

MEMORANDUM OF UNDERSTANDING

between the

CAROLINA POWER AND LIGHT COMPANY

and the

N.C. DEPARTMENT OF ENVIRONMENT, HEALTH, & NATURAL RESOURCES

This agreement is made and entered into this 19th day of March, 1993, by and between the Carolina Power and Light Company (hereinafter referred to as CP&L) and the North Carolina Department of Environment, Health, and Natural Resources (hereinafter referred to as the Department).

Objectives:

WHEREAS CP&L, a public utility required to generate, transmit and distribute electric power, is strongly committed to the preservation of rare species and natural communities, and the hydrologic and disturbance regimes, such as flooding or fire, that maintain them; and

WHEREAS CP&L recognizes that:

- 1) the artificial disturbance, such as periodic mowing or hand-cutting, employed in powerline right-of-way maintenance can mimic natural disturbance regimes, such as flooding or fire, required by rare species and natural communities for survival,
- 2) certain rare species and natural communities are especially vulnerable to soil disturbance and to disruption of their hydrologic regime,
- 3) indiscriminate application of herbicides is harmful to most rare species and natural communities; and

WHEREAS the Department's Natural Heritage Program was created by the General Assembly of North Carolina to inventory and protect the special elements of natural diversity and natural areas which best exemplify the state's natural heritage; and

WHEREAS the protection strategies used by the Natural Heritage Program are threefold, as follows:

- 1) establishing a statewide system of registered natural areas and dedicated nature preserves,
- 2) promoting the awareness and involvement of the general public, private corporations, and agencies, in natural areas protection,
- 3) providing input to the private and public sector to assist them in land use planning that optimally has no impact on the special elements of natural diversity and natural areas which best exemplify the state's natural heritage; and

WHEREAS, under existing provisions of law, the Department is authorized to enter into Agreements with public utilities;

WHEREAS, both parties recognize that the successful management of rare, threatened and endangered species, sensitive or exemplary natural communities and other significant natural features on public utility powerlines depends on close cooperation between said public utility and the Department's Natural Heritage Program.

NOW THEREFORE, in consideration of the above premises and in the interest of the mutual advantage in attainment of common objectives, the parties hereto desire to cooperate and mutually agree as follows:

Statements of Work:

A. To the best of its knowledge and ability, CP&L agrees to:

1. Preserve and protect the special elements of natural diversity and natural areas which best exemplify the state's natural heritage which occur on their powerline rights of way. "Preserve and protect" can be defined as managing each site according to the Natural Heritage Program's recommendations which usually include mowing only during the non-growing season and avoiding impact to the soil and hydrologic components of the natural area. Herbicide use in the vicinity of a rare species or unique natural area will be carefully managed in consultation with the Natural Heritage Program. Selective and specific herbicide applications may be needed to supplement mechanical maintenance when woody or invasive species threaten the rare species or natural communities.
2. Notify the Natural Heritage Program when an emergency or operational situation has occurred which impacts a site.
3. Notify the Natural Heritage Program if the right of way is sold or transferred, if threats to the natural area are observed by CP&L staff, or if management changes are anticipated. Ideally, notification should be well in advance of any anticipated change, to allow time for negotiation or other protection planning.

B. To the best of its knowledge and ability, the Department agrees to:

1. Provide CP&L with location and management information for the special elements of natural diversity and natural areas which best exemplify the state's natural heritage which occur on CP&L rights of way.
2. Provide CP&L with continued management information and information on rare species and natural communities, through periodic consultation and survey forms.
3. Include the natural areas identified as occurring on CP&L rights of way and protected under this Memorandum of Understanding in the North Carolina Natural Heritage Program Registry of Natural Areas.

C. It is further mutually agreed between the parties that:

1. Nothing in this agreement shall be construed as obligating either the Department or CP&L to expend funds specifically for fulfillment of the statements of work.
2. Nothing herein contained shall be construed as limiting or affecting in any way the delegated authority of the Department or of CP&L in any way.

Key Contacts:

CP&L:

Ms. Brenda Brickhouse, Transmission Forester
Carolina Power & Light Company
6C3 Center Plaza Building
P.O. Box 1551
Raleigh, NC 27602 919/546-6782

Natural Heritage Program:

Ms. Ann Prince, Protection Specialist
North Carolina Natural Heritage Program
Division of Parks and Recreation
P.O. Box 27687
Raleigh, NC 27611-7687 919/733-7701

Conditions of Agreement:

This Memorandum of Understanding shall become effective when signed by both agencies and shall continue in force until terminated by either agency.

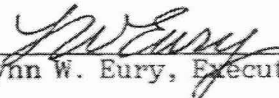
This Memorandum of Understanding may be terminated thirty (30) days after written notification by either party, or for due cause at any time.

Nothing in this Memorandum of Understanding shall be construed to place a financial commitment upon either of the parties.

SIGNATURES

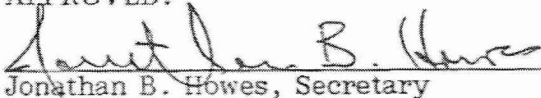
CAROLINA POWER AND LIGHT COMPANY

APPROVED:


Lynn W. Eury, Executive Vice President-Power Supply

DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

APPROVED:


Jonathan B. Howes, Secretary