

AUG 21 2008



DENR CONTRACT NO. 1394

MEMORANDUM OF UNDERSTANDING

BETWEEN

NORTH CAROLINA DEPARTMENT OF ENVIRONMENT
AND NATURAL RESOURCES
DIVISION OF FOREST RESOURCES

AND

THE NATURE CONSERVANCY

This Memorandum of Understanding (MOU) is hereby entered into between the North Carolina Department of Environment & Natural Resources Division of Forest Resources, hereinafter referred to as "Forest Resources" and the Nature Conservancy, hereinafter referred to as "Conservancy" for fire management activities. These activities will include but not limited to mitigation, training, wildfire prevention, and wildfire suppression.

Forest Resources is charged under North Carolina General Statute 113 with the responsibility of protecting state and private forest lands from forest fires and is also charged with enforcing laws relating to forest fires.

The mission of The Nature Conservancy is to preserve the plants, animals and natural communities that represent the diversity of life by protecting the lands and waters they need to survive. The Conservancy conducts fire management activities including prescribed fire operations and wildfire suppression on Conservancy lands throughout North Carolina in carrying out its mission.

It is to the mutual advantage of both entities to coordinate their efforts in mitigation activities, training, wildfire prevention, and wildfire suppression.

EFFECTIVE PERIOD

This MOU shall become effective upon final execution by the Department of Environment and Natural Resources. It shall continue in effect **through August 31, 2013**. Amendments will be agreed upon and submitted to each party for approval and will become a permanent part of this MOU.

TERMINATION

Either party may rescind their participation in this MOU with a letter describing the circumstances for withdrawal. This MOU will cease to exist 30 days after the letter is received by the other party. There should be an effort to collaboratively solve any differences prior to seeking the termination of this MOU.

I. FOREST RESOURCES AGREES:

Wildland Fire

1. The District Forester will alert the Conservancy Fire Manager when conditions are at Readiness Plan Level (RPL) 4 or greater. Forest Resources will provide the Conservancy with advice on the use of fire. These notifications will include information on burn restrictions or bans and recommendations regarding the use of prescribed fire.
2. The District Forester or his designee will immediately notify the Conservancy staff of any wildfires on or threatening Conservancy property and will attempt to coordinate all responses through the Conservancy representative or its designee. The Conservancy will provide to the respective Forest Resources District a map and contact list pertaining to Conservancy property within the Forest Resources District.
3. To control and extinguish, in the shortest possible time, all wildfires on lands under its protection utilizing the National Incident Management System (NIMS) concepts/Incident Command System. Methods used to suppress wildfires should minimize impacts on Conservancy land and be commensurate with effective control, resource values to be protected, and fiscal constraints of both parties.
4. Firefighter and public safety must be first priority in all fire management activities. However, whenever possible and when mutually agreed to, methods used to control wildfires or escaped prescribed fires on Conservancy property will be planned and implemented so that secondary impacts, including plowed or bulldozed lines, are minimized. Forest Resources staff will attempt to consult with Conservancy staff on all suppression activities prior to initiating them on Conservancy property, consistent with the existing threat/safety issue related to the activity.
5. To take control of any wildfire either on or threatening a Conservancy property. Forest Resources will consult with local Conservancy staff regarding sensitive resources.
6. Record and document paid out suppression costs incurred for extended wildfire suppression on Conservancy property within 60 days of close out. This information will be made available to Forest Resources and Conservancy leadership.

Prescribed Fire

1. When notified by the Conservancy of a prescribed fire planned on Conservancy property, the District Forester or his designee will coordinate burn permits, provide smoke management information, and provide updates on fire weather conditions and related information,.
2. On the day of a prescribed burn the District Forester or his designee will record smoke management information reported by the Conservancy. The Conservancy burn boss will be notified if tonnage limits are exceeded.
3. The District Forester or his designee will alert the Conservancy burn boss when severe wildfire conditions exist and may advise Conservancy not to conduct prescribed burns during severe conditions throughout the year or when Fire Readiness Plans are 5 or higher.

4. To provide Conservancy with fire suppression assistance and take control of fire suppression activities after prescribed fire escapes.
5. To coordinate with the Conservancy burn boss when Forest Resources personnel are available, as determined by the District Forester, to assist with Conservancy prescribed fire operations. This is done to either allow Forest Resources personnel to gain experience/training, or for Forest Resources personnel to assist with the training of Conservancy personnel.

