MEMORANDUM OF UNDERSTANDING
among the
BUREAU OF INDIAN AFFAIRS
and the
BUREAU OF LAND MANAGEMENT
and the
DEPARTMENT OF DEFENSE
and the
ENVIRONMENTAL PROTECTION AGENCY
and the
FEDERAL HIGHWAY ADMINISTRATION
and the
NATIONAL PARK SERVICE
and the
OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT
and the
SMITHSONIAN INSTITUTION
and the
U.S. ARMY CORPS OF ENGINEERS
and the
U.S. BOTANIC GARDEN
and the
USDA AGRICULTURAL MARKETING SERVICE
and the
USDA AGRICULTURAL RESEARCH SERVICE
and the
USDA FOREST SERVICE
and the
USDA NATIONAL INSTITUTE OF FOOD AND AGRICULTURE
and the
USDA NATURAL RESOURCES CONSERVATION SERVICE
and the
U.S. FISH AND WILDLIFE SERVICE
and the
U.S. GEOLOGICAL SURVEY
ESTABLISHING THE
FEDERAL NATIVE PLANT CONSERVATION COMMITTEE
OF THE PLANT CONSERVATION ALLIANCE

This Memorandum of Understanding (MOU) is made and entered into by the Bureau of Indian Affairs, Bureau of Land Management, Department of Defense, Environmental Protection Agency, Federal Highway Administration, National Park Service, Office of Surface Mining Reclamation and Enforcement, Smithsonian Institution, United States Army Corps of Engineers, United States Botanic Garden, USDA Agricultural Marketing Service, USDA Agricultural Research Service, USDA Forest Service, USDA National Institute of Food And Agriculture, USDA Natural Resources Conservation Service, U.S. Fish and Wildlife Service, and U.S. Geological Survey, hereinafter referred to as the Committee.

I. PURPOSE

The purpose of this MOU is to document a framework for collaboration and cooperation of federal agencies engaged in the Federal Native Plant Conservation Committee, through the Plant Conservation Alliance (PCA). The PCA is a public-private collaboration among federal agency Members and non-federal Cooperators. PCA Members and Cooperators work collaboratively to solve problems associated with native plant conservation and ensuring the sustainability of associated native ecosystem in the United States. The Committee will identify and recommend, as appropriate, priority conservation needs for native plants and their habitats and coordinate implementation of programs for addressing those needs. A native plant species is one that occurs naturally in a particular habitat, ecosystem, or region of the United States and its Territories or Possessions, without direct or indirect human actions. Recognizing that native plant species are of aesthetic, agricultural, ecological, economic, educational, historical, recreational, and scientific value to the Nation and its people, the Committee's priorities will be driven by the following vision: For the enduring benefit of the Nation, its ecosystems, and its people; to conserve and protect our native plant heritage by ensuring that, to the greatest extent feasible, native plant species and communities are maintained, enhanced, restored, or established on public lands, and that such activities are promoted on private lands.

II. STATEMENT OF MUTUAL BENEFITS AND INTERESTS

The Federal agencies in the Native Plant Conservation Committee have a history of working together to promote native plant conservation. The PCA adopted a National Framework for Progress in 1995, which includes 6 broad strategies, and supporting goals and actions to provide a forum for bringing people and organizations together to share resources and talents to effectively conserve the nation's native plants, and to ensure conservation and restoration of native plant communities through ecosystem-based management. In 2015, the PCA developed the National Seed Strategy for Rehabilitation and Restoration, which fosters interagency collaboration to guide the development, availability, and use of native plant seed needed for timely and effective restoration.

Native plants are a key component of national and global biodiversity conservation efforts, and they support multiple uses of public lands. Native plants and their communities support ecosystem functions vital to a healthy, productive, and beautiful environment. Native plants also provide innumerable direct and indirect benefits to the Nation's wildlife, its people, and its economy.

The native flora of the contiguous United States alone includes about 17,800 species of flowering plants, or about 5 percent of the world's total, including the world's oldest and largest conifers, plus a wealth of other vascular and non-vascular plants, as well as fungi, lichens, and algae. In the southeastern United States, more than 1,800 plant species are a regional conservation priority based on rarity, threats, and needed conservation actions. Native plants face challenges in the form of habitat loss and alteration caused by fires, competition, and predation by invasive species, and in some cases over-exploitation for human use. Native plants, including crop wild relatives, contain unique genetic properties, and the full benefit of these may not yet be recognized but should be preserved for future generations.

