

Limited Cooperative Agreement Between the  
United States Department of Commerce  
National Oceanic and Atmospheric Administration  
National Marine Fisheries Service and the  
Virgin Islands Department of Planning and Natural Resources for the  
Conservation of Threatened and Endangered Species

This limited 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 Title 12 of the U.S. Virgin Islands Code, between the United States Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NMFS), and the Virgin Islands Department of Planning and Natural Resources (VIDPNR). Hereinafter, the parties shall be referred to as NMFS and VIDPNR respectively. All terms contained herein shall be given the same meaning as defined at 50 C.F.R. Section 222.102.

Whereas, the Act authorizes the Secretary of Commerce (hereinafter referred to as “the Secretary”) to enter into cooperative agreements in accordance with Section 6 with states that establish and maintain adequate and active programs for the conservation of endangered and threatened species;

Whereas, the state is authorized pursuant to V.I. Code Ann. tit 12 (3 V.I.C. § 67) to enter into agreements with federal agencies for the conservation of endangered and threatened species;

Whereas the United States Virgin Islands (USVI) has established a conservation program(s) consistent with the purposes and policies of the Act for the following species of fish and wildlife occurring in the state which have been deemed by the Secretary to be endangered or threatened, or recently delisted, and under the jurisdiction of NMFS:

Endangered Species

- Sperm whale (*Physeter macrocephalus*)
- Fin whale (*Balaenoptera physalus*)
- Sei whale (*Balaenoptera borealis*)
- Blue whale (*Balaenoptera musculus*)
- Hawksbill sea turtle (*Eretmochelys imbricata*)
- Leatherback sea turtle (*Dermochelys coriacea*)

Threatened Species

- Loggerhead sea turtle (*Caretta caretta*), Northwest Atlantic Ocean Distinct Population Segment
- Green sea turtle (*Chelonia mydas*), North Atlantic and South Atlantic Distinct Population Segments
- Nassau grouper (*Epinephelus striatus*)
- Staghorn coral (*Acropora cervicornis*)
- Elkhorn coral (*Acropora palmata*)
- Pillar Coral (*Dendrogyra cylindrus*)
- Rough Cactus Coral (*Mycetophyllia ferox*)
- Lobed Star Coral (*Orbicella annularis*)
- Mountainous Star Coral (*Orbicella faveolata*)
- Boulder Star Coral (*Orbicella franksi*)

Recovered/Delisted Species

Humpback whale (*Megaptera novaeangliae*), West Indies Distinct Population Segment

Whereas, the purposes of the Act are to provide a means whereby the ecosystems upon which endangered and threatened species depend may be conserved, to provide a program for the conservation of such endangered and threatened species, and to take such steps as may be appropriate to achieve the purposes of the treaties and conventions set forth in subsection 2(a) of the Act;

Whereas, the Secretary has delegated to the Assistant Administrator for Fisheries of NMFS the authority to enter into cooperative agreements with states for the purpose of supporting programs for endangered and threatened species conservation;

Whereas, the Act requires the Secretary to determine that: (1) the state agency is authorized to establish conservation programs, including the acquisition of land or aquatic habitat, or interests therein, for all resident species of fish and wildlife; (2) the state agency is authorized to conduct investigations to determine the status and requirements for survival of resident species of fish and wildlife; (3) provision is made for public participation in designating resident species of fish and wildlife as endangered or threatened; and (4) the state agency has established and provided copies of acceptable plans, consistent with the purpose and policies of the Act, to give immediate attention to those resident threatened and endangered species identified as most urgently in need of conservation;

Whereas, NMFS hereby determines that VIDPNR satisfies the Act's legal requirements for

such cooperative agreements as specified in the immediately preceding paragraph;

Whereas, the parties to this agreement are in accord that the programs administered in the USVI are designed to conserve resident endangered and threatened species, and that it is the mutual desire of VIDPNR and 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 covered by this agreement within the USVI;