Training

1. Provide to Conservancy notice of pending prescribed fire training available to its personnel.
2. To provide to Conservancy the Forest Resources training calendar that outlines Forest Resources fire training.
3. Work collaboratively in developing a prescribed fire program for Conservancy properties as requested by Conservancy.
4. Provide an opportunity for Conservancy to be a part of the NC Fire Environment Working Group (FEWG).

Information and Education

1. Provide a Firewise assessment on Conservancy facilities, as requested, outlined in a plan developed by the local Forest Resources District Supervisor or his designee and local Conservancy staff (see map).

II. CONSERVANCY AGREES:

Wildland Fire

1. Conservancy will report any wildfire detected either on or threatening Conservancy property to the district forester, county ranger/forester or through the 911 system and will initiate immediate and appropriate control measures upon the detection of any unplanned or uncontrolled ignition on Conservancy property.
2. The Conservancy property will develop a wildfire management response plan for each Conservancy property for annual review with the district forester. Where applicable, such plans will include the Conservancy's prescribed fire management plan.
3. To relinquish control of any wildfire to the first Forest Resources Incident Commander to arrive.
4. To make available Conservancy personnel, equipment, and facilities for use in suppressing wildfires. Conservancy personnel will acquire and use appropriate wildland fire Personal Protective Equipment (PPE) to include at a minimum, fire shirt, fire pants, fire shelter, gloves, goggles, 8" leather lace up boots, and hard hat.

5. To appoint a Conservancy resource advisor/liaison officer to an incoming Forest Resources Incident Management Team in support of wildland fire suppression efforts occurring on/threatening Conservancy property. This position will be staffed for the duration of the incident or until released by the Forest Resources Incident Commander.

Prescribed Fire

1. During Spring Fire Season which is March through May or when Forest Resources is operating on a Fire Readiness Plan 4 or higher, the Conservancy will call the district forester at least one day prior to any prescribed burn for consultation. Conservancy will not burn when Forest Resources Fire Readiness Plans are 5 or higher.
2. Conservancy agrees to follow and to abide by the State Smoke Management Plan.
3. Prior to ignition Conservancy will contact the Forest Resources District Operations Officer on the day of a planned prescribed burn to report smoke management information. The Conservancy will also contact the office of the county ranger and Central Dispatch on the day of the prescribed burn.
4. To coordinate with the District Forester when Conservancy personnel are available, as determined by the local Conservancy staff, to assist with Forest Resources prescribed fire operations. This is done to either allow Conservancy personnel to gain experience/training or for Conservancy personnel to assist with the training of Forest Resources personnel.
5. Provide to Forest Resources notice of pending prescribed fire training available to Forest Resources personnel.
6. To provide to Forest Resources Fire Training Officer the Conservancy training calendar that outlines Conservancy fire training.

Training

1. To train Conservancy personnel in the Incident Command System.
2. To train Conservancy personnel who may have prescribed fire or wildfire assignments. The minimum fire training will be S-130, S-190, L-180 and I-100 (Basic Training, Fire Weather, Basic Fire Behavior, and Basic ICS) and an annual refresher course. Conservancy personnel will meet Conservancy standards for physical fit testing.
3. To participate in the Certified Burner Program under the management of Forest Resources.
4. To participate in prescribed fire and suppression under the direction of Forest Resources personnel on lands not under Conservancy control when it is deemed Conservancy personnel are available and need additional training/experience.
5. To participate in the NC Fire Environment Working Group (FEWG).

Information and Education

1. To participate in the NC Firewise Program as appropriate to Conservancy's mission. The Firewise Communities/USA is a project of the National Wildfire Coordinating Group's Wildland/Urban Interface Working Team. It provides citizens with the knowledge necessary to maintain an acceptable level of fire readiness, while ensuring firefighters that they can use equipment more efficiently during a wildland fire emergency (<http://www.ncfirewise.org/>)