Opportunities exist for native plant preservation and conservation at Federal, State, Tribal, and local government levels, among public and private land managers, conservation organizations, and individual citizens. Protection and conservation of areas of highly diverse or rare native plants is key to conserving the Nation's biodiversity and may convey additional benefits to species of both plants and animals that otherwise could become imperiled.

Numerous opportunities exist to employ native plants in a variety of federally implemented, funded, authorized, or permitted activities. For example, habitat fragmentation affects all species, and native plants are key to restoring good quality habitat that provide structural and functional ecological connectivity. Restoring native plant communities along roads, construction sites, and the margins of agricultural fields improves connectivity and reduces soils erosion and nutrient run-off. Native plants assist the stabilization and recovery of wildfire burn sites, providing shelter to displaced animals, protecting fragile soils, reducing the spread of non-native invasive plants, and discouraging future fires. Resilience and survival advantages of genetically appropriate native plants are long-term. Genetically appropriate native plants are preferred because they are adapted to target site conditions, genetically diverse to respond and adapt to changing climate and environmental conditions and are unlikely to cause genetic contamination and undermine local adaptations. Native plants are an essential element of ecosystem restoration at ecoregional scales, such as the massive wildland seed collection and restoration work following Hurricane Sandy, involving more than 2,100 collections of 345 unique taxa spanning 72 plant families, 11 states, and 15 ecoregions.

Plants represent over half of all species federally listed as endangered and threatened species in the United States. As of April 2024, 1,663 native plant and animal species were federally listed as endangered or threatened in the United States. Of these, 725 were animals, and 938, or 56 percent, were plants. The destruction, modification or curtailment of habitat is a primary driver of species' imperilment. Federal lands provide ecosystems supporting for more than 600 listed animal and plant species and one-fourth of the known occurrences of listed plants. Careful management of these lands can help maintain our Nation's plant heritage. Federal agencies also have the expertise to assist non-Federal land managers in plant conservation and protection efforts. The National Academies of Sciences, Engineering, and Medicine's 2023 *Assessment of Native Seeds Needs and the Capacity for Their Supply* underscores the need for innovative partnerships among public and private sectors, nationally and internationally, to conserve and restore native plants and their habitats before they become critically endangered, especially as climate change increases the possibility of extreme weather events that often damage natural areas.

It is the desire of all parties to continue to cooperate on issues related to the conservation and restoration of native plants and the ecosystems upon which they depend. Ongoing efforts include information sharing during monthly meetings, as needed, to include presenters on topics of mutual interest, and monthly meetings of the Federal implementation working group for the National Seed Strategy.

III. AUTHORITIES

The following statutes provide authority for this Memorandum of Understanding:

1. Bureau of Indian Affairs: 25 U.S.C. § 2; Snyder Act of 1921, as amended, 25 U.S.C. § 13.

2. Bureau of Land Management: Section 307(b) of the Federal Land Policy and Management Act of 1976, as amended, 43 U.S.C. 1737(b) (2011).

3. Department of Defense: Sikes Act (16 USC 670-670o, as amended).

4. Federal Highway Administration: 23 U.S.C. 329 (2011); 23 U.S.C. 319(b) (2011); 23 USC 138; 49 USC 303 (a) and (d).

5. National Park Service: National Park Service Organic Act of 1916, 54 U.S.C. § 1000101, as amended and supplemented; Fish and Wildlife Coordination Act, 16 U.S.C. § 661.

6. Office of Surface Mining Reclamation and Enforcement: [*insert authority*]

7. Smithsonian Institution: 20 U.S.C. § 41 et. seq.

8. U.S. Army Corps of Engineers: Flood Control Act of 1944, as amended (16 USC 460d); Water Resources Development Act of 1992 (33 USC 2325).

