

**MEMORANDUM OF UNDERSTANDING
REGARDING ROLES AND RESPONSIBILITIES
OF THE PARTIES LISTED BELOW FOR THE
BARNEGAT BAY PARTNERSHIP:**

**U.S. ENVIRONMENTAL PROTECTION AGENCY,
REGION 2;**

**OCEAN COUNTY COLLEGE, INCLUDING
THE BARNEGAT BAY PARTNERSHIP;**

AND

**THE MEMBER GOVERNMENT AGENCIES AND
NON-GOVERNMENTAL ORGANIZATIONS
OF THE POLICY AND ADVISORY COMMITTEES**

This Memorandum of Understanding (MOU) is entered into this 4th day of June, 2010, by the United States Environmental Protection Agency, Region 2 (USEPA); Ocean County College (OCC) which includes the Barnegat Bay Partnership (BBP or Partnership); and the member government agencies and non-governmental organizations of the BBP Policy and Advisory committees, hereinafter collectively known as the “Partners.”

The purpose of this MOU is to outline the roles and responsibilities of the key Partners of the BBP. The establishment of clear roles and responsibilities among the Partners active in the BBP is necessary to successfully implement the priority actions of the Comprehensive Conservation and Management Plan (CCMP), the 2008-2011 Strategic Plan (Strategic Plan or SP), and any subsequent guidance documents.

Section 1. Background and Objectives

Upon the nomination of former Governor Christie Whitman, the USEPA accepted the Barnegat Bay into the National Estuary Program (NEP) in July 1995; thus, the Barnegat Bay National Estuary Program was created and is now one of 28 NEPs. The objective of the BBP is to develop and implement the CCMP to protect the Barnegat Bay estuary. In 2002, USEPA Administrator Christie Whitman signed the CCMP for the BBP. The CCMP was developed by bay stakeholders (*i.e.*, most Partners) in accordance with Section 320 of the Clean Water Act (33 U.S.C. 1330, as amended by P.L. 100-4). In signing the CCMP, the signatories agreed to establish a stakeholder-based Advisory Committee to oversee the implementation of the CCMP.

It is the intention of the parties to this MOU to: (1) work collaboratively to foster implementation of the BBP’s CCMP and Strategic Plan, (2) identify and seek resources to further its

implementation, and (3) exchange information in a timely manner. This will benefit all parties by fostering collaboration and partnering in areas of mutual interest related to the protection, management, restoration, and sustainable development of the Barnegat Bay watershed.

Section 2. Structure and Responsibilities

The BBP comprises several committees and groups which include, but are not limited to, a Policy Committee (PC), Advisory Committee (AC), Science and Technical Advisory Committee (STAC), and the Communication and Education Committee (CEC).

A. All Partners (i.e., members of the Policy and Advisory Committees)

It is the intention of the partners to provide support toward the implementation of the CCMP and SP through participation and mutual action, to the extent authorized by law and consistent with federal and state regulations and policies on inter- and intra-governmental relations and limits on governmental participation in private fund-raising efforts. These efforts shall include, but not be limited to, the following:

- Foster active partnerships among existing organizations to promote CCMP implementation;
- Coordinate responsibilities and seek resources to continue implementation and support efforts;
- Streamline and identify priority action areas to achieve “on the ground” implementation to enhance the Barnegat Bay estuary’s and watershed’s resources;
- Develop annual work plans to support CCMP and SP implementation; moreover, all Partner plans will be included as part of the BBP’s Annual Work Plan;
- Identify and provide resources to achieve CCMP implementation;
- Inform the Partnership office of individual actions taken that meet the goals and objectives of the BBP in order that these achievements may be acknowledged; and
- Conduct themselves in a professional and ethical manner.

