

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE CONSERVATION FUND**

AND

U.S. FISH AND WILDLIFE SERVICE

This Memorandum of Understanding ("MOU") is made and entered into by and between the United States Department of the Interior, U. S. Fish and Wildlife Service (hereinafter "FWS") and The Conservation Fund (hereinafter "TCF") (collectively "the Parties").

ARTICLE I. BACKGROUND AND OBJECTIVES

A. Background

1. TCF is one of the nation's leading land conservation nonprofit organizations working to address climate change by reducing atmospheric carbon dioxide through terrestrial carbon sequestration.
2. TCF, through its climate change initiatives, has helped to restore and protect more than 30,000 acres of National Wildlife Refuge ("Refuge") lands, planting more than eight million trees on Refuges in partnership with the FWS, of which 3,700 acres and one million trees were through the Go Zero[®] program.
3. TCF launched the Go Zero program to engage individuals, companies and communities across the country in an effort to address two of the nation's greatest environmental challenges—habitat loss and climate change—by planting trees to offset carbon dioxide emissions.
4. FWS is the U. S. Department of the Interior agency responsible for administration of the National Wildlife Refuge System ("NWRS").
5. The mission of the NWRS is to administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife and plant resources and their habitats within the United States for the benefit of present and future generations of Americans.
6. FWS has NWRS lands across the country suitable for terrestrial carbon sequestration and native habitat restoration.
7. FWS has been working with private and nonprofit sectors to address climate change by terrestrially sequestering atmospheric carbon dioxide through the restoration of native habitats.

8. FWS accepts donations to help fulfill its management responsibilities on NWRS lands through established Friends groups and other partners.
9. FWS and TCF have successfully worked together on multiple carbon projects since 2000 under predecessor MOU's and seek to continue this relationship into the future by entering into this revised MOU.

B. Objectives

1. Expand application of TCF's Go Zero program by reforesting native habitat through multiple projects on NWRS lands across the country.
2. Reduce atmospheric carbon dioxide through the reforestation of native fish and wildlife habitats on Refuge lands.
3. Create private/public partnerships as a way to generate support for the restoration and conservation of native habitats, without generating carbon sequestration credits that can be sold or traded. Rather, all carbon offsets generated from Go Zero projects on Refuge land shall be retired by TCF and may not be banked or sold in the future.
4. Engage local communities in Go Zero projects on Refuges as a way to educate residents about environmental issues, raise awareness about Refuges, and generate support for future activities.
5. Improve air and water quality and provide opportunities for the American public to participate in wildlife dependent recreational activities.

ARTICLE II. AUTHORITY

This MOU is entered into pursuant to the Fish and Wildlife Coordination Act, 16 U.S.C. 661 et. seq., and the Fish and Wildlife Act of 1956, 16 U.S.C. 742a et seq.

ARTICLE III. STATEMENT OF WORK

A. TCF agrees to:

1. Seek donations from individuals, corporations and other organizations to support Go Zero habitat restoration projects on Refuges across the country.
2. Consult with FWS to determine which Refuge(s) are FWS's highest priority and best fit for habitat restoration and carbon sequestration.
3. Be responsible for determining the amount of carbon sequestered by habitat restoration projects.
4. Coordinate communication between corporate sponsors, FWS and NWR staff.
5. Work with FWS to establish community outreach opportunities.

6. Promote public support for lands to be added to the NWRS as a component of the Go Zero program.
7. Seek validation of the climate benefits of each project implemented after January 2009.
8. Retire all offsets generated from Go Zero projects on NWR lands.

B. FWS agrees to:

1. Identify appropriate NWR lands for Go Zero habitat restoration projects and provide TCF with a list of priority lands for habitat restoration and an estimate of the cost of restoration.
2. Be responsible for oversight and approval of habitat restoration and monitoring activities on the ground and provide long-term management and monitoring of these lands as forest under natural conditions, and according to best wildlife and habitat management practices.
3. Cooperate with TCF on outreach, including participating in appropriate donor recognition events, public relations, signage, and project validation efforts.
4. Add Go Zero habitat restoration projects to refuge Comprehensive Conservation Plans as they are developed or revised.

C. The Parties agree to:

1. Collaborate on all outreach regarding Go Zero and NWR plantings. Both Parties must approve all relevant materials before they are released to the public. The parties will jointly determine how and when to announce the renewal of this MOU. Other public releases of information concerning this MOU shall be subject to the prior agreement of the Parties.
2. Provide each other with periodic updates and hold informational and planning meetings, as appropriate, concerning implementation of this MOU.

ARTICLE IV. EFFECTIVE DATE AND TERM OF MOU

This revised MOU will become effective on October 1, 2010 and will extend through September 30, 2015 unless it is terminated earlier as provided in Article VI.