9. U.S. Botanic Garden: [*insert authority*]

10. USDA Agricultural Marketing Service: [*insert authority*]

11. USDA Agricultural Research Service: 7 U.S.C. § 3318(b).

12. USDA National Institute of Food and Agriculture: [*insert authority*]

13. USDA Forest Service: Multiple Use-Sustained Yield Act of 1960, 16 U.S.C. 528-531.

14. USDA Natural Resources Conservation Service: 16 U.S.C § 590a-f and 590q, Soil and Water Conservation.

15. U.S. Fish and Wildlife Service: Endangered Species Act of 1973, as amended, 16 U.S.C. § 1531-1544 (2012); Fish and Wildlife Conservation Act of 1980, 16 U.S.C. § 2901-2912 (2012); Fish and Wildlife Act of 1956, 16 U.S.C. § 742f (2012); Fish and Wildlife Coordination Act, 16 U.S.C. § 661-666 (2012); National Wildlife Refuge System Improvement Act of 1997, 16 U.S.C. § 668dd.

16. U.S. Geological Survey: 43 U.S.C. § 36c (page 3, Section III).

IV. COMMITTEE MEMBERSHIP, STRUCTURE, AND OPERATIONS

The Committee Members mutually agree that:

1. Membership on the Committee is open at any time to any Federal agency interested in taking an active role in a native plant conservation program. Membership becomes official at such time as the Memorandum of Understanding is signed by the head of the Federal agency or a designee thereof.

2. A member agency may designate one official (with one alternate) to serve as its representative to the Committee, who will attend scheduled meetings at his or her agency's expense. Each member agency will inform the Committee, in writing, of the name and position of its representative and alternate, or of any changes in same.

3. The Committee shall establish its own working rules, including a procedure for designating the Chair. The position of Committee Chair may rotate every 2 years to a different Member agency.

4. The Committee shall meet a minimum of once per year. Additional meetings may be scheduled as agreed to by the Committee and may include meetings at field locations.

V. PRINCIPAL CONTACTS

Individuals listed in Attachment 1 are authorized to act as principal contacts for matters related to this Memorandum of Understanding.

VI. COMMITTEE RESPONSIBILITIES

The Committee Members mutually agree that the Committee will:

1. Develop and serve as a forum for coordination and implementation of a national native plant conservation program, consisting of public education and outreach, research, conservation and restoration actions, native plant materials development coordination including native seed collection, database coordination and information exchange, and international programs. The Committee shall continue to further its goals and objectives for a national native plant conservation program.

2. Encourage Committee Members to take appropriate action within the limits of their respective authorities, policies, and budgets.

3. Encourage Committee Members to promote and coordinate program implementation with partners; partners may include State, Tribal, and local natural resource and land management agencies, and natural heritage programs, universities, and local, national, and international organizations through existing agreements or through establishment of new agreements.

4. Evaluate implementation of this MOU on a regular basis to determine how effectively the purposes of the MOU are being met.

VII. WORKING GROUPS

1. Working Groups may be formed or disbanded as needed, at the discretion of the Committee, consistent with the applicable requirements of the Federal Advisory Committee Act.

2. Working Groups will be formed to determine needs for public education/outreach, research, conservation and restoration actions, native plant materials development including native seed collection, databases/information exchange, international programs, and to address other issues as agreed to by the Committee.

3. Working Groups will report regularly to the Committee on their deliberations including planning, coordination, facilitation, and implementation of actions recommended or developed by the Working Groups or by the Committee.

4. Working Groups representing geographic regions will be established to identify regional management needs for native plants and activities of Federal, State, and private interests within the regions. The geographic regions will be determined by the Committee.

VIII. COOPERATORS

1. Any Federal agency not desiring formal representation on the Committee, and any State agency, Tribal agency, or Tribal consortium program, private organization or individual, or foreign government agency interested in native plant conservation, may become a Cooperator upon acceptance of a written request to the Committee Chair. Cooperators may attend meetings of the Committee as observers, participate in informal open forums with the Committee, and participate in Working Groups, consistent with the applicable requirements of the Federal Advisory Committee Act. Cooperator agencies and organizations may designate one individual as a contact person, informing the Committee Chair in writing of the selection and of any changes in same.

2. As of April 2024, 441 nonfederal governmental and nongovernmental organizations have Cooperator status. The complete list is available as Attachment 2.

IX. IT IS MUTUALLY AGREED AND UNDERSTOOD BY AND AMONG THE SIGNATORIES TO THIS MEMORANDUM OF UNDERSTANDING AND COOPERATORS THAT:

1. Nothing in this MOU shall cause any agency which is a party to the MOU to take any action which conflicts with any existing authority, responsibility, or obligation,

established under Federal law or regulation.

2. This MOU in no way restricts participants from involvement in similar activities with other public and private agencies, organizations, and individuals.

