of field crews, and availability of agency volunteers that are willing to participate in executing rapid response field work. An electronic data base will be created, and it will be submitted to Senior Leadership for review and approval. The approved data base will be posted on the MNRG website within a page created for the Group.

- D. The Group will work with each Focus Area groups to develop Plans of Action for early detection and rapid response. As a pilot effort, the Great Lakes Focus Area Group will develop an action plan for rapid response for either a Federal or Tribal land in the Great Lakes and Mississippi River Basins (Basins). Besides what is listed in II. A. above, the plan will include either a decision tree or criteria that will be used to decide whether to implement control and eradication methods detailed in the plan. Those criteria will include risk of reintroduction, the estimated probability that infestations of non-native invasive species may be controlled or eliminated successfully by rapid response and the degree of threat to aquatic biota, aquatic habitat, and human health. The first draft plan will be completed by the MNRG meeting in March 2004. If this plan gains approval by the MNRG Senior Managers, it will be used as a template for other plans in the Basins and will initiate the annual development of at least one draft plan by each Focus Area group for other Federal, State, or Tribal lands until the MNRG Senior Managers agree that the Basins are adequately covered. Plans of Action will be coordinated with Regional Panels of the Aquatic Nuisance Species Task Force, States and Interagency Invasive Species Management Plans, and Tribal strategies for prevention and control of non-nataive invasive species.

V. Procedure. The DOE, USFS, NRCS, NPAA, USACE, BIA, BLM, NPS, USFWS, USGS, FHA, USCG, MARAD, and EPA, individually or in combination, may identify potential tasks to be undertaken under the auspices of this MOA. Each task will contain the following information:

- A. Description, need, expertise and equipment needed, and anticipated result/product of the task(s) to be performed.
- B. Agreement to the tasks and individual agency roles on each task will be documented by the authorized representative of each agency if the agency agrees to participate. At the time of the signing, each signer will identify available resources it can contribute to accomplishment of the specific work task.

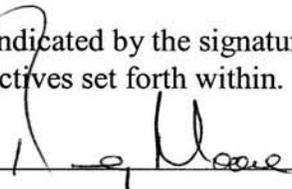
VI. Administration.

A. Nothing in this MOA will be construed as affecting the authorities of the participating agencies (hereafter participants) or as binding beyond their respective authorities or to require any of the participants to obligate or expend funds unless a participant volunteers to do so.

- B. Conflicts between the participants concerning achievement of objectives under this MOA, which cannot be resolved at the planning level, will be referred to MNRG Senior Managers, as necessary, for resolution.
- C. The participants will review this MOA at least every 5 years to determine its adequacy, effectiveness and continuing need.
- D. Any signatory to this MOA may withdraw from the MOA following at least 30-days notice to the other participants.
- E. Any participant may propose changes to this MOA during its term. Such changes will be in the form of an amendment and will become effective upon signature by all of the participants.
- F. This MOA shall expire in 5 years from the date of the last signature unless it is extended or renewed by the signatories.
- G. Before this MOA is due to expire, if all of the participants agree with a continuing need, it may be extended or renewed.
- H. This MOA will become effective upon signature of all of its participants.
- I. Actions taken under this MOA will be compatible with all Federal laws including the version of NAISA that is enacted.
- J. Nothing in this MOA shall not relieve its participants from their obligations to comply with all applicable provisions of Federal, state or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any Federal, state or local permit.
- K. Nothing in this MOA shall prevent its participants from pursuing any civil or criminal enforcement action for any violation of any applicable provision of Federal law or for any violation of any applicable Federal or state permit.

As indicated by the signatures below, the parties referenced in this Agreement concur with the objectives set forth within.

As indicated by the signatures below, the parties referenced in this Agreement concur with the objectives set forth within.

By: 

Date: 5/15/03

U.S. DEPARTMENT OF AGRICULTURE
United States Forest Service

By: _____

Date: _____

U.S. DEPARTMENT OF AGRICULTURE
Natural Resources Conservation Service

By: *Charles Whitmer RC*

Date: 5-15-03

U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

By: *Don T. Riley*
DON T. RILEY BG, USA

Date: 15 May 2003

U.S. DEPARTMENT OF DEFENSE
U.S. Army Corps of Engineers

By: _____

Date: _____

U.S. DEPARTMENT OF ENERGY

By: _____

Date: _____

U.S. DEPARTMENT OF INTERIOR
Bureau of Indian Affairs

By: *James W. Snyder*

Date: 5-15-03

U.S. DEPARTMENT OF INTERIOR
Bureau of Land Management

By: *David W. Owen*
for Emma Quintana, Midwest Reg. Director

Date: 5/15/03

U.S. DEPARTMENT OF INTERIOR
National Park Service

By: *Matthew*

Date: May 15, 2003

U.S. DEPARTMENT OF INTERIOR
United States Fish and Wildlife Service

By: Donna M. Myers for Date: May 15, 2003
Catherine L. Hill, Reg. Hydrologist
U.S. DEPARTMENT OF INTERIOR
United States Geological Survey

By: _____ Date: _____

U.S. DEPARTMENT OF TRANSPORTATION
Federal Highway Administration

By: _____ Date: _____

U.S. DEPARTMENT OF HOMELAND SECURITY
United States Coast Guard

By: _____ Date: _____

U.S. DEPARTMENT OF TRANSPORTATION
Maritime Administration

By: David A. Alleck Date: 5-15-03
for THOMAS V. SKINNER, REG. ADM.
U.S. ENVIRONMENTAL PROTECTION AGENCY