ARTICLE V. KEY OFFICIALS

- A. The key officials specified in this MOU are considered to be essential to ensure maximum coordination and communication between the Parties and the work to be performed. They are:

For FWS:
Operations:

Public Relations:

Jeff Rupert
Chief,
Division of Natural Resources
National Wildlife Refuge System
U.S. Fish and Wildlife Service
4401 No. Fairfax Drive
Arlington, VA 22203
(703) 358-1821

Martha Nudel
Branch Chief,
Communications
National Wildlife Refuge System
U.S. Fish and Wildlife Service
4401 No. Fairfax Drive
Arlington, VA 22203
(703) 358-1858

1. For TCF:

Operations:

Public Relations:

Erik Meyers
Vice President
The Conservation Fund
1655 N. Fort Myer Drive
Suite 1300
Arlington, VA 22209
(703) 908-5801
(703) 525-4610 fax

Jena Meredith
Director, Go Zero
The Conservation Fund
1311 Fourmaline Street
San Diego, CA 92109
(512) 423-5086

John Rogers
Senior Associate
The Conservation Fund
P.O. Box 271
Chapel Hill, NC 27514
(919) 967-2223
(919) 967-9702 fax

Carrie Gombos
Go Zero Operations Manager
The Conservation Fund
1655 N. Fort Myer Drive
Suite 1300
Arlington, VA 22209
(703) 908-5808

- B. The Parties agree to notify each other promptly and in writing of any change in key officials.
- C. All communications and notices regarding this MOU, and actions taken pursuant to this MOU, will be directed to key officials, or their designees.

ARTICLE VI. MODIFICATION AND TERMINATION

- A. This MOU may be modified only by written instrument executed by the Parties.
- B. Either party may terminate this MOU by providing the other party with 90 days advance written notice.
- C. The provisions of Article III A.8, Article III B.2, Article VII and Article VIII of this MOU will survive any termination or expiration of this MOU.

ARTICLE VII. LIABILITY

A. FWS:

Claims brought against the United States by third parties for personal injury or property damage resulting from the negligent acts or omissions of any employee of FWS acting with the scope of employment will be governed by the Federal Tort Claims Act, 28 U.S.C. 2671 et seq.

B. TCF:

- 1. Shall be fully responsible for the acts and omissions of its representatives, employees, contractors and subcontractors connected with the performance of this MOU. Also, TCF, in furtherance of this MOU, shall:
 - a. Indemnify, save and hold harmless, and defend the United States against all fines, claims, damages, losses, judgments, and expenses arising out of, or from, any omission or activity of such person, organization, its representative or employees.
 - b. Pay the United States the full value for all damages to the lands or other property of the United States caused by such person or organization, its representative, or employees.
 - c. Procure public and employee liability insurance from a responsible company or companies with a minimum limitation of \$1,000,000 per person for any one claim, and an aggregate limitation of \$3,000,000 for any number of claims arising from any one incident. The policies shall name the United States as an additional insured, shall specify that the insured shall have no right of subrogation against the United States for payments of any premiums or deductibles due thereunder, and shall specify that the insurance shall be assumed by, be for the account of, and

be at the insured's sole risk. Prior to taking acts under this MOU, TCF shall provide FWS with confirmation of such insurance coverage.

2. Will cooperate with the FWS in the investigation of any claims that may be filed with or against the FWS arising out of activities of TCF, its officers, employees, or (members, participants, agents, or representatives as appropriate) occurring in connection with this MOU.

ARTICLE VIII. GENERAL PROVISIONS

- A. Anti-Deficiency Act, 13 U.S.C. § 1341, Nothing in this agreement may be construed to obligate Federal Agencies or the United States to any current or future expenditure of resources in advance of the availability of appropriations from Congress.
- B. This MOU is neither a fiscal nor a funds obligation document. Any endeavor involving reimbursement or contribution of funds between the Parties will be handled in accordance with applicable laws.
- C. During the performance of this MOU, the Parties agree to abide by the terms of U.S. Department of the Interior- Civil Rights Assurance Certification, non-discrimination, and will not discriminate against any person because of race, color, religion, sex, or national origin. The participants will take affirmative action to ensure that applicants are employed without regard to their race, color, sexual orientation, national origin, disabilities, religion, age, or sex.
- D. TCF will not publicize, or otherwise circulate, promotional material (such as advertisements, press releases, speeches still and motion pictures, articles, manuscripts, or other publications), which states or implies governmental, departmental, bureau, or government employee endorsement of a product, service, or position which TCF represents. No release of information relating to this MOU may state or imply the government approves of TCF's work product, or considers TCF's work product to be superior to other products or services.
- E. TCF will obtain prior FWS approval from the Public Relations key official before releasing any public information referring to the Department of the Interior, any bureau or employee, or this MOU. FWS will obtain TCF approval from the Public Relations key official before releasing any public information referring to this MOU, except as otherwise provided by law. Such material shall be developed collaboratively between the parties.

ARTICLE IX. AGENCY

TCF is not an agent or representative of the United States, the Department of the Interior, or the FWS, and will not represent itself as such to third parties.

ARTICLE X. NON-EXCLUSIVITY

This MOU in no way restricts FWS or TCF from participating in similar activities or arrangements with other public or private agencies, organizations, or individuals.

ARTICLE XI. COMPLIANCE WITH APPLICABLE LAWS

This MOU and its performance are subject to all laws, regulations, and management policies governing the FWS, its property and its resources, whether now in force or later enacted or promulgated. Nothing in this MOU will be construed in any way as impairing the FWS' general powers for supervision, regulation, and control of its property under such applicable laws, regulations, and management policies. Nothing in this MOU will be deemed inconsistent with or contrary to the purpose of or intent of any Act of Congress or law of the District of Columbia.

ARTICLE XII. SECTION HEADINGS

Section headings contained in this MOU are for convenience only and will not be considered in interpreting or construing this MOU.

In Witness Whereof, the Parties have executed this MOU.

U.S. Fish and Wildlife Service

By: 

ACTING
Director

Its: _____

Date: _____

The Conservation Fund

By: 

Its: VICE PRESIDENT, SUSTAINABLE PROGRAMS

Date: 9/13/10