

10/1/84

Cooperative Agreement Between The
United States Department of Commerce
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
and the South Carolina Department of
Wildlife and Marine Resources for the
Conservation of Threatened and Endangered Species

This cooperative agreement is entered into pursuant to Section 6(c)(1) of the Endangered Species Act of 1973, as amended (hereinafter referred to as "the Act"), and the South Carolina Nongame and Endangered Species Conservation Act of 1974, between the U.S. Department of Commerce, National Marine Fisheries Service, and the South Carolina Wildlife and Marine Resources Department. Hereinafter, the parties shall be referred to as the NMFS, and the SCWMRD respectively.

Whereas, the Act authorizes the Secretary of Commerce to enter into cooperative agreements in accordance with Section 6 with states who have established and maintained adequate and active programs for the conservation of endangered and threatened species;

Whereas, the state is authorized pursuant to the Nongame and Endangered Species Conservation Act to enter into agreements with federal agencies, for administration and management of nongame or endangered wildlife.

Whereas, the State of South Carolina has established a conservation program consistent with the purposes and policies of the Act for the following species

of fish or wildlife occurring in the state which have been deemed by the Secretary of Commerce to be endangered or threatened and under the jurisdiction of NMFS:

- a. finback whale (Balaenoptera physalus) endangered
- b. humpback whale (Megaptera novaeangliae) endangered
- c. right whale (Eubalaena glacialis) endangered
- d. sei whale (Balaenoptera borealis) endangered
- e. sperm whale (Physeter catodon) endangered
- f. green sea turtle (Chelonia mydas) threatened
- g. hawksbill sea turtle (Eretmochelys imbricata) endangered
- h. Kemp's Atlantic ridley sea turtle (Lepidochelys kempii) endangered
- i. leatherback sea turtle (Dermochelys coriacea) endangered
- j. loggerhead sea turtle (Caretta caretta) threatened
- k. shortnose sturgeon (Ancipenser brevirostrum) endangered

Whereas, the purposes of the Act are to provide a means whereby the ecosystems upon which endangered and threatened species are conserved, to provide a program for the conservation of such species, and to take such steps as may be necessary to achieve the purposes of various treaties and conventions related to the conservation of such species;

Whereas, the Secretary of Commerce has delegated to the Assistant Administrator for Fisheries the authority to enter into a cooperative arrangement with the State of South Carolina for the purpose of endangered and threatened species conservation through the establishment of programs;

Whereas, the Act requires that the state agency have authorization to establish programs for the conservation of resident endangered or threatened species, and provisions are made for public participation in the state program;

Whereas, the purpose of the South Carolina Nongame and Endangered Species Conservation Act and other wildlife laws are to provide a means whereby management programs are carried out to insure the continued ability of all species to perpetuate themselves successfully, and, whereas, the SCWMRD affords the public an opportunity to participate in the designation of resident species of fish or wildlife that are endangered or threatened;

Whereas, the State of South Carolina, acting through the SCWMRD wishes to administer its program for conservation of endangered and threatened species consistent with the terms and spirit of the Act;

Whereas, the parties agree that programs applicable to the State of South Carolina are designed to assist resident endangered and threatened species and that it is the mutual desire of the SCWMRD and the NMFS, to cooperate for the common purpose of planning, developing, and conducting programs to protect, manage, and enhance populations of all resident endangered and threatened species within South Carolina;

Whereas, the Assistant Administrator for Fisheries of the NMFS has the administrative authority to establish programs for the conservation of endangered and threatened species; to provide periodic review of the state program at no more than annual intervals; to provide funding for endangered and threatened species conservation programs as such funding is available and in accordance with the terms of the Act; to provide coordination among the program of various states; and to exchange with states such biological data or other information which may result in the continued survival of endangered or threatened species;

Whereas, the Assistant Administrator for Fisheries authorizes the Southeast Regional Director of NMFS to oversee the implementation of this cooperative agreement;

Now, therefore the parties agree as follows:

1. The NMFS endorses the activities identified in the SCWMRD program for endangered and threatened species which are resident in the State of South Carolina and under NMFS jurisdiction.

2. The NMFS has concluded that the programs administered by SCWMRD for the conservation of endangered and threatened species are in accordance with the Act and the NMFS has deemed the state program adequate for the conservation of endangered and threatened species.

3. The NMFS may provide financial assistance for the implementation of projects for the conservation of endangered and threatened species. The projects will be developed jointly by the NMFS and the SCWMRD in accordance with the Act.

4. The NMFS and the SCWMRD will carry out a cooperative program for the conservation of endangered and threatened species. Cooperative activities of the program may involve law enforcement, research, management and/or public information and education for the benefit of the endangered species and threatened species which are resident in the State of South Carolina.

5. Effective Date and Renewal

(a) This Agreement shall become effective when signed by the Assistant Administrator for Fisheries, NMFS; and the Director of the SCWMRD and may be

renewed in the following manner: Not later than September 1 each year the SCWMRD will submit to the Assistant Administrator for Fisheries the following: (1) the current list of state listed endangered and threatened fauna; (2) a certification of any amendments in the SCWMRD's statutory authority or regulatory program for endangered and threatened fauna which were made since the date of the previous program submission; and (3) a list of any substantial changes in the endangered and threatened species conservation program since the date of the previous program submission;

(b) The Assistant Administrator for Fisheries will on or before October 1st of each year, notify the SCWMRD in writing whether the Cooperative Agreement is renewed effective October 1st of that year, or that the state's program or authorities are not in compliance with the criteria of Section 6(c) of the Act and, unless appropriate changes are made within 60 days of the following year, this Agreement shall be terminated.

6. Amendment

This Agreement may be amended at any time with the concurrence of the signatory parties.

7. Termination

This Agreement may be terminated: (a) by mutual agreement; (b) by the SCWMRD upon 60 days written notice to the Assistant Administrator for Fisheries or (c) notwithstanding the renewal provisions in Section 5(b) of this Cooperative Agreement, by the NMFS upon 60 days written notice to SCWMRD from the Assistant Administrator for Fisheries, stating reasons why the state's con-

servation program is no longer in compliance with the criteria of Section 6(c) of the Act or that the state has violated a provision of this agreement. The SCWMRD may submit a written request for review to the Secretary, within 30 days of receipt of the termination notice. The Secretary will consider all evidence submitted by the SCWMRD in its request for review and either reaffirm this agreement at the end of the 60 day notification period, or reverse the conclusion of the Regional Director and revoke the notice of termination.

William J. Gordon

Assistant Administrator for Fisheries

National Marine Fisheries Service

John J. Imboden

Executive Director

South Carolina Wildlife and Marine

Resources Department

OCT 1 1984

Date

Date