B. Roles and Responsibilities of the Policy Committee

The BBP Policy Committee is composed of the Regional Administrator of the U.S. Environmental Protection Agency (or his/her designee), the Commissioner of the New Jersey Department of Environmental Protection (or his/her designee), a designated Ocean County Freeholder (or his/her designee), the President of the Ocean County Mayors Association (or his/her designee), the President of Ocean County College (or his/her designee), and a designated Citizen Representative recommended by the CEC and approved by the Advisory Committee. In addition, the Chair (or Co-Chairs) of permanent committees (i.e., Advisory Committee, STAC) shall serve as *ex officio* members of the Policy Committee. All members may appoint an alternate in their place. It is the intention of the Policy Committee, where authorized by all applicable law, regulations, and other pertinent authorities, to act in concert to fulfill the roles and responsibilities listed below:

- Provide guidance and general direction to the BBP;
- Approve annual budgets and work plans of the BBP;

- Determine and approve the organizational membership of the Advisory Committee;
- Select the Partnership Director in accordance with OCC's personnel policies and procedures; evaluates the performance of the Partnership Director, and advise OCC regarding such evaluation;
- Evaluate the BBP effectiveness periodically, minimally prior to USEPA's Program Evaluation;
- Meet annually, or more frequently as needed;
- Promote the BBP to a statewide and nationwide audience;
- Assist in securing long-term funding commitments for the BBP;
- Ensure financial commitments among partners for action implementation and scheduling; and
- Develop new policy initiatives and priority actions.

Individually, the members of the Policy Committee will act on their agency's behalf to render substantive support to implementation of priority actions of the CCMP and SP.

C. Roles and Responsibilities of the Advisory Committee

The BBP Advisory Committee includes a core membership consisting of representatives from entities of the BBP Policy Committee, all other entities which have accepted lead responsibility for implementing a priority action in the CCMP or SP, and the Chairs (and Co-Chairs) of other standing committees (*e.g.*, STAC). The Advisory Committee acts on behalf of the Policy Committee in the day-to-day decision-making in support of the BBP. This core group will focus on the management, coordination, and implementation of activities related to the CCMP and/or SP. A consensus of the full Advisory Committee on the recommended organization secures membership.

The Advisory Committee will elect one of its members to serve as Co-Chair of the Advisory Committee together with the Partnership Director every three years. The Co-Chairs will work together to develop the agenda for, and conduct the business of, the Advisory Committee.

Where authorized by all applicable law, regulation, and other pertinent authorities, it is the intention of the Advisory Committee to:

- Provide oversight for the development of annual priorities, work plans, and budgets;
- Participate in appropriate work groups and advisory committees;
- Ensure and facilitate coordination of individuals within agencies participating on BBP activities and committees;
- Seek funding sources for priority actions;
- Develop programmatic changes for Policy Committee consideration;
- Secure relevant expertise to develop and review project proposals and reports, including the Program Evaluation and end-of-year reporting; and
- Notify the Partnership annually on all implementation actions to support BBP goals.

D. Roles and Responsibilities of Other Entities

The Advisory Committee may establish other committees to draw upon other representatives of its Partner agencies or organizations to manage, coordinate, and implement other actions in support of the CCMP and/or SP. Permanent committees (*e.g.*, STAC, CEC) will submit operating charters to the Advisory Committee for its review and approval; all charters approved by the Advisory Committee will be attached as an appendix to this MOU.

Section 3: Roles and Responsibilities of Ocean County College

Ocean County College is the designated USEPA grantee for support of the BBP and is supportive of furthering achievement of BBP goals and CCMP and SP implementation. The BBP office is located at OCC, but neither the Partnership Director nor the Partnership office is directed solely by OCC. It is the intention of OCC to:

- Track and provide an accounting of all received USEPA grants, and comply with all grant requirements, including Quality Assurance and Control requirements;
- Provide central office space for full-time staff, including the Partnership Director and others as decided by the Advisory and Policy Committees, contingent upon funding;
- Provide support services, such as photocopying and graphic arts; building utilities; a central mailroom; and communications support (telephone, fax, e-mail, internet connection, and web support);
- Consult with the Policy and Advisory Committees on all personnel actions, including but not limited to job responsibilities, hiring, firing, and compensation;
- Continue to not charge any indirect costs to the USEPA CWA Section 320 grant which provides the BBP's base funds, and to increase its support of the BBP; and
- Strive to make the OCC campus a showcase of environmentally sustainable building, regularly consulting with the Partnership office and using its expertise in campus projects.

