



**COUNTY ADMINISTRATIVE
OFFICE**

**COUNTY OF TULARE
AGENDA ITEM**

BOARD OF SUPERVISORS

ALLEN ISHIDA
District One

PETE VANDER POEL
District Two

PHILLIP A. COX
District Three

J. STEVEN WORTHLEY
District Four

MIKE ENNIS
District Five

AGENDA DATE: February 2, 2016

Public Hearing Required	Yes	<input type="checkbox"/>	N/A	<input type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes	<input type="checkbox"/>	N/A	<input type="checkbox"/>
Published Notice Required	Yes	<input type="checkbox"/>	N/A	<input type="checkbox"/>
Advertised Published Notice	Yes	<input type="checkbox"/>	N/A	<input type="checkbox"/>
Meet & Confer Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Electronic file(s) has been sent	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Personnel Resolution attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Agreements are attached and signature line for Chairman is marked with tabs/flags	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>

CONTACT PERSON: Michael C. Spata PHONE: 559-636-5005

SUBJECT: Approve Agricultural Conservation Easement Program

REQUEST(S):

Request that the Board of Supervisors:

1. Approve the Agricultural Conservation Easement Program, and
2. Direct the County Administrative Officer, in concert with the Resource Management Agency, to take all necessary and proper action to implement the direction of the Board of Supervisors.

SUMMARY:

Settlement Agreement Implementation

On August 28, 2012, the Tulare County Board of Supervisors adopted the General Plan Update 2030. Shortly thereafter, litigation was filed by the Sierra Club against the County challenging the General Plan Update and the related Final Environmental Impact Report.

After extensive negotiations, the lawsuit was settled in March 2015 with the approval of all affected parties. One aspect of the settlement addressed the adoption of an Agricultural Conservation Easement Program (ACEP). See Attachment 1, Stipulated Settlement, pp. 7-8 and Attachment G thereto, relating to the agricultural easement part of the settlement.

According to the settlement, Tulare County shall establish an Agricultural Conservation Easement Program to allow the use of agricultural conservation easements to reduce or mitigate any significant impacts found under the California

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Environmental Quality Act (CEQA) resulting from the conversion of certain agricultural lands to non-agricultural uses.

Proposed Program

It should be noted that the proposed program mirrors the Stipulated Settlement; and as such, the proposed program does not materially deviate from the agreement reached by the litigating parties.

Within this general perspective, the following is a summary of the proposed program:

- (1) After considering project description and design, if any private project requiring County discretionary land use entitlements is found to have any significant impact under CEQA resulting from the conversion of five acres or more of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use, it is the intent of the County to provide at least one option or alternative for use to reduce or mitigate such impact.
- (2) This option or alternative is the provision of an agricultural conservation easement pursuant to an ACEP.
- (3) This option or alternative is not exclusive and shall be available in addition to any other options, alternatives or mitigation measures feasible for this purpose.
- (4) This option or alternative is not mutually exclusively but may be used together with any other option in any combination that effectively reduces or mitigates the identified significant impact.
- (5) This option or alternative may be considered or used for credit toward or used to meet any project-required greenhouse gas emission reductions.

Program Structure

The following discussion provides an overview of the ACEP structure. See Attachment "2" for a description of the program.

For purposes of this program, a "farmland conservation easement" means an easement over agricultural land for the purpose of restricting its use for the terms set forth in this resolution for primarily agricultural and agricultural-compatible uses.

The program includes criteria required for an easement such as location and suitability of the land considered for the easement.

The land placed under the easement must be at a minimum of a one to one (1:1) ratio or its functional equivalent to the loss of defined agricultural lands mitigated.

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A Qualifying Entity would be identified (such as a nonprofit public benefit Section 501(c)(3) corporation or other appropriate legal entity operating in Tulare County for the purpose of conserving and protecting land in agriculture), and, would be approved for this purpose by the Board of Supervisors.

The County -- or a City within the County -- may also be designated as a Qualifying Entity.

Legal requirements would be established to encumber the property for conservation purposes.

The program also would include a monitoring, enforcement and reporting program to review and monitor the implementation of all management and maintenance plans for these lands and easement areas.

Program Process

The program's process is outlined as follows:

- An ACEP application and fee is submitted to the County through the Resource Management Agency (RMA).
- A determination is made to determine if the land proposed for the easement meets minimum criteria as provided in Stipulated Agreement (including Attachment G to that Agreement) and the implementing program.
- A Qualifying Entity will be identified for the purpose of conserving and protecting land in agriculture, and, would be approved for this purpose by the Board of Supervisors.
- The applicant shall pay directly to the Qualifying Entity a reasonable administrative fee equal to cover the costs of administering, monitoring and enforcing the farmland conservation easement or other instrument in an amount determined by the decision-making body approving the discretionary land use entitlements.

Additionally, the following legal instruments shall be required when creating an agricultural conservation easement or otherwise encumbering property for conservation purposes:

- The legal instrument shall be executed by all owners of the agricultural mitigation land.
- The legal instrument shall be in a form suitable for recordation.
- The legal instrument shall contain an accurate legal description setting forth

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the description of the agricultural mitigation land.

- The legal instrument shall prohibit any activity that substantially impairs or diminishes the agricultural productivity of the land. However, all activities or land uses currently allowed under the County's agricultural zoning designations will be allowed on mitigation land.
- The legal instrument shall prohibit new residential (other than the single family dwellings allowed by right and by permit in the applicable agricultural zone) and/or commercial development on agricultural mitigation land that is not directly needed for agricultural production, regardless of existing zoning.
- The legal instrument shall protect the existing water rights and retain them with the agricultural mitigation land.

In connection with "County Interests", the County shall be named a co-holder or backup beneficiary under any instrument conveying the interest in the agricultural mitigation land to a Qualifying Entity.

With respect to the "Disposition of Land", any interest in agricultural mitigation land shall be held in trust by a Qualifying Entity and/or by the County in perpetuity. Except as otherwise provided in the easement, the Qualifying Entity or the County shall not sell, lease, or convey any interest in agricultural mitigation land it acquires. The legal instrument encumbering the agricultural mitigation land shall include the provisions of this section.

Regarding a "Change in Circumstances", if the Board of Supervisors finds that the purpose described in the program can no longer reasonably be fulfilled as to an interest acquired, the Qualifying Entity's interest in the land held for conservation, as secured by the legal instrument, may be extinguished through sale, and the proceeds shall be used to acquire interests in other suitable land in Tulare County, subject to approval by the Board of Supervisors.

Importantly, a monitoring, enforcing and reporting program would be established as follows:

- **Monitoring and Enforcing:** The Qualifying Entity shall monitor all lands and easements acquired under the ACEP and shall review and monitor the implementation of all management and maintenance plans for these lands and easement areas. It also shall enforce compliance with the terms of the conservation easements or other agricultural mitigation instruments.
- **Reporting by Qualifying Entity:** Annually, beginning one year after first accepting responsibility for an agricultural conservation easement under the ACEP or first accepting payment of in-lieu fee, the Qualifying Entity shall provide to RMA reports delineating the activities undertaken pursuant to the requirements of this ACEP and an assessment of these activities. The

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reports shall describe the status of all lands and easements acquired under this ACEP, including a summary of all enforcement actions.

