



Inside this newsletter...

- State Forester Retires
- NC Fire Council
- The Cradle of Forestry
- "Per Unit" Contracts
- Join *NCWoodlands*

State Forester Stan Adams Retires

*By Jamie Kritzer
NC Division of Forest Resources*

Stan Adams, who directed the N.C. Division of Forest Resources for 15 years, retired May 1. Adams said he is planning to spend more time with his wife, his children and his grandchildren.

"I plan to get up in the morning, have a leisurely breakfast, read the paper and then decide what I'm going to do," Adams said in a recent interview.

Adams added that he does plan to slow down, but wants to stay active in natural resources and conservation.

"I don't plan to disappear," he said. "I plan to make contributions where I can be useful. I have 49 years in this work. If I can share some of that, I want to."

Adams was born in Smithfield and graduated from N.C. State College with a bachelor's degree in Forest Management in 1957.

Adams started his career with the U.S. Forest Service and spent the next 34 years with the agency. During his tenure, he served as a forester, district ranger and a forest supervisor. In 1972, Adams became the director of public affairs for the Southern Region of the U.S. Forest Service. In May 1991, Adams returned to North Carolina, where he accepted his position as director of the N.C. Division of Forest Resources.

Since then, Stan has helped make North Carolina's forest resources program a nationwide leader and he has been a strong advocate for forest conservation and stewardship of private forestland. Adams has also raised the profile of the Division of Forest Resources, and the

agency has been heralded as one of the best wildfire fighting organizations in the United States.

"I've been in this business for 49 years and it's time to retire and step aside and let someone else take over leadership of the division," Adams said. "Some fresh thinking, new blood and new energy could be good for the state. And it's time for me to spend more time down on the farm with my family and friends and have some leisure time."

Adams is an active member of the Izaak Walton League and served as the organization's national president in 2001 and 2002. He has also been active in the National Association of State Foresters, Forest Landowners Association, the Public Relations Society of America, and as a member of the board of the North Carolina Forestry Association. ■

New Group to Promote Use of Prescribed Fire

In a move that should help North Carolina's private woodland owners with the stewardship of their forests, a group of natural resource professionals from various government agencies and private organizations (including *NCWoodlands*) recently cooperated in forming the North Carolina Prescribed Fire Council.



Photo courtesy of USDA Forest Service

The Council will seek to promote the use of prescribed fire to benefit of natural ecosystems and wildlife, and to reduce the risk of damage from wildfires while minimizing smoke and air quality impacts. Also, the group plans to encourage the exchange of information, techniques, and experiences among practitioners of prescribed burning in

North Carolina and to enhance public understanding of the regional importance and benefits of prescribed fire.

NC Prescribed Fire Council

- NC Department of Environment & Natural Resources
 - Division of Forest Resources
 - Division of Air Quality
 - Division of Parks & Recreation
 - Wildlife Resources Commission
 - Natural Heritage Program
 - Certified Burner Program
- NC Forestry Association
- NC State University
- NCWoodlands
- Research Triangle Institute
- Quail Unlimited
- Sandhills Fire Council
- The Nature Conservancy
- US Department of Defense
- US Department of Agriculture
 - Forest Service
 - Natural Resources Conservation Service
- US Department of the Interior
 - Fish & Wildlife Service
 - National Park Service

For more information, contact NC Prescribed Fire Council Chairman Margit Bucher, Fire Manager/Assistant Director for Science, NC Chapter of The Nature Conservancy, at mbucher@tnc.org ■

America's Cradle of Forestry

George Vanderbilt, Carl Schenck and the Biltmore Forest School

By Stephen A. Whitfield, RF, ACF

In the early 1890's, while building his magnificent Biltmore House near Asheville, multi-millionaire George W. Vanderbilt began acquiring land that eventually comprised more than 120,000 acres.

At the time, forestry was not practiced anywhere in the United States. America's vast virgin forests were perceived by many as inexhaustible and therefore justified the "cut out and get out" harvesting practices common to the era. Vanderbilt was ahead of his time in announcing that his vast land holdings

Continued on next page



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Continued from previous page

would be managed and conserved according to sound forestry principles. Most people had no idea what he was talking about and if they did, they saw no need for forest management.



*The Biltmore House near Asheville
Photo courtesy of NC Division of Travel and Tourism*

To implement his plan, Vanderbilt brought German forester Dr. Carl A. Schenck to the United States to take over management of his forestland from the first American forester, Gifford Pinchot, who had resigned from Vanderbilt's employment. Pinchot later went on to become the first chief of the U. S. Forest Service and governor of Pennsylvania.

With Vanderbilt's support, Schenck started the Biltmore Forest School, the first forestry school in America, in 1898. Schenck's objective for starting the school was to educate young men "for employment by lumbermen and owners of timberland."



*Biltmore Forest School students on horseback
Photo courtesy of USDA Forest Service*

In its brief existence, the Biltmore Forest School turned out 400 graduates, many of whom became early leaders of the forestry profession. His "boys" admired him and, despite his firm teaching style, also developed deep affection for him. In fact, because of his manner and appearance, they nicknamed him "The Kaiser."

In addition to administering the school, it was Schenck's job to conduct forest management activities on the estate. Today there are still white pine plantations on the Biltmore Estate that Schenck established 100 years ago.

In the early 1900's, Vanderbilt suffered severe financial setbacks which soon distracted him in his support for scientific forestry activities on his estate.