Section 4: Roles and Responsibilities of the U.S. Environmental Protection Agency, Region 2

It is the intention of the USEPA to provide support toward the implementation of the CCMP and SP, to the extent authorized by law and consistent with federal and state regulations and policies on inter- and intra-governmental relations and limits on governmental participation in private fund-raising efforts, including:

- Participating in the BBP, representing USEPA programs and priorities;
- Assisting the BBP with assistance agreements, program management, and financial management requirements, including serving as project and technical manager for the annual Section 320 grant to OCC and informing the BBP of other USEPA funding sources that may become available;
- Serving as champion for the BBP within USEPA Region 2, educating USEPA management and staff about the BBP, obtaining support through implementation of base programs, and attempting to leverage discretionary funds;
- Providing a linkage between the Partnership office and staff responsible for other USEPA Region 2 programs, such as grants management, quality assurance and quality control, and

National Environmental Policy Act requirements; moreover, to identify opportunities for each to assist the other in meeting Partnership goals;

- Representing the BBP when USEPA regional program decisions are being made that could have implications for attainment of CCMP goals and objectives and inform BBP of USEPA initiatives that may affect the BBP study area; and
- Serving as liaison between the Partnership office and USEPA Headquarters, reviewing and approving required reporting, participating in federal NEP and other conference calls and/or meetings, and updating the Partnership office accordingly.

Section 5: Roles and Responsibilities of the New Jersey Department of Environmental Protection

It is the intention of the USEPA to provide support toward the implementation of the CCMP and SP, to the extent authorized by law and consistent with federal and state regulations and policies on inter- and intra-governmental relations and limits on governmental participation in private fund-raising efforts, including:

- Participating in the BBP, representing NJDEP programs and priorities;
- Providing technical support to the BBP with respect to implementation of the CCMP and SP;
- Serving as liaison for the BBP within NJDEP programs by attempting to leverage funds where consistent with mutual priorities and needs, providing a linkage between the BBP Office and NJDEP staff, and by reviewing and approving projects for funding that meet mutual needs and priorities; and
- Establishing a mechanism for project review and sign off by NJDEP and staff and the QAPP program for projects intended for regulatory use.

Section 6: Roles and Responsibilities of the Ocean County Board of Chosen Freeholders

In addition to its responsibilities as a member of the Advisory and Policy Committees, it is the intention of the Ocean County Board of Chosen Freeholders to continue to provide up to 100 percent of the matching funding required as a condition of the USEPA grant award to support the BBP office and to continue to provide additional matching funds for other BBP grants to support CCMP and/or SP implementation, contingent on prior notification to the County representatives by the BBP, approval of the grant application by the Advisory Committee, and funding availability.

Section 7: Roles and Responsibilities of the Ocean County Mayors' Association

It is the intention of the Ocean County Mayors' Association (OCMA) to provide an annual forum for the discussion of the Barnegat Bay and related issues, including the collection and reporting of relevant projects (*i.e.*, stormwater improvements, land acquisition) being undertaken and completed within each municipality.

Section 8: Roles and Responsibilities of the CEC and STAC Representatives

The CEC and STAC representatives will provide the Policy Committee an update of their Committee's activities on an annual basis. This update will include a summary of all funded activities and an overview of any Committee concerns.

Section 9: Roles and Responsibilities of the BBP Director

It is the intention of the BBP office, headed by a Partnership Director, to direct and manage all aspects of BBP on a daily basis. The BBP Director will take guidance and general direction from the BBP Policy and Advisory Committees and will supervise staff in the Partnership office.

