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STATE OF NEW HAMPSHIRE
DEPARTMENT of RESOURCES and ECONOMIC DEVELOPMENT
DIVISION OF FORESTS AND LANDS
172 Pembroke Road P.O. Box 1856 Concord, New Hampshire 03302-1856

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July 25, 2012

His Excellency Governor John H. Lynch
and the Honorable Executive Council
State House
Concord, NH 03301

REQUESTED ACTION

Authorize the Department of Resources and Economic Development, Division of Forests and Lands to enter into a Memorandum of Agreement (MOA) with the US Fish and Wildlife Service to cooperate in the management of timber and wildlife habitat on the Umbagog National Wildlife Refuge and Umbagog State Park in the form of a single timber sale on both properties. Upon Governor and Executive Council approval, expiring with the conclusion and final close out of the timber sale.

EXPLANATION

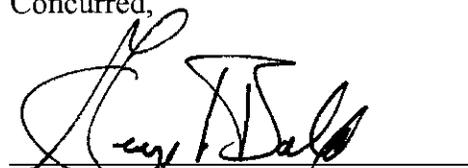
The Umbagog National Wildlife Refuge and Umbagog State Park abut on a common boundary within the town of Errol. Each property contains vital wildlife habitat that would be most efficiently managed by a single cooperative timber sale. The Division of Forests and Lands will oversee the bidding, contracting and administration of the sale while the US Fish and Wildlife Service will provide access to the site and wildlife habitat management expertise. DRED is estimated to receive approximately \$3000 from the harvest and the Umbagog National Wildlife Refuge is estimated to receive approximately \$5,000 due to a larger number of acres to be harvested on the Umbagog National Wildlife Refuge. Your approval of this MOA will permit this relationship.

The Attorney General's Office has approved this MOA as to form, substance and execution.

Respectfully submitted,

Concurred,


Brad W. Simpkins
Director


George M. Bald
Commissioner



Memorandum of Agreement

Between the

United States Department of Interior – U.S. Fish and Wildlife Service

Umbagog National Wildlife Refuge

And the

State of New Hampshire – Department of Resources and Economic Development

Division of Forests and Lands

This Memorandum of Understanding is made by and entered into among the following entities:

- A. **New Hampshire Department of Resources and Economic Development (DRED)** with a principle mailing address of P.O. Box 1856, Concord, NH 03302-1856;
- B. **United States Department of Interior, U.S. Fish and Wildlife Service - Umbagog National Wildlife Refuge (UNWR)** with a principle mailing address of 2756 Dam Road, P.O. Box 240, Errol, NH 03579-0240.

These entities share the common goal of conducting a joint timber harvest on DRED and UNWR property in the town of Errol, New Hampshire. The harvest will provide maintenance and stewardship for the property in a cost effective manner and provide revenue to offset the cost of ownership of the land. DRED has the authority to enter into a joint management agreement and conduct the timber sale under RSA 227-G:3, I (a) "Duties and Authority of the Director of the Division of Forests and Lands." UNWR has authority to enter into this agreement under Fish and Wildlife Act of 1956, 16 U.S.C. 742 et seq. The period of this Agreement shall be from the date of Governor and Council approval through June 30, 2014.

Whereas, the UNWR has approximately 25,650 acres of woodland at the Umbagog National Wildlife Refuge located in New Hampshire and Maine that would benefit from forest management activities, and;

Whereas, DRED manages Umbagog State Park, approximately 1,360 acres in the same general location which abuts the UNWR in several places that would benefit from forest management activities; and

Whereas, the UNWR employs a staff of professional natural resource managers; and

Whereas, DRED employs a professional forestry staff experienced in the management of forest resources; and

Whereas, it is beneficial to both agencies to manage their resources in concert to improve efficiency and habitat continuity;

Now Therefore, UNWR and DRED agree as follows:

- ❖ UNWR and DRED agree to combine into one timber sale offering timber from both properties as designated by the attached map. The timber sale contract and agreement shall expire prior to the expiration of this Agreement. The timber sale contract and agreement and this Agreement may be extended, amended or modified if needed. All such extensions, amendments or modifications shall be in writing and signed by both parties.
- ❖ Due Diligence – Prior to timber sale planning UNWR will provide DRED with any regulatory requirements or issues specific to the fact that the land is owned by the United States of America and administered by the US Department of the Interior, including but not limited to any Federal requirements for the property such as NEPA requirements, requirements for the handling of any income from the property, and impediments to the sale of timber from the property.
- ❖ Timber Sale Planning - DRED agrees to seek and incorporate input and review of the project proposal by UNWR staff and the State Lands Management Team. DRED further agrees to prepare a Forest Operation Planning Report that addresses environmental, financial, cultural and other related issues, and ultimately prescribes appropriate forest management treatments for the site and field conditions. DRED will present the Forest Operation Planning Report to UNWR for their consideration and approval prior to further work on site. Once approval is obtained from UNWR, DRED will then conduct a public notification process contacting Potentially Affected Interests¹ (PAIs) and solicit public comment as prescribed in DRED's timber sale manual. Any public comment received will be considered and plans adjusted as appropriate. If plans are adjusted, UNWR will be asked to review and approve the changes prior to any further work on the site.
- ❖ Timber Sale Preparation – Once the timber sale planning as described above is completed, DRED and UNWR will jointly designate the timber to be harvested and determine timber product and harvest scale. Timber product and scale will be separated by ownership and will be used to determine the value of stumpage being sold. DRED will prepare and distribute to potential buyers a combined timber sale notice and prospectus, conduct a timber sale showing and sealed bid process for the timber to be sold, and prepare and process a combined contract with the successful bidder to be signed by the buyer, DRED and UNWR. The buyer will be required to post with DRED a \$5,000 certified check to be used as a performance deposit in the event that the buyer causes any unacceptable damage to the site and does not make the needed repairs within a reasonable time. Prior to the start of harvesting operations, the buyer will pay DRED a predetermined amount based on the value of the stumpage and further defined in the contract of sale. The stumpage value owed to UNWR will be paid in an equal amount of screened gravel and culverts based on DRED contract rates, the quantity and sizes of which are further defined in the contract of sale. The buyer will be a contractor and not an employee of the State of New Hampshire or the Government of the United States of America.
- ❖ Timber Sale Supervision and Administration – DRED in collaboration with the UNWR will supervise and administer the timber sale as an agent of the landowners. DRED's supervisory responsibilities will be for adherence to the timber sale contract and agreement by the buyer and not the direct

¹ PAIs include the Town Selectmen or City Mayor, Town or City Manager, Conservation Commission, abutters and any organized users of the property. A public notice is also posted in 2 newspapers – generally one regional or statewide newspaper and one local newspaper.

supervision of logging crews. During the harvest UNWR will direct any concerns about the harvest to DRED and not to the buyer. DRED will collect and process all stumpage² payments and conduct any needed administrative close outs except those specific to the management of federal lands. At the conclusion of the harvest DRED will notify UNWR and provide a 2 week window for UNWR to inspect the harvest area. If UNWR identifies any infraction of the contract they will notify DRED immediately. DRED will contact the buyer and require the issues to be corrected prior to closing out the contract and returning the performance deposit.

- ❖ Distribution of Proceeds – Stumpage will be sold on a Lump Sum basis and revenues will be distributed to DRED and the UNWR proportionally according to bid price and estimated timber scale. Each agency may choose to substitute part or all of its stumpage payment from the buyer into site improvements such as road maintenance, gravel, and culverts. Improvements will be identified; costs will be assigned an allowable value by both agencies prior to bidding. Bidding documents will identify improvement activities. When improvements benefit both agencies, cost sharing will be negotiated prior to the timber sale showing and included in the bidding documents.
- ❖ Conflict Resolution – Should disagreement arise regarding the interpretation of the provisions of this MOA, or amendment and/or revisions thereto:
 1. Negotiations will be held at the Bureau Administrator/Refuge Forester level or below between UNWR and DRED. Both agencies will exhaust all practical means of conflict resolution at this level before involving higher level state officials.
 2. If conflicts cannot be settled at the administrator/refuge manager level or lower, it will be raised to the Division Director/Refuge Manager level where every effort will be made to resolve the conflict. Each party shall state the area(s) of disagreement in writing and present them to the other party for consideration. If agreement on interpretation is not reached within thirty (30) days, the parties shall forward the written statements of the disagreement to a mutually agreed upon third party, which may make a non-binding recommendation to the parties to resolve the disagreement.

IN WITNESS WHEREOF, the Parties have caused this instrument to be executed in duplicate by their duly authorized representatives on the dates indicated below.

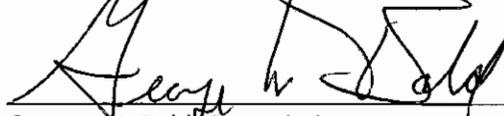
State of New Hampshire
Department of Resources and Economic Development



Brad W. Simpkins, Interim Director, Forests and Lands



Date



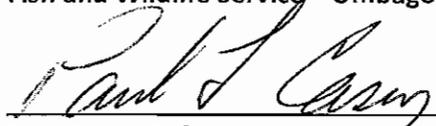
George M. Baldwin, Commissioner



Date

² Stumpage is the volume or value of standing (uncut) timber prior to harvest.

United States Department of Interior
Fish and Wildlife Service – Umbagog National Wildlife Refuge



Paul Casey, Refuge Manager

10-1-12
Date



Thomas LaPointe, Refuge Forester

10/1/12
Date

Approved as to form, substance, and execution:



Anthony Blenkinsop, Attorney
Office of the Attorney General

10/3/12
Date