3. Nothing in this MOU shall be construed as obligating Committee Members or Cooperators to expend funds or to provide resources or be involved in any obligation for future payment of money or provision of resources.

4. Modifications within the scope of this MOU shall be made by formal consent of the parties, by the issuance of a written modification, signed and dated by the parties, prior to any changes becoming effective.

5. Any Committee member may terminate or withdraw membership in whole or in part at any time before the date of expiration, by providing 30-day written notice to the Committee Chair.

6. This MOU is neither a fiscal nor a funds-obligation document. Any endeavor involving reimbursement or contribution of funds between the parties to this instrument will be handled in accordance with applicable laws, regulations, and procedures including those for Government procurement and printing. Such endeavors will be outlined in separate agreements that shall be made in writing by representatives of the parties and shall be independently authorized by appropriate statutory authority. This instrument does not provide such authority. Specifically, this instrument does not establish authority for noncompetitive award to any Cooperator of any contract or other agreement. Any contract or agreement for training or other services must fully comply with all applicable requirements for competition.

7. This instrument expires no later than 5 years upon the date of the second agency signature, at which time it is subject to renewal through execution of a new MOU by the Committee.

X. GENERAL REQUIREMENTS

1. The program or activities conducted under this MOU will be in compliance with the nondiscrimination provisions contained in Titles VI and VII of the Civil Rights Act of 1964, as amended; the Civil Rights Restoration Act of 1987 (P.L. 100-259); and other nondiscrimination statutes: namely, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, and the Age Discrimination Act of 1975.

2. No member of, or Delegate to, Congress shall be admitted to any share or part of this instrument, or any benefits that may arise therefrom.

3. FREEDOM OF INFORMATION ACT (FOIA). Public access to MOU or agreement records must not be limited, except when such records must be kept confidential and would have been exempted from disclosure pursuant to FOIA statute (5 U.S.C. 552).

4. TEXT MESSAGING WHILE DRIVING. In accordance with Executive Order (EO) 13513, “Federal Leadership on Reducing Text Messaging While Driving,” any and all text messaging by Federal employees is banned: a) while driving a Government owned vehicle (GOV) or driving a privately owned vehicle (POV) while on official Government business; or b) using any electronic equipment supplied by the Government when driving any vehicle at any time. All collaborators, their employees, volunteers, and contractors are encouraged to adopt and enforce policies that ban text messaging when driving company owned, leased or rented vehicles, POVs or GOVs when driving while on official Government business or when performing any work for or on behalf of the Government.

5. PUBLIC NOTICES. It is the U.S. Forest Service's policy to inform the public as fully as possible of its programs and activities. The Federal Native Plant Conservation Committee is encouraged to give public notice of the receipt of this agreement and, from time to time, to announce progress and accomplishments. Press releases or other public notices should include a statement substantially as follows:

   "National Forest Systems of the U.S. Forest Service, Department of Agriculture, botany/celebrating wildflowers program." Federal Native Plant Conservation Committee members may call on the U.S. Forest Service's Office of Communication for advice regarding public notices. Federal Native Plant Conservation Committee is requested to provide copies of notices or announcements to the U.S. Forest Service Program Manager and to the U.S. Forest Service's Office of Communications as far in advance of release as possible.

6. ACKNOWLEDGEMENTS IN PUBLICATIONS, AUDIOVISUALS, AND ELECTRONIC MEDIA. The Federal Native Plant Conservation Committee shall acknowledge, by name, any Federal member agency support in any publications, audiovisuals, and electronic media developed as a result of this MOU.

7. This MOU is not intended to, and does not create, any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity, by a party against the United States, its agencies, its officers, or any person.

XI. EFFECTIVE DATE

IN WITNESS WHEREOF, the parties hereto have entered into this MOU establishing the Federal Native Plant Conservation Committee of the Plant Conservation Alliance, originally signed May 25, 1994, as evidenced by their signatures below. The terms of this MOU are in effect as long as at least two Federal agencies are Committee Members. The MOU is effective upon the date of the second agency signature and will remain in effect until 5 years upon the date of the second agency signature, or until such time as it is modified or terminated.



18-Oct-2024

Belk, Edward E, Jr. P.E.,
Director of Civil Works
U.S. Army Corps of Engineers

Date

For the:
Federal Native Plant Conservation Memorandum of Understanding