By 1909, economic forces and very strong personalities conspired to put Vanderbilt and Schenck at odds and Schenck was fired. That marked the beginning of the end of active forest management on the Biltmore Estate. After going their separate ways, Schenck took the Biltmore Forest School on the road to Europe and other parts of the United States. Finally, in 1914, the school was disbanded and Schenck returned to his native Germany to serve in WWI. In his farewell message to his students he wrote "Good Bye! God bless you, and the United States of America, and all the workers in her forests!"

Vanderbilt died in 1917 in Washington, DC from appendicitis. His widow, Edith, later donated upwards of 80,000 acres of the Biltmore Estate to the federal government, specifying that the area be known as the Pisgah National Forest.



*Carl Alwin Schenck circa 1910
Photo courtesy of Forest History Society*

Schenck died in 1955 and his ashes were scattered under a large white oak tree just west of Raleigh in the NC State University demonstration forest that bears his name.

REFERENCE: Schenck, Carl A., *Birth of Forestry in America, Biltmore Forest School 1898-1913*, Forest History Society, 1974. ■

Quotable...

"When a true genius appears in the world, you may know him by this sign, that the dunces are all in confederacy against him."

—Jonathan Swift

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"Per Unit" Timber Sale Contracts

Be Aware: What You Don't Know CAN Hurt You!

*By Jason R. Page, RF
Attorney at Law*

North Carolina landowners transfer ownership of timber or logs to forest products companies thousands of times per year. Many of these sales are accomplished through per unit sale agreements. The point of this column is not to explain what terms should be in your contract. Landowners and foresters do not need to understand all of the legal effects of those transfers. Instead, it is to suggest that you work with a competent attorney to ensure that your contract binds the parties and accurately sets out the rights and liabilities that you have negotiated. A very basic understanding of the laws that affect per unit sales will help all parties understand why a clearly and correctly worded contract is important.

North Carolina has nearly a century of case law interpreting per unit contracts. In 1913 the North Carolina Supreme Court examined a per unit contract and concluded that it was "in its essence as a mere option." A half-century later, the same Court said that if the buyer makes no direct promise to sever the timber, the contract is

"revocable at any time by the landowner without liability."

In the mid-1960s, North Carolina adopted the Uniform Commercial Code (UCC). This resulted in significant changes in the way many contracts are analyzed. It also changed the status of standing timber that has been sold. Under common law, trees were real property until severed from the ground. But under the UCC, timber becomes personal property when it is the subject of a contract for sale.

In a 1998 case called *Fordham v. Eason*, the North Carolina Supreme Court recognized for the first time that "timber is classified as goods under North Carolina law when it is the subject of a contract for sale." Although the Court acknowledged that the UCC applies more liberal rules governing contract formation than the common law, it did not apply those rules. Instead, the Court called the per unit agreement in question an option to buy timber—like it had done in 1913—and went on to say that such options are not governed by the UCC, but by common law. Therefore, the Court applied the common law's more stringent rules for finding a valid contract, and found that the per unit agreement was a failed attempt to create an option to purchase timber.



Photo courtesy of Whitfield Forestry Consultants

Under *Fordham v. Eason*, many per unit "contracts," do not really create a contract until the logger moves on the tract. But minor changes in the contract's wording can have a major change on its legal effect. Because a few words can make such a difference, you should get an attorney to prepare your contract. The State Board of Registration for Foresters has recently warned consulting foresters to not to draft contracts for their clients. There are multiple reasons why a consulting forester should not do so. One such reason is that it is a crime for a person not licensed by the State Bar to practice law. A more ominous threat is the potential for civil liability for a transaction gone wrong. Correcting the problems caused by a bad contract can result in thousands of dollars in damages and legal fees.

Most people do not understand the principles of contract formation, recording acts, and liquidated damages clauses. Likewise, most attorneys do not understand minimum top diameters or basal area. That is why you or your forester should work with an attorney to develop the contract. A very simple contract with language that everyone can understand can set out all of the rights and obligations of the parties and create a binding and enforceable agreement. The small fee and minor delay in having an attorney draft your contract might save you months and thousands of dollars in the future.

Key Points to Remember...

- Timber that is sold by contract is considered personal property governed by the UCC.
- N.C. courts treat many per unit contracts as options to buy timber rather than contracts for the sale of timber, and do not apply the UCC.
- Minor changes in wording can have major changes on a contract's legal effect.
- Landowners and foresters should work with an attorney to ensure that per unit contracts accomplish their desired goals.

Jason Page is an attorney with Rose Rand Attorneys, P.A. in Wilson, N.C., and a Registered and Certified Forester. He can be reached at 252-291-3848 or jpage@rose-randlaw.com.

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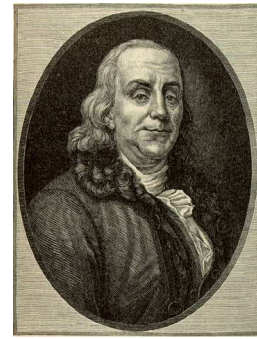


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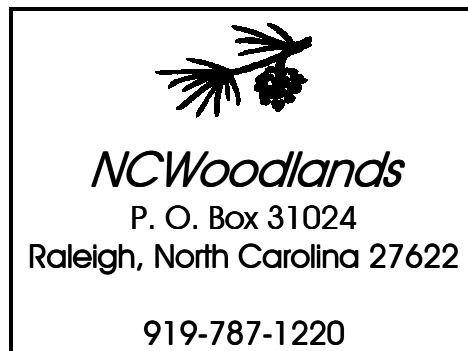
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—Benjamin Franklin



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