- Reporting by RMA: Annually, RMA shall review the reports submitted to it by the Qualifying Entity as well as any other relevant material. Thereafter, RMA shall prepare an Annual report that provides an independent assessment of the effectiveness of the ACEP relative to its purpose.
- The report shall document the funds collected and map the lands put under conservation easement pursuant to the provisions of this resolution. It also shall document the size and location of the land that is to be converted to a nonagricultural use which generated the mitigation requirements.
- RMA shall present the report, along with other relevant material received, to the Board of Supervisors at a regular meeting of the Board. Ten days prior to the Board meeting, RMA shall publish notice in a newspaper of general circulation and post on its webpage the date that the Board will consider the report along with an invitation to the public to submit comments on the report prior to and during the Board's open session consideration of the report.

The agricultural conservation easement is subject to approval by the Board of Supervisors.

The agricultural conservation easement shall be recorded with the County Clerk/Recorder.

Staffing

RMA would accept and process the ACEP applications. See Attachment 3, Agricultural Conservation Easement Application Form.

It is anticipated that RMA would be responsible to meet as the Qualifying Entity or in coordination with a Qualifying Entity, as applicable, the Monitoring, Enforcing, and Reporting requirements.

RMA would coordinate with the County Administrative Office and Board of Supervisors to process applications and satisfy monitoring and reporting requirements.

County Counsel would review the requirements for legal instruments as required.

The County Clerk Recorder would record the agricultural conservation easement.

Consultation with the Agricultural Policy Advisory Committee

As the matter of providing agricultural easements is important in Tulare County, this subject has been discussed numerous times during the last few years at the Agricultural Policy Advisory Committee (APAC).

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Based on these discussions, it is likely that APAC will provide a recommendation to the Board of Supervisors before action is taken with respect to the proposed program.

Although there will likely be a number of topics addressed by APAC, one question that may be raised is whether the proposed program will reflect any material deviations from the Stipulated Settlement.

In general response, it is the position of the County Administrative Office that the proposed program should mirror the agreement reached by the litigating parties.

Conclusion

Accordingly, it is respectfully requested that the ACEP -- set forth in Attachment 2 -
- be adopted as part of the implementation process of the Stipulated Agreement.

FISCAL IMPACT/FINANCING:

An agricultural conservation easement application fee of \$510.00 was adopted by the Board as part of RMA's Fee Schedule in July 2015.

RMA will evaluate and report back to your Board with a recommendation regarding an appropriate fee that would be recommended regarding monitoring, reporting and enforcement associated with the ACEP in order to fully implement the program.

In addition, the in-lieu fee option will be evaluated in conjunction with program activities such as project processing, monitoring, reporting, and enforcement.

With respect to these projects, there would not be any Net County Cost as implementation would be funded by application and planning fees approved by the Board of Supervisors as part of RMA's Fee Schedule.

LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:

The County's five-year strategic plan includes the (1) The Economic Well Being Initiative - to promote economic development opportunities, effective growth management and a quality standard of living", and (2) The Quality of Life Initiative – to promote public health and welfare, educational opportunities, natural resource management and continued improvement of environmental quality.

The approval of this program helps to fulfill these initiatives by adopting implementation measures consistent with Tulare County's recent General Plan Update.

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ADMINISTRATIVE SIGN-OFF:

Michael C. Spata
County Administrative Officer

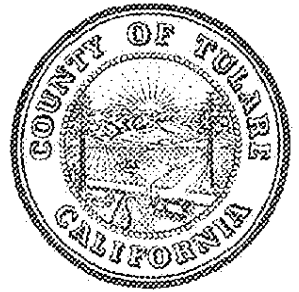
cc: Auditor-Controller
County Counsel
County Administrative Office (2)

Attachment 1 - Stipulated Settlement

Attachment 2 – Agricultural Conservation Easement Program

Attachment 3 – Agricultural Conservation
Easement Program Application
Form

COUNTY OF TULARE
COUNTY ADMINISTRATIVE OFFICE



MICHAEL C. SPATA
County Administrative Officer

To: Michelle Baldwin
Chief Deputy Clerk
Tulare County Board of Supervisors

From: Michael C. Spata *MCS*
Tulare County Administrative Officer

Subject: APAC Recommendation: Agricultural Conservation Easement

Date: January 21, 2016

Yesterday, the Tulare County Agricultural Policy Advisory Committee (APAC) recommended its support (subject to exceptions) of the proposed Agricultural Conservation Easement Program to be considered by the Tulare County Board of Supervisors during its regularly scheduled meeting of Tuesday, January 26, 2016.

Essentially, APAC recommended support of the program subject to the exceptions stated (1) in the letter of January 19, 2016 submitted by the Tulare County Farm Bureau and (2) in APAC's December 2015 Minutes in which the concerns of APAC Member Scott Spear were expressed. Both of these documents are enclosed with this memorandum.

Additionally, APAC recommended that the County follow the Standards and Practices of the Land Trust Commission before selecting a Qualifying Entity that will manage any conservation easement that may be conveyed to the County.

For convenience, these Standards and Practices have been downloaded and are enclosed. Further information on this topic can be found at the Commission's website identified at <http://www.landtrustaccreditation.org>.

Since the relevant agenda item was submitted to the Clerk of the Board before APAC's action yesterday, and as indicated during yesterday's APAC meeting, this office will prepare and present responses to these comments during the Board's meeting of January 26.

As always, thank you for your professional courtesy and consideration.

MCS/mb

Enclosures

cc: Tulare County Board of Supervisors
Tulare County Counsel
Tulare County Agricultural Policy Advisory Committee
Tulare County Farm Bureau



TULARE COUNTY FARM BUREAU

Mission: to promote and enhance the viability of Tulare County agriculture.

January 19, 2016

County Ag Policy Advisory Committee
c/o Tulare County Resource Management Agency
5961 S. Mooney Blvd
Visalia, CA 93277

Dear Ag Policy Advisory Committee Chairman and Committee:

Tulare County Farm Bureau held a special meeting of their Land Use Committee on January 14, 2016 to discuss the merits of the proposed Ag Conservation Easement draft program discussed before the APAC on December 16, 2015.

We do not share in agreement with all of the statements made in the settlement language, nor do we support conservation easements as a 'one size fits all' solution for farmland conservation. We believe there are careful considerations that should be addressed to improve upon the ACEP draft program that the County anticipates approving in the months ahead as a condition of the settlement agreement with the Sierra Club.

We wish to offer these comments on the ACEP program draft:

- We [TCFB] support the voluntary use of conservation easements with a willing seller and buyer
- We support only qualified land trusts be allowed to be designated as 'qualifying entities' for the purpose of the Tulare County ACEP
- We oppose the county or city designating themselves to be a co-holder or qualified entity to hold easements
- We oppose the land be held outside the County of Tulare
- Due to the inherent conflict of interest, mitigation banks should not be allowed to be owned or operated by a government agency or agencies when they have regulatory responsibilities over the private property or operator.

Tulare County Farm Bureau looks forward to having the opportunity to make additional comments when ordinance development commences.

Sincerely,

TRICIA STEVER BLATTLER
Executive Director

CC: Tulare County Board of Supervisors

Attachment "B"
APAC - December 2015 Minutes
Submitted by Member Spear

I think the County's proposal raises a number of concerns, including the following:

Location and Appropriate Holder of Conservation Easements

- **Location of Easements:** According to Section 4(a), easements need not be located in Tulare County or even the San Joaquin Valley. This is contrary to the accepted practice (for both farmland and habitat) that easements to mitigate for impacts to a particular site should be acquired as close as possible to that site. Moreover, given SRT's demonstrated capacity for stewardship of agricultural conservation easements, and given the large number of farmers and ranchers in Tulare County who have approached us about conserving their land, easements acquired under this program can and should be located in Tulare County.
- **County as Easement Holder:** Section 7(a) states that the County may designate itself or a city as a "Qualifying Entity" to hold conservation easements. Even if the County doesn't do so, Sections 5(b) and 6(b) make it a "co-holder" of easements acquired by any other Qualifying Entity, and Section 5(a) requires that at least a portion of the cost of monitoring be paid to the County. Instead of being held by the County, easements should be held by an organization whose mission includes the acquisition and stewardship of conservation easements -- ideally, an LTA-accredited land trust.

Potential for County to Weaken or Extinguish Easements

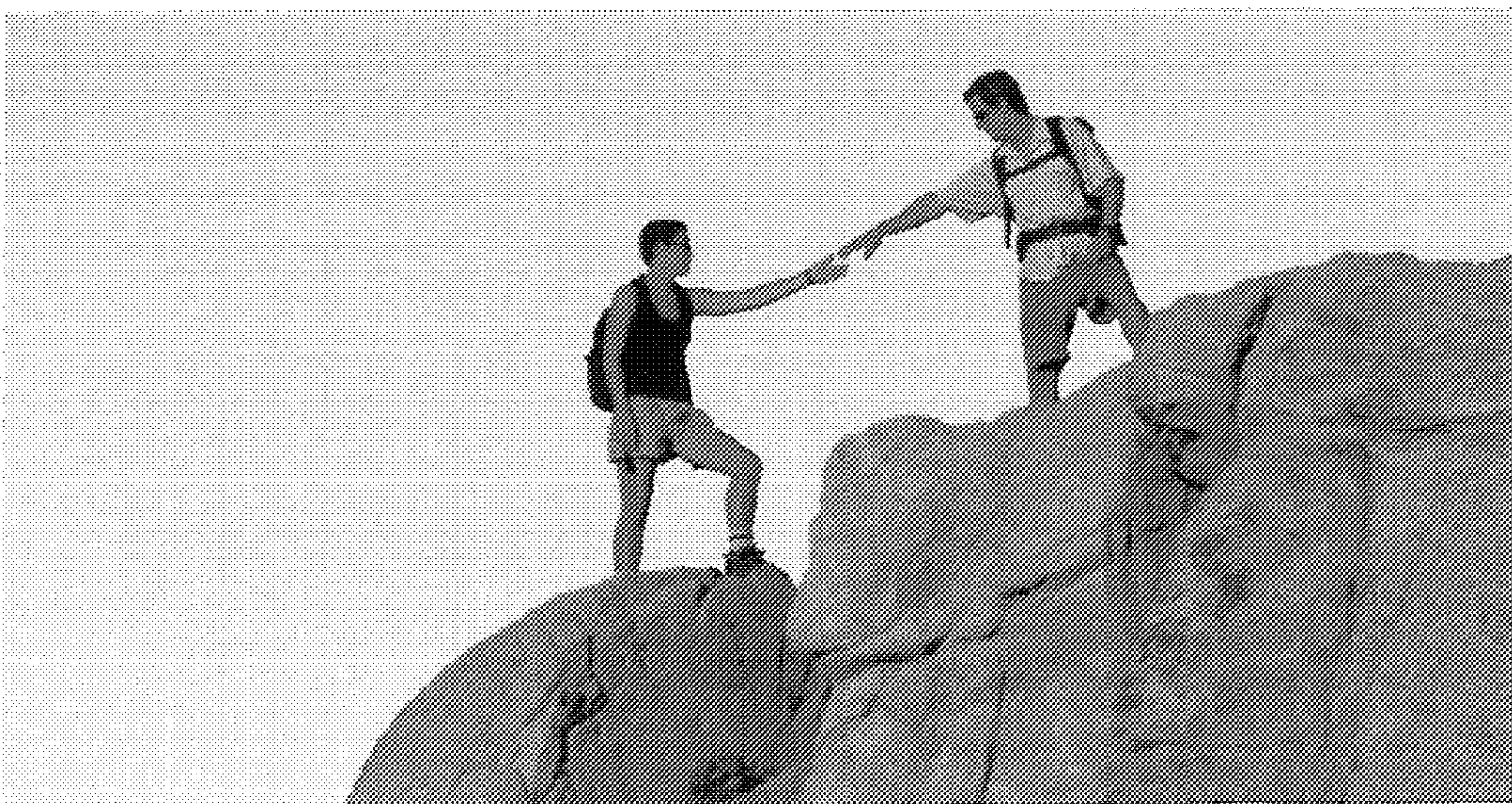
- **Zoning Ordinance as Tool to Weaken Easements:** Section 6(a)(4) states that "all activities or land uses currently allowed under the County's Agriculture zoning designations will be allowed on mitigation land." This could allow the County to weaken current or future easements by simply changing the Zoning Ordinance. Even under current law, some uses that have no relation to agriculture would be permitted. See, e.g., Tulare County Zoning Ordinance Section 9.6(B)(21) (allowing a "[j]ail or correctional institution in conformance with . . . the Tulare County General Plan" on any parcel zoned for Exclusive Agriculture, 20-Acre Minimum).
- **Extinguishing Easements:** Section 6(d) provides for extinguishing easements through sale "[i]f the Board of Supervisors finds that the purpose described . . . can no longer reasonably be fulfilled." If this determination is made at all, it should be made by an organization with the expertise to judge conservation value, not by the County. Also, 6(d) does not require that the "interests" acquired to substitute for the first conservation easement be permanent, or that they cover land of comparable quality and size to the farmland originally impacted.

