

## **North Carolina Soil and Water Conservation Commission**

### **Policies Pertaining to Conservation Easements**

**Adopted October 1, 2013**

All conservation easement and management plan modifications should start with local soil and water conservation district involvement.

#### **Policy for Conservation Easement Modification**

The purpose of this policy is to provide a consistent response to conservation easement modification requests. A modification is defined as changes to the terms of a fully executed conservation easement. No modification will be considered that reduces the conservation values of the land, adds an allowable use that was not included in the original easement language or jeopardizes the easement obligations of the Division, landowners, other partners, or to the public. The modification must comply with federal, state and local laws. All modification requests must be approved by the Commission unless otherwise specified and must be in accordance with Chapter 146 of the NC General Statutes.

- Modifications of the conservation easement document will only be considered if the conservation value of the property will be strengthened or maintained as determined by the Division of Soil & Water Conservation.
- Grantor (landowner) may be responsible for associated costs including costs incurred by the Division of Soil & Water Conservation.
- Technical corrections are allowed with Division approval.
- Any modification to a conservation easement must reference the original conservation easement and be recorded with the Register of Deeds.
- Extending the duration of the easement is allowed with Division approval and through appropriate legal mechanisms.

#### **Policy for Management Plan Changes on Conservation Easement Properties**

Over time, management needs and goals of a conserved property may change. Management plans (if addressed in the conservation easement) must be flexible enough to address necessary changes. Management plan changes are allowed with Division approval and are not intended to require modification of the conservation easement language. Specifically, the following conditions apply:

- Forestry Management Plan revisions can be made with recommendation by NC Forest Service or registered forester. Changes may include, but are not limited to, thinning schedule, species to replant, disease or natural disaster concerns. Modifications should be documented through a revised forestry management plan, which must be submitted to the Division for approval prior to being implemented.

- Conservation Plan Revisions can be made with recommendation by the local Soil and Water Conservation District or NRCS. Revisions may include changes in vegetation or tree species, provided they still meet required program policies. Modifications should be documented through a revised conservation plan, which must be submitted to the Division for approval prior to being implemented.

### **Policy for Conservation Easement Termination**

Termination of interests in real property can only be achieved in accordance with the authorities granted within the provisions of Chapter 146 of the NC General Statutes and any other statutory requirements.

### **Policy for Noncompliance of Conservation Easement**

*(Revised November 20, 2013)*

The purpose of this policy is to provide a consistent response to conservation easement compliance issues. Once a compliance issue is confirmed, Division staff must give reasonable notice to provide the landowner an opportunity to voluntarily correct the issue. All efforts should be made by the landowner to address the issue within 30 days, where practicable. Depending upon the severity of noncompliance, the initial notification may be verbal or in writing by Division staff in coordination with the District.

If the noncompliance concern is not addressed appropriately within the agreed upon response deadline, then Division staff must follow required procedures as specified in 02 NCAC 59F .0106. At anytime deemed necessary by the Division, injunctive relief can be sought by court order.

It is the intent of the Commission to support the position that the noncompliance area should be returned to the condition that met the program objectives or guidelines when the easement was acquired and to not release any easement in response to a compliance issue.