Whereas, the Assistant Administrator for Fisheries of 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 greater than annual intervals; to provide funding for the development of endangered and threatened species conservation programs or to assist in monitoring candidate and recovered species as such funding is available and in accordance with the terms of the Act; to provide coordination among the programs of various states; and to exchange with states such biological data or other information that may result in the continued conservation of endangered or threatened species;

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

Therefore the parties agree as follows:

1. Consistent with Section 6(d) of the Act, NMFS may provide financial assistance to VIDPNR for the development of endangered and threatened species conservation programs or to

assist in monitoring candidate and recovered species. Such projects shall be approved by NMFS in accordance with the Act.

2. NMFS and VIDPNR shall carry out the cooperative program for the conservation of endangered and threatened species, which may involve law enforcement, research, management, and public information and education activities conducted for the benefit of resident endangered and threatened species in the USVI.

3. Pursuant to section 6(c)(1)(ii) of the Act, entry into this agreement shall in no way effect the applicability of the prohibitions set forth in or authorized pursuant to section 4(d) and section 9 of the Act with respect to the taking of any resident endangered or threatened species of fish or wildlife.

4. Effective Date and Renewal

(a) This agreement shall become effective when signed by the Assistant Administrator for Fisheries of NMFS and the Commissioner of VIDPNR, and may be renewed in the following manner: Not later than June 30 each year VIDPNR shall submit to the Assistant Administrator for Fisheries of NMFS the following: (1) the current list of the state listed resident endangered and threatened fish and wildlife within the jurisdiction of NMFS and a description of all changes to such list since the date of the previous submission of the list to NMFS; (2) a certification of any amendments in VIDPNR's legal authority or regulatory programs for endangered and threatened fish and wildlife that were made since the date of the previous submission of the program to NMFS; (3) a list of all changes in the endangered and threatened species conservation programs since the date of the previous submission of the program to NMFS; and (4) any additional information requested by

the Assistant Administrator for Fisheries of NMFS that pertains to VIDPNR's program for the conservation of endangered and threatened fish and wildlife;

(b) The Assistant Administrator for Fisheries of NMFS will, on or before October 1 of each year, notify VIDPNR in writing whether the cooperative agreement is renewed effective October 1 of that year, or that the state's program or authorities are no longer in compliance with the criteria of Section 6(c) of the Act, and unless appropriate changes are made by June 30 of the following year, this agreement shall be terminated. If VIDPNR, after satisfying the renewal provisions of the immediately preceding paragraph, has not been notified concerning the renewal of this agreement by October 1 of each year the agreement shall continue in force and effect as if it had been renewed.

#### 5. Amendment

This agreement may be amended at any time with the written concurrence of the signatories.

#### 6. Termination

This agreement may be terminated: (a) by mutual agreement; (b) by VIDPNR upon 60 days written notice to the Assistant Administrator for Fisheries of NMFS; or (c) notwithstanding the renewal provisions in Section 4(b) of this cooperative agreement, by NMFS upon 60 days notice to VIDPNR from the Assistant Administrator for Fisheries of NMFS, stating reasons why the state's conservation program for endangered and threatened species is no longer in compliance with the criteria in section 6(c) of the Act, or that the state has otherwise violated provisions of this agreement. VIDPNR may submit a written request for review to the Secretary within 30 days of the receipt of the termination notice. The Secretary shall consider all evidence submitted by VIDPNR in

its request for review and either reaffirm the termination of this agreement at the end of the 60 day notification period, or reverse the determination of the Assistant Administrator for Fisheries and revoke the notice of termination. Any Federal funds that have been awarded pursuant to this agreement to VIDPNR, but not expended by VIDPNR, as of the date termination of this agreement or final reaffirmation thereof shall be returned to NMFS for reallocation pursuant to section 6(d).



Chris Oliver  
Assistant Administrator for Fisheries



Date



Dawn L. Henry, Commissioner  
Virgin Islands Department of Planning  
and Natural Resources



Date