III. BOTH PARTIES AGREE:

1. District Foresters and the Conservancy and/or their designees will be available to meet to review burning plans for the year and discuss technical input. Forest Resources will not assume responsibility for approval of Conservancy prescribed burn plans.
2. To be responsible for training their employees and to participate in joint training meetings for the purpose of developing closer working relations.
3. Key contact officials for this agreement are the Forest Protection Section Chief, Forest Resources and the Conservancy Fire Manager & Assistant Director for Science. These agency officials or their designees will coordinate an Annual Cooperative Meeting by July 1 of each year to discuss and review statewide coordination of training, prescribed burning, wildfire prevention, and wildfire suppression.
4. All Conservancy prescribed fire management operations will occur pursuant to Forest Resources Smoke Management Plan and only under the direction of an on-site, Conservancy certified burn boss. Conservancy staff will assume complete control for all prescribed fire operations on Conservancy properties.
5. Conservancy and District Foresters during the Annual Operating Plan meetings to be held prior to March 1 of each year will be available to review fire management plans for Conservancy properties. Development of an Annual Action Plan for each property will include, but not be limited to:
 - A. Logistics: Including personnel and equipment; maps, communications and notification procedures, contact information, operational procedures, and other matters as deemed necessary by the participants.
 - B. Conservancy Fire Management Planning: This will consist of a review of the Conservancy wildfire management response plan and, if applicable, the Conservancy's prescribed fire management plans. This will include a review of the Conservancy's prescribed fire management goals, burn units and prescriptions, anticipated prescribed fire operations for the year, etc.
 - C. Response Plans: Including a review of the incident command system, appropriate Conservancy specific suppression methods and response levels based on fire severity and location, access points and containment lines, ecological issues, minimization of secondary impacts from suppression, public safety, and facilities protection, etc.

6. In the event of a significant wildfire or escaped prescribed fire on Conservancy property requiring Forest Resources assistance, Forest Resources staff will be briefed and will assume overall responsibility on arrival. Conservancy staff will be included in a unified Incident Command System and will be included in all discussions and decisions on suppression actions and rehabilitation of fire lines on Conservancy property. Conservancy personnel, equipment, and facilities will be made available to support the suppression effort.
7. Exceptions to full suppression may be ecologically and logistically warranted and are expected to be fully considered, regardless of the ignition source, especially in ecologically sensitive areas and where full suppression is clearly not warranted owing to fire location, size, intensity, smoke management, etc. Where conditions are deemed acceptable and are agreed to by both parties, wildfires or escaped prescribed fires will be allowed to burn out to already established lines or natural barriers in lieu of establishing new plowed or bulldozed lines on Conservancy property.
8. Whenever possible, all appropriate measures will be taken to minimize secondary suppression impacts or rehab fire lines on Conservancy property. Preferred suppression methods on Conservancy property will be discussed in the annual fire plan reviews and planned to the extent possible. This will include the identification of ecologically sensitive areas, equipment options and preferences, access areas and existing fire lines, pre-determined control lines, and burn-out blocks, etc.
9. In the event of a significant wildfire or escaped prescribed fire on Conservancy property, a post-fire review will be conducted. Forest Resources and the Conservancy will conduct this review within six months of the fire. Participants in the review will include at a minimum: district forester or designee, Conservancy personnel, the burn boss, and other administrative personnel as deemed appropriate. The review of escaped Conservancy prescribed fires will include, but not be limited to, a review of the pre-burn approval records, burn boss and crew qualifications, unit prescriptions, predicted and on-site weather parameters, required and on-site fire management resources, anticipated and actual fire behavior and factors contributing to the fire's spread, pre-fire response planning, the actual response, including methods and equipment used and suppression impacts, and escape contingency plan.
10. All activities pursuant to this MOU shall be in compliance with the requirement of Executive Order 11246, as amended, Title IV of the Civil Rights Act of 1964 (78 Stat. 252: USC 200d), and with all other federal laws and regulations prohibiting discrimination on grounds of race, color, national origin, handicap, religion, or sex in employment and in providing facilities and services to the public.
11. Each party will be liable for its own actions, and the actions of its employees. The liability includes loss, damage, and personal injury, including death, to each other's property, employees, agents, and contractors occurring in the performance of this MOU.

SIGNATURE WARRANTY

The undersigned represent and warrant that they are authorized to bind their principals to the terms of this agreement.

IN WITNESS WHEREOF, the Division of Forest Resources, The Nature Conservancy, and the DEPARTMENT HEAD OR AUTHORIZED AGENT execute this agreement in three (3) originals; one (1) of which is retained by each party.

THE NATURE CONSERVANCY

By *Kathleen P. Skinner*
Executive Director

July 21, 2008
Date

Printed Name: _____

DIVISION OF FOREST RESOURCES

By *Ellis J. Owen*
Director

July 31, 2008
Date

Printed Name: _____

NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

W.G.R.
William G. Ross, Jr., Secretary

Michael G. Bryant
Director/Division of Purchase & Services

By *Michael G. Bryant*
Secretary or Authorized Agent

8/17/08
Date

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