Potential that Land Held under Easement Will Not Be of Comparable Quality and Size to Land Converted

- **Easements as One Option Among Many:** Section 1 states that easements are not an "exclusive" option, and that they may be used "together with any other option in any combination that effectively reduces or mitigates the identified significant impact." If easements are not the only option, the County should explain what the other options are, and how they would lead to the permanent conservation of agricultural land of comparable quality and size to the land lost to development.
- **Public vs. Private Projects:** Section 1 appears to limit the program to "private project[s]," which would exclude roads and other public projects. If farmland mitigation is going to address the impacts of development, it should cover both the private portion (land converted by developers) and the public portion (land converted by the County or other public agencies to build roads, among other things).
- **Access to Water:** Under 4(c), land placed under easement must "have or could acquire [sic] access to water, and could otherwise be feasibly cultivated." This seems to include land that doesn't currently have water and isn't currently being cultivated.
- **1:1 Ratio or Functional Equivalent:** Section 4(d) states that easements must be acquired "at a minimum of a one to one (1:1) ratio or its functional equivalent . . ." If "functional equivalent" means that land could be acquired at less than a 1:1 ratio, it should be taken out. If it's intended to say that more than a 1:1 ratio may be required, but not to open the door to going below 1:1, then it needs to be explained more clearly.
- **"Other" Farmland Conservation Easements:** According to Section 3, any significant impact from conversion of agricultural land can be addressed "by granting farmland conservation easements or other farmland conservation easements." Is this a typo, or is the County trying to draw a distinction between types of farmland conservation easements?

An additional overall concern is that the program doesn't appear to cover grazing land (at least where the land isn't designated as Prime, Unique or of Statewide Importance), meaning that new towns in the foothills might be effectively exempt.

Land Trust Standards and Practices



Acknowledgements

The Land Trust Alliance extends its sincere appreciation to the members of the 2004 Land Trust Standards and Practices Revisions Advisory Team and to the hundreds of land conservationists across the country who participated in the development of the 2004 revisions. The Land Trust Alliance also gratefully acknowledges the individuals involved in establishing *Land Trust Standards and Practices* in 1989 and revising them in 1993 and 2001.

The 2004 Land Trust Standards and Practices Revisions Advisory Team

Lise Aangeenbrug, Colorado Conservation Trust
Judy Anderson, Columbia Land Conservancy (NY)
Kevin Brice, Triangle Land Conservancy (formerly with Land Trust Alliance)
Allen Decker, The Coalition for Buzzards Bay (MA) (formerly with Lowcountry Open Land Trust, SC)
Mike Dennis, The Nature Conservancy (VA) and LTA Board of Directors
Darla Guenzler, Bay Area Open Space Council (CA)
Larry Kueter, Esq., Isaacson, Rosenbaum, Woods & Levy, PC (CO)
Kris Larson, Colorado Coalition of Land Trusts
Wendy Ninteman, Five Valleys Land Trust (MT)
Susan Dorsey Otis, Yampa Valley Land Trust (CO)
Leslie Ratley-Beach, Vermont Land Trust
Bettina Ring, The Wilderness Land Trust (CA) (formerly with Colorado Coalition of Land Trusts)
Will Shafroth, Colorado Conservation Trust and Chairman of LTA's Board of Directors

Additional Project Advisors

Sylvia Bates, S. K. Bates Conservation Consulting, LLC.
Rand Wentworth, Land Trust Alliance

Project Managers

Tammara Van Ryn, Land Trust Alliance
Rob Aldrich, Land Trust Alliance
Jennifer Brady-Connor, Land Trust Alliance

The Land Trust Alliance wishes to thank the following financial supporters for making the 2004 revisions possible:

Colorado Conservation Trust
Doris Duke Charitable Foundation
The Lennox Foundation
Gordon and Betty Moore Foundation
National Fish and Wildlife Foundation
Resources Legacy Fund Foundation
Surdna Foundation

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Land Trust Standards and Practices

Introduction

Land Trust Standards and Practices are the ethical and technical guidelines for the responsible operation of a land trust. The Land Trust Alliance developed *Land Trust Standards and Practices* in 1989 at the urging of land trusts who believe a strong land trust community depends on the credibility and effectiveness of all its members and who understand that employing best practices is the surest way to secure lasting conservation. This is a living document and was revised in 1993, 2001 and 2004 to reflect changes in land trust practices and regulations governing nonprofit organizations. The 2004 revisions were prepared by a team of land trust leaders and reviewed by hundreds of conservationists to capture and share the experience of land trusts from throughout the country.

The nation's more than 1,500 nonprofit land trusts have conserved millions of acres of wildlife habitat, farms, ranches, forests, watersheds, recreation areas and other important lands. The continued success of land trusts depends both on public confidence in, and support of, the conservation efforts of these organizations, and on building conservation programs that stand the test of time. It is every land trust's responsibility to uphold this public trust and to ensure the permanence of its conservation efforts.

Implementing *Land Trust Standards and Practices* helps land trusts uphold the public trust and build strong and effective land conservation programs. The Land Trust Alliance requires that member land trusts adopt *Land Trust Standards and Practices* as the guiding principles for their operations, indicating their commitment to upholding the public trust and the credibility of the land trust community as a whole. (See the sample adoption resolution on the next page.) The Land Trust Alliance encourages all land trusts to implement *Land Trust Standards and Practices* at a pace appropriate for the size of the organization and scope of its conservation activities.

Land Trust Standards and Practices are organized into 12 standards and supporting practices to advance the standards. The practices are guidelines; there are many ways for a land trust to implement the practices, depending on the size and scope of the organization. The Land Trust Alliance provides resources to assist land trusts in the implementation of *Land Trust Standards and Practices*. General information on *Land Trust Standards and Practices* and on LTA publications and training programs related to the standards and practices can be found at www.lta.org. LTA member land trusts and partners can find additional technical information and sample documents at www.LTAnet.org.

While *Land Trust Standards and Practices* are designed primarily for nonprofit, tax-exempt land trusts, they also provide important guidance for any organization or government agency that holds land or easements for the benefit of the public.

Land trusts are a respected and integral part of the nation's land conservation work. With this recognition comes responsibility to ensure that all land trusts operate effectively and that their conservation efforts are lasting. *Land Trust Standards and Practices* are a critical tool in meeting these challenges.

Sample Board Adoption Resolution

The Land Trust Alliance (LTA) requires that all Sponsor members of LTA adopt *Land Trust Standards and Practices* as their guiding principles. Some public or private funders also ask for such a statement. Below is a sample resolution.

WHEREAS, the [organization] has reviewed *Land Trust Standards and Practices* published by the Land Trust Alliance in 2004; and,

WHEREAS, the [organization] agrees that *Land Trust Standards and Practices* are the ethical and technical guidelines for the responsible operation of a land trust;

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Directors of the [organization], hereby adopts *Land Trust Standards and Practices* as guidelines for the organization's operations and commits to making continual progress toward implementation of these standards and practices.

_____ date adopted

Standard I: Mission

The land trust has a clear mission that serves a public interest, and all programs support that mission.

Practices

- A. Mission. The board adopts, and periodically reviews, a mission statement that specifies the public interest(s) served by the organization.
- B. Planning and Evaluation. The land trust regularly establishes strategic goals for implementing its mission and routinely evaluates programs, goals and activities to be sure they are consistent with the mission.
- C. Outreach. The land trust communicates its mission, goals and/or programs to members, donors, landowners, the general public, community leaders, conservation organizations and others in its service area as appropriate to carry out its mission.
- D. Ethics. The land trust upholds high standards of ethics in implementing its mission and in its governance and operations.

Part I: Organizational Strength

Standard 2: Compliance with Laws

The land trust fulfills its legal requirements as a nonprofit tax-exempt organization and complies with all laws.

Practices

- A. Compliance with Laws. The land trust complies with all applicable federal, state and local laws.
- B. Nonprofit Incorporation and Bylaws. The land trust has incorporated according to the requirements of state law and maintains its corporate status. It operates under bylaws based on its corporate charter or articles of incorporation. The board periodically reviews the bylaws.
- C. Tax Exemption. The land trust has qualified for federal tax-exempt status and complies with requirements for retaining this status, including prohibitions on private inurement and political campaign activity, and limitations and reporting on lobbying and unrelated business income. If the land trust holds, or intends to hold, conservation easements, it also meets the Internal Revenue Code's (IRC) public support test for public charities. Where applicable, state tax-exemption requirements are met.
- D. Records Policy. The land trust has adopted a written records policy that governs how organization and transaction records are created, collected, retained, stored and disposed. (See 9G.)
- E. Public Policy. The land trust may engage in public policy at the federal, state and/or local level (such as supporting or opposing legislation, advocating for sound land use policy, and/or endorsing public funding of conservation) provided that it complies with federal and state lobbying limitations and reporting requirements. Land trusts may not engage in political campaigns or endorse candidates for public office.

Standard 3: Board Accountability

The land trust board acts ethically in conducting the affairs of the organization and carries out the board's legal and financial responsibilities as required by law.

Practices

- **A. Board Responsibility.** The board is responsible for establishing the organization's mission, determining strategic direction and setting policies to carry out the mission, and, as required by law, the oversight of the organization's finances and operations.
- **B. Board Composition.** The board is of sufficient size to conduct its work effectively. The board is composed of members with diverse skills, backgrounds and experiences who are committed to board service. There is a systematic process for recruiting, training and evaluating board members.
- **C. Board Governance.** The land trust provides board members with clear expectations for their service and informs them about the board's legal and fiduciary responsibilities. The board meets regularly enough to conduct its business and fulfill its duties, with a minimum of three meetings per year. Board members are provided with adequate information to make good decisions. Board members attend a majority of meetings and stay informed about the land trust's mission, goals, programs and achievements.
- **D. Preventing Minority Rule.** The land trust's governing documents contain policies and procedures (such as provisions for a quorum and adequate meeting notices) that prevent a minority of board members from acting for the organization without proper delegation of authority.
- **E. Delegation of Decision-Making Authority.** The board may delegate decision-making and management functions to committees, provided that committees have clearly defined roles and report to the board or staff. If the land trust has staff, the board defines the job of, oversees and periodically evaluates the executive director (or chief staff person). (See 3F and 7E.)
- **F. Board Approval of Land Transactions.** The board reviews and approves every land and easement transaction, and the land trust provides the board with timely and adequate information prior to final approval. However, the board may delegate decision-making authority on transactions if it establishes policies defining the limits to that authority, the criteria for transactions, the procedures for managing conflicts of interest, and the timely notification of the full board of any completed transactions, and if the board periodically evaluates the effectiveness of these policies.

Standard 4: Conflicts of Interest

The land trust has policies and procedures to avoid or manage real or perceived conflicts of interest.

Practices

- A. Dealing with Conflicts of Interest. The land trust has a written conflict of interest policy to ensure that any conflicts of interest or the appearance thereof are avoided or appropriately managed through disclosure, recusal or other means. The conflict of interest policy applies to insiders (see definitions), including board and staff members, substantial contributors, parties related to the above, those who have an ability to influence decisions of the organization and those with access to information not available to the general public. Federal and state conflict disclosure laws are followed.
- B. Board Compensation. Board members do not serve for personal financial interest and are not compensated except for reimbursement of expenses and, in limited circumstances, for professional services that would otherwise be contracted out. Any compensation must be in compliance with charitable trust laws. The board's presiding officer and treasurer are never compensated for professional services.
- C. Transactions with Insiders. When engaging in land and easement transactions with insiders (see definitions), the land trust: follows its conflict of interest policy; documents that the project meets the land trust's mission; follows all transaction policies and procedures; and ensures that there is no private inurement or impermissible private benefit. For purchases and sales of property to insiders, the land trust obtains a qualified independent appraisal prepared in compliance with the Uniform Standards of Professional Appraisal Practice by a state-licensed or state-certified appraiser who has verifiable conservation easement or conservation real estate experience. When selling property to insiders, the land trust widely markets the property in a manner sufficient to ensure that the property is sold at or above fair market value and to avoid the reality or perception that the sale inappropriately benefited an insider.

Standard 5: Fundraising

The land trust conducts fundraising activities in an ethical and responsible manner:

Practices

- A. Legal and Ethical Practices. The land trust complies with all charitable solicitation laws, does not engage in commission-based fundraising, and limits fundraising costs to a reasonable percentage of overall expenses.
- B. Accountability to Donors. The land trust is accountable to its donors and provides written acknowledgement of gifts as required by law, ensures that donor funds are used as specified, keeps accurate records, honors donor privacy concerns and advises donors to seek independent legal and financial advice for substantial gifts.
- C. Accurate Representations. All representations made in promotional, fundraising, and other public information materials are accurate and not misleading with respect to the organization's accomplishments, activities and intended use of funds. All funds are spent for the purpose(s) identified in the solicitation or as directed in writing by the donor.
- D. Marketing Agreements. Prior to entering into an agreement to allow commercial entities to use the land trust's logo, name or properties, the land trust determines that these agreements will not impair the credibility of the land trust. The land trust and commercial entity publicly disclose how the land trust benefits from the sale of the commercial entity's products or services.

Standard 6: Financial and Asset Management

The land trust manages its finances and assets in a responsible and accountable way.

Practices

- A. Annual Budget. The land trust prepares an annual budget that is reviewed and approved by the board, or is consistent with board policy. The budget is based on programs planned for the year. Annual revenue is greater than or equal to expenses, unless reserves are deliberately drawn upon.
- B. Financial Records. The land trust keeps accurate financial records, in a form appropriate to its scale of operations and in accordance with Generally Accepted Accounting Principles (GAAP) or alternative reporting method acceptable to a qualified financial advisor.
- C. Financial Reports and Statements. The board receives and reviews financial reports and statements in a form and with a frequency appropriate for the scale of the land trust's financial activity.
- D. Financial Review or Audit. The land trust has an annual financial review or audit, by a qualified financial advisor, in a manner appropriate for the scale of the organization and consistent with state law.
- E. Internal System for Handling Money. The land trust has established a sound system of internal controls and procedures for handling money, in a form appropriate for the scale of the organization.
- F. Investment and Management of Financial Assets and Dedicated Funds. The land trust has a system for the responsible and prudent investment and management of its financial assets, and has established policies on allowable uses of dedicated funds and investment of funds.
- G. Funds for Stewardship and Enforcement. The land trust has a secure and lasting source of dedicated or operating funds sufficient to cover the costs of stewarding its land and easements over the long term and enforcing its easements, tracks stewardship and enforcement costs, and periodically evaluates the adequacy of its funds. In the event that full funding for these costs is not secure, the board has adopted a policy committing the organization to raising the necessary funds. (See 6F, 11A and 12A.)
- H. Sale or Transfer of Assets (Including Land and Easements). The land trust has established policies or procedures on the transfer or sale of assets, including real property. (See 4C, 9K and 9L.)
- I. Risk Management and Insurance. The land trust assesses and manages its risks and carries liability, property, and other insurance appropriate to its risk exposure and state law. The land trust exercises caution before using its land to secure debt and in these circumstances takes into account any legal or implied donor restrictions on the land, the land trust's mission and protection criteria, and public relations impact.

Standard 7: Volunteers, Staff and Consultants

The land trust has volunteers, staff and/or consultants with appropriate skills and in sufficient numbers to carry out its programs.

Practices

- A. Capacity. The land trust regularly evaluates its programs, activities and long-term responsibilities and has sufficient volunteers, staff and/or consultants to carry out its work, particularly when managing an active program of easements.
- B. Volunteers. If the land trust uses volunteers, it has a program to attract, screen, train, supervise and recognize its volunteers.
- C. Staff. If the land trust uses staff, each staff member has written goals or job descriptions and periodic performance reviews. Job duties or work procedures for key positions are documented to help provide continuity in the event of staff turnover.
- D. Availability of Training and Expertise. Volunteers and staff have appropriate training and experience for their responsibilities and/or opportunities to gain the necessary knowledge and skills.
- E. Board/Staff Lines of Authority. If the land trust has staff, the lines of authority, communication and responsibility between board and staff are clearly understood and documented. If the board hires an executive director (or chief staff person), the board delegates supervisory authority over all other staff to the executive director. (See 3E.)
- F. Personnel Policies. If the land trust has staff, it has written personnel policies that conform to federal and state law and has appropriate accompanying procedures or guidelines.
- G. Compensation and Benefits. If the land trust has staff, it provides fair and equitable compensation and benefits, appropriate to the scale of the organization.
- H. Working with Consultants. Consultant and contractor relationships are clearly defined, are consistent with federal and state law, and, if appropriate, are documented in a written contract. Consultants and contractors are familiar with sections of *Land Trust Standards and Practices* that are relevant to their work.

Part II:
Land
Transactions

Standard 8: Evaluating and Selecting Conservation Projects

The land trust carefully evaluates and selects its conservation projects.

Practices

- A. Identifying Focus Areas. The land trust has identified specific natural resources or geographic areas where it will focus its work.
- B. Project Selection and Criteria. The land trust has a defined process for selecting land and easement projects, including written selection criteria that are consistent with its mission. For each project, the land trust evaluates its capacity to perform any perpetual stewardship responsibilities.
- C. Federal and State Requirements. For land and easement projects that may involve federal or state tax incentives, the land trust determines that the project meets the applicable federal or state requirements, especially the conservation purposes test of IRC §170(h).
- D. Public Benefit of Transactions. The land trust evaluates and clearly documents the public benefit of every land and easement transaction and how the benefits are consistent with the mission of the organization. All projects conform to applicable federal and state charitable trust laws. If the transaction involves public purchase or tax incentive programs, the land trust satisfies any federal, state or local requirements for public benefit.
- E. Site Inspection. The land trust inspects properties before buying or accepting donations of land or easements to be sure they meet the organization's criteria, to identify the important conservation values on the property and to reveal any potential threats to those values.
- F. Documenting Conservation Values. The land trust documents the condition of the important conservation values and public benefit of each property, in a manner appropriate to the individual property and the method of protection.
- G. Project Planning. All land and easement projects are individually planned so that the property's important conservation values are identified and protected, the project furthers the land trust's mission and goals, and the project reflects the capacity of the organization to meet future stewardship obligations.
- H. Evaluating the Best Conservation Tool. The land trust works with the landowner to evaluate and select the best conservation tool for the property and takes care that the chosen method can reasonably protect the property's important conservation values over time. This evaluation may include informing the landowner of appropriate conservation tools and partnership opportunities, even those that may not involve the land trust.
- I. Evaluating Partnerships. The land trust evaluates whether it has the skills and resources to protect the important conservation values on the property effectively, or whether it should refer the project to, or engage in a partnership with, another qualified conservation organization.

- J. Partnership Documentation. If engaging in a partnership on a joint acquisition or long-term stewardship project, agreements are documented in writing to clarify, as appropriate, the goals of the project, roles and responsibilities of each party, legal and financial arrangements, communications to the public and between parties, and public acknowledgement of each partner's role in the project.
- K. Evaluating Risks. The land trust examines the project for risks to the protection of important conservation values (such as surrounding land uses, extraction leases or other encumbrances, water rights, potential credibility issues or other threats) and evaluates whether it can reduce the risks. The land trust modifies the project or turns it down if the risks outweigh the benefits.
- L. Nonconservation Lands. A land trust may receive land that does not meet its project selection criteria (see 8B) with the intent of using the proceeds from the sale of the property to advance its mission. If the land trust intends to sell the land, it provides clear documentation to the donor of its intent before accepting the property. Practices 4C, 9K and 9L are followed.
- M. Public Issues. A land trust engaging in projects beyond direct land protection (such as public policy, regulatory matters or education programs) has criteria or other standard evaluation methods to guide its selection of and engagement in these projects. The criteria or evaluation methods consider mission, capacity and credibility.

Standard 9: Ensuring Sound Transactions

The land trust works diligently to see that every land and easement transaction is legally, ethically and technically sound.

Practices

- A. Legal Review and Technical Expertise. The land trust obtains a legal review of every land and easement transaction, appropriate to its complexity, by an attorney experienced with real estate law. As dictated by the project, the land trust secures appropriate expertise in financial, real estate, tax, scientific, and land and water management matters.
- B. Independent Legal Advice. The land trust refrains from giving specific legal, financial and tax advice and recommends in writing that each party to a land or easement transaction obtain independent legal advice.
- C. Environmental Due Diligence for Hazardous Materials. The land trust takes steps, as appropriate to the project, to identify and document whether there are hazardous or toxic materials on or near the property that could create future liabilities for the land trust.
- D. Determining Property Boundaries. The land trust determines the boundaries of every protected property through legal property descriptions, accurately marked boundary corners or, if appropriate, a survey. If an easement contains restrictions that are specific to certain zones or areas within the property, the locations of these areas are clearly described in the easement and supporting materials and can be identified in the field.
- E. Easement Drafting. Every easement is tailored for the property according to project planning (see 8G) and: identifies the important conservation values protected and public benefit served; allows only permitted uses and/or reserved rights that will not significantly impair the important conservation values; contains only restrictions that the land trust is capable of monitoring; and is enforceable.
- F. Documentation of Purposes and Responsibilities. The land trust documents the intended purposes of each land and easement transaction, the intended uses of the property and the roles, rights and responsibilities of all parties involved in the acquisition and future management of the land or easement.
- G. Recordkeeping. Pursuant to its records policy (see 2D), the land trust keeps originals of all irreplaceable documents essential to the defense of each transaction (such as legal agreements, critical correspondence and appraisals) in one location, and copies in a separate location. Original documents are protected from daily use and are secure from fire, floods and other damage.
- H. Title Investigation and Subordination. The land trust investigates title to each property for which it intends to acquire title or an easement to be sure that it is negotiating with the legal owner(s) and to uncover liens, mortgages, mineral or other leases, water rights and/or other encumbrances or matters of record that may affect the transaction. Mortgages, liens and other encumbrances that could result in extinguishment of the easement or significantly undermine the important conservation values on the property are discharged or properly subordinated to the easement.

- I. Recording. All land and easement transactions are legally recorded at the appropriate records office according to local and state law.
- J. Purchasing Land. If the land trust buys land, easements or other real property, it obtains a qualified independent appraisal to justify the purchase price. However, the land trust may choose to obtain a letter of opinion (see definitions) from a qualified real estate professional in the limited circumstances when a property has a very low economic value or a full appraisal is not feasible before a public auction. In limited circumstances where acquiring above the appraised value is warranted, the land trust documents the justification for the purchase price and that there is no private inurement or impermissible private benefit. If negotiating for a purchase below the appraised value, the land trust ensures that its communications with the landowner are honest and forthright.
- K. Selling Land or Easements. If the land trust sells land or easements, it first documents the important conservation values, plans the project according to practice 8G, and drafts protection agreements as appropriate to the property. The land trust obtains a qualified independent appraisal that reflects the plans for the project and protection agreements and justifies the selling price. (The land trust may choose to obtain a letter of opinion from a qualified real estate professional in the limited circumstance when a property has a very low economic value.) The land trust markets the property and selects buyers in a manner that avoids any appearance of impropriety and preserves the public's confidence in the land trust, and in the case of selling to an insider (see definitions) follows practice 4C. (See 6H for sales of other assets.)
- L. Transfers and Exchanges of Land. If the land trust transfers or exchanges conservation land or easements, the land trust considers whether the new holder can fulfill the long-term stewardship and enforcement responsibilities, ensures that the transaction does not result in a net loss of important conservation values and, for donated properties, ensures that the transfer is in keeping with the donor's intent. If transferring to a party other than another nonprofit organization or public agency, the consideration is based on a qualified independent appraisal (or letter of opinion when the property has a very low economic value) in order to prevent private inurement or impermissible private benefit.

Standard 10: Tax Benefits

The land trust works diligently to see that every charitable gift of land or easements meets federal and state tax law requirements.

Practices

- A. Tax Code Requirements. The land trust notifies (preferably in writing) potential land or easement donors who may claim a federal or state income tax deduction, or state tax credit, that the project must meet the requirements of IRC §170 and the accompanying Treasury Department regulations and/or any other federal or state requirements. The land trust on its own behalf reviews each transaction for consistency with these requirements.
- B. Appraisals. The land trust informs potential land or easement donors (preferably in writing) of the following: IRC appraisal requirements for a qualified appraisal prepared by a qualified appraiser for gifts of property valued at more than \$5,000, including information on the timing of the appraisal; that the donor is responsible for any determination of the value of the donation; that the donor should use a qualified appraiser who follows Uniform Standards of Professional Appraisal Practice; that the land trust will request a copy of the completed appraisal; and that the land trust will not knowingly participate in projects where it has significant concerns about the tax deduction.
- C. No Assurances on Deductibility or Tax Benefits. The land trust does not make assurances as to whether a particular land or easement donation will be deductible, what monetary value of the gift the Internal Revenue Service (IRS) and/or state will accept, what the resulting tax benefits of the deduction will be, or whether the donor's appraisal is accurate.
- D. Donee Responsibilities — IRS Forms 8282 and 8283. The land trust understands and complies with its responsibilities to sign the donor's Appraisal Summary Form 8283 and to file Form 8282 regarding resale of donated property when applicable. The land trust signs Form 8283 only if the information in Section B, Part 1, "Information on Donated Property," and Part 3, "Declaration of Appraiser," is complete. If the land trust believes no gift has been made or the property has not been accurately described, it refuses to sign the form. If the land trust has significant reservations about the value of the gift, particularly as it may impact the credibility of the land trust, it may seek additional substantiation of value or may disclose its reservations to the donor. (See 5B for other gift substantiation requirements.)

Standard II: Conservation Easement Stewardship

The land trust has a program of responsible stewardship for its easements.

Practices

- A. Funding Easement Stewardship. The land trust determines the long-term stewardship and enforcement expenses of each easement transaction and secures the dedicated or operating funds to cover current and future expenses. If funds are not secured at or before the completion of the transaction, the land trust has a plan to secure these funds and has a policy committing the funds to this purpose. (See 6G.)
- B. Baseline Documentation Report. For every easement, the land trust has a baseline documentation report (that includes a baseline map) prepared prior to closing and signed by the landowner at closing. The report documents the important conservation values protected by the easement and the relevant conditions of the property as necessary to monitor and enforce the easement. In the event that seasonal conditions prevent the completion of a full baseline documentation report by closing, a schedule for finalizing the full report and an acknowledgement of interim data (that for donations and bargain sales meets Treasury Regulations §1.170A-14(g)(5)(i)) are signed by the landowner at closing.
- C. Easement Monitoring. The land trust monitors its easement properties regularly, at least annually, in a manner appropriate to the size and restrictions of each property, and keeps documentation (such as reports, updated photographs and maps) of each monitoring activity.
- D. Landowner Relationships. The land trust maintains regular contact with owners of easement properties. When possible, it provides landowners with information on property management and/or referrals to resource managers. The land trust strives to promptly build a positive working relationship with new owners of easement property and informs them about the easement's existence and restrictions and the land trust's stewardship policies and procedures. The land trust establishes and implements systems to track changes in land ownership.
- E. Enforcement of Easements. The land trust has a written policy and/or procedure detailing how it will respond to a potential violation of an easement, including the role of all parties involved (such as board members, volunteers, staff and partners) in any enforcement action. The land trust takes necessary and consistent steps to see that violations are resolved and has available, or has a strategy to secure, the financial and legal resources for enforcement and defense. (See 6G and 11A.)
- F. Reserved and Permitted Rights and Approvals. The land trust has an established procedure for responding to landowner required notices or requests for approvals in a timely and consistent manner, and has a system to track notices, approvals and the exercise of any significant reserved or permitted rights.

- G. Contingency Plans/Backups. The land trust has a contingency plan for all of its easements in the event the land trust ceases to exist or can no longer steward and administer them. If a backup grantee is listed in the easement, the land trust secures prior consent of the backup grantee to accept the easement. To ensure that a backup or contingency holder will accept an easement, the land trust has complete and accurate files and stewardship and enforcement funds available for transfer. (See 11H.)
- H. Contingency Plans for Backup Holder. If a land trust regularly consents to being named as a backup or contingency holder, it has a policy or procedure for accepting easements from other land trusts and has a plan for how it will obtain the financial resources and organizational capacity for easements it may receive at a future date. (See 11G.)
- I. Amendments. The land trust recognizes that amendments are not routine, but can serve to strengthen an easement or improve its enforceability. The land trust has a written policy or procedure guiding amendment requests that: includes a prohibition against private inurement and impermissible private benefit; requires compliance with the land trust's conflict of interest policy; requires compliance with any funding requirements; addresses the role of the board; and contains a requirement that all amendments result in either a positive or not less than neutral conservation outcome and are consistent with the organization's mission.
- J. Condemnation. The land trust is aware of the potential for condemnation, understands its rights and obligations under condemnation and the IRC, and has appropriate documentation of the important conservation values and of the percentage of the full value of the property represented by the easement. The land trust works diligently to prevent a net loss of conservation values.
- K. Extinguishment. In rare cases, it may be necessary to extinguish, or a court may order the extinguishment of, an easement in whole or in part. In these cases, the land trust notifies any project partners and works diligently to see that the extinguishment will not result in private inurement or impermissible private benefit and to prevent a net loss of important conservation values or impairment of public confidence in the land trust or in easements.

Standard 12: Fee Land Stewardship

The land trust has a program of responsible stewardship for the land it holds in fee for conservation purposes.

Practices

- A. **Funding Land Stewardship.** The land trust determines the immediate and long-term financial and management implications of each land transaction and secures the dedicated and/or operating funds needed to manage the property, including funds for liability insurance, maintenance, improvements, monitoring, enforcement and other costs. If funds are not secured at or before the completion of the transaction, the land trust has a plan to secure these funds and has a policy committing the funds to this purpose. (See 6G.)
- B. **Stewardship Principles.** The land trust establishes general principles to guide the stewardship of its fee-owned properties, including determining what uses are and are not appropriate on its properties, the types of improvements it might make and any land management practices it will follow.
- C. **Land Management.** The land trust inventories the natural and cultural features of each property prior to developing a management plan that identifies its conservation goals for the property and how it plans to achieve them. Permitted activities are compatible with the conservation goals, stewardship principles and public benefit mission of the organization. Permitted activities occur only when the activity poses no significant threat to the important conservation values, reduces threats or restores ecological processes, and/or advances learning and demonstration opportunities.
- D. **Monitoring Land Trust Properties.** The land trust marks its boundaries and regularly monitors its properties for potential management problems (such as trespass, misuse or overuse, vandalism or safety hazards) and takes action to rectify such problems.
- E. **Land Stewardship Administration.** The land trust performs administrative duties in a timely and responsible manner. This includes establishing policies and procedures, keeping essential records, filing forms, paying insurance, paying any taxes and/or securing appropriate tax exemptions, budgeting, and maintaining files.
- F. **Community Outreach.** The land trust keeps neighbors and community leaders informed about its ownership and management of conservation properties.
- G. **Contingency Backup.** The land trust has a contingency plan for all of its conservation land in the event the land trust ceases to exist or can no longer manage the property. To ensure that a contingency holder will accept the land, the land trust has complete and accurate files and stewardship funds available for transfer.
- H. **Nonpermanent Holdings.** When a land trust holds fee land with the intention to sell or transfer the land, the land trust is open about its plans with the public and manages and maintains the property in a manner that retains the land trust's public credibility. (See 8L.)
- I. **Condemnation.** The land trust is aware of the potential for condemnation, understands its rights and obligations under condemnation, and works diligently to prevent a net loss in conservation values.

Definitions of Key Terms

Capacity: the ability to perform all the actions required to acquire and manage conservation land and easements and manage other programs by having adequate human and financial resources and organizational systems in place.

Conflict of Interest: a conflict of interest arises when "insiders" are in a position, or perceived to be in a position, to benefit financially (or create a benefit to a family member or other organization with which they are associated) by virtue of their position within the nonprofit organization.

GAAP: the Federal Accounting Standards Board (FASB) issues Generally Accepted Accounting Principles (GAAP). FASB's Statement of Account Standards 116 and 117 provide standards for Financial Statements for Not-for-Profit Organizations.

Important Conservation Values: these are the key values on a site that are the focus of protection efforts. Important conservation values are determined during property evaluation and project planning.

Insiders: board and staff members, substantial contributors, parties related to the above, those who have an ability to influence decisions of the organization and those with access to information not available to the general public.

The IRS generally considers "insiders" or disqualified persons under IRC §4598 to be persons who, at anytime during the five-year period ending on the date of the transaction in question, were *in a position to exercise substantial influence over the affairs of the organization*. "Insiders" generally include: *board members, key staff, substantial contributors* [see IRC §507(d)(2)], *parties related to the above and 35-percent controlled entities*. While these are strict definitions within the tax code, land trusts are advised to take an even more proactive approach to the potential damage that conflicts of interest may cause an organization and also include in the definition of "insiders" *all staff members and those with access to information not available to the general public* (such as certain volunteers).

Related parties is defined by the IRS to include spouse, brothers and sisters, spouses of brothers and sisters, ancestors, children, grandchildren, great-grandchildren and spouses of children, grandchildren and great-grandchildren.

IRC: Internal Revenue Code

Land Trust: a nonprofit organization that, as all or part of its mission, actively works to conserve land by undertaking or assisting in land or easement acquisitions, or by engaging in the stewardship of such land or easements.

Letter of Opinion: a written estimation of a property's value, most often prepared by a qualified appraiser and occasionally prepared by a highly experienced real estate professional.

A letter of opinion may be used instead of a qualified independent appraisal when the economic value of the property is so low as to negate concerns about private inurement or private benefit or when a full appraisal is not feasible before a public auction. (A letter of opinion is not sufficient in the case of transactions with insiders.) An appraiser may call this document a Restricted Use Appraisal Report.

Private Inurement: when the net earnings of a tax-exempt organization come to the benefit of any private shareholder or individual.

Federal tax-exempt law requires that "no part of ... [a tax-exempt organization's] net earnings [may] inure to the benefit of any private shareholder or individual." Generally this means that the financial assets of the organization may not be transferred to a private individual (without the organization receiving adequate compensation) solely by virtue of the individual's relationship with the organization. The IRS prohibition on inurement is absolute. The IRS also imposes penalties on directors, officers, key employees and other disqualified persons who engage in excess benefit transactions.

Qualified Independent Appraisal: an independent appraisal prepared in compliance with the Uniform Standards of Professional Appraisal Practice by a state-licensed or state-certified appraiser who has verifiable conservation easement or conservation real estate experience.

Widely Marketed: announcing the availability of a property for sale to lists of prospective buyers, through Web pages, mailings, and listings in newsletters and other publications or media. "Widely marketed" does not require public listing with a real estate agent.



The Land Trust Alliance, founded in 1982, promotes voluntary land conservation and strengthens the land conservation movement by providing the leadership, information, skills and resources land trusts need to conserve land for the benefit of communities and natural systems.

The Land Trust Alliance provides resources to assist land trusts in the implementation of *Land Trust Standards and Practices*. General information on *Land Trust Standards and Practices* and on LTA publications and training programs related to the standards and practices can be found at www.lta.org. LTA member land trusts and partners can find additional technical information and sample documents at www.LTAnet.org.

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