Specific roles of the BBP Director include, but are not limited to, the following actions:

- Provide overall coordination and management of Section 320 grant funding in compliance with USEPA regulations;
- Assure autonomy and visibility of the Partnership Office;
- Supervise staff in the Partnership Office;
- Communicate and consult with the Policy and Advisory Committees on BBP matters;
- Develop and update agreements among implementing parties to ensure political and funding support and implementation schedules;
- Work with other agencies and organizations to facilitate integration of appropriate portions of the CCMP and/or SP into appropriate actions of each agency or organization;
- Properly recognize and commend the efforts of BBP partners for their roles in implementing CCMP and SP action items or other environmentally beneficial initiatives;
- Coordinate ongoing evaluations of the effectiveness of CCMP and SP actions in improving the quality of Barnegat Bay and its watershed, and recommend corrective actions as needed;
- Provide a public forum for public participation and education;
- Consider and address future needs and emerging issues with respect to the Barnegat Bay watershed's balanced use, protection, and where possible, restoration;
- On an annual basis, develop an Annual Work Plan and budget to support implementation of the CCMP and SP actions, submit the annual grant application to USEPA as specified by USEPA Region 2, and submit Government Performance Results Act and other end-of-year reports (*e.g.*, CCMP and/or SP implementation) to USEPA as specified by USEPA Headquarters;
- Develop a strategic financial long-term funding plan and fund raising strategy to raise funds and develop grant applications for CCMP/SP implementation;
- Periodically, prepare the implementation review report;
- Provide the Policy and Advisory Committees with regular briefings on BBP progress and problems;
- Set up and coordinate agenda development for Policy and Advisory Committee meetings; moreover, work with the Chairs of these committees to facilitate implementation of the CCMP and SP and to resolve obstacles which would impede progress;
- Oversee administration of the Partnership Office;

- Act as liaison to Ocean County, its municipalities, and others on environmental issues associated with Barnegat Bay and its watershed;
- Serve as an advocate for the NEP and resource for the NEP approach to other neighboring watersheds; and
- Attend the spring and fall NEP Directors' meeting and the Association of National Estuaries Program meetings in their entirety.

Section 10: Limitations

This MOU does not create any rights of benefits, substantive or procedural, enforceable by law or equity against any of the signatories, their agencies, or their offices or employees. Nothing herein shall be construed to require any of the aforementioned entities to obligate or expend funds on behalf of the goals, objectives, or roles or responsibilities set forth in this MOU, or give rise to a claim for compensation for services performed to further the goals of this agreement. This MOU, in and of itself, does not exempt any party to the MOU from federal or state policies for competition for procurement contracts or financial assistance. Any obligations and expenditures of funds by any entity will be accomplished in accordance with all applicable law and will be subject to the availability of appropriations and such entity's discretion in making budgetary determinations. This MOU does not alter the terms of any procurement contract or financial assistance agreement, and any conflict between this MOU and the terms of such instruments will be resolved by applying the terms of the procurement contract or financial assistance agreement.

Section 11. Terms and Conditions

This MOU is not a contractual or a financial obligation instrument. Nothing in this MOU shall obligate federal, state, or local entities to expend appropriations or to enter into any contract or other obligations or be cited as the basis for the promise or transfers of funds. Collaboration under this MOU shall be in accordance with applicable statutes and regulations.

Nothing in this MOU shall be construed to authorize or permit any violation of any federal, state, or local law.

Any intellectual property developed collaboratively by the Parties will be governed by the Federal Copyright Statute at Title 17 of the United States Code or by the Federal Patent Statute at Title 35 of the United States Code.

Section 12: Effective Date

This MOU will become effective on the date when signed by all signatories and will remain in effect for five years from the date of final signature.

Section 13: Termination and Modification

This MOU may be terminated or modified by the mutual written agreement of all Parties entering into this MOU.

Ms. Judith A. Enck, Regional Administrator
USEPA, Region II
Policy Committee

Mr. Bob Martin, Commissioner
NJDEP
Policy Committee

Mr. Joseph Vicari
Ocean County Freeholder Liaison
Policy Committee

Mr. Stephen Acropolis
Ocean County Mayors' Association
Policy Committee

Mr. Thomas Fote
Citizen Representative
Policy Committee

Dr. Jon H. Larson, President
Ocean County College
Policy Committee

Mr. David Friedman
Advisory Committee Co-Chair

Mr. Michael DeLuca
STAC Co-Chair

Mr. Robert Nicholson, Co-Chair
STAC Co-Chair

Dr. Stan Hales, Director
Barnegat Bay Partnership

Date of final signature