

The purpose of this policy is to provide guidance to the Trustees, their staff, and other interested parties involved in the transfer of real property, property easements, and development rights to be used as restoration, rehabilitation, replacement and/or acquisition of the natural resources associated with the upper Arkansas River Basin NRDA case. The upper Arkansas River Basin Natural Resource Trustee Council intends to follow this guidance when making its final decisions about funding for the purchase of property, property easements, and development rights to achieve the goals of the RP/EA for the upper Arkansas River Basin.

This policy will apply to all real property transactions for the restoration, rehabilitation, replacement and/or acquisition of the natural resources injured by the release of hazardous substances from the California Gulch Superfund Site, as outlined in the RP/EA.

Criteria for land transactions:

- The property must address the goals established in the RP/EA.
- The upper Arkansas River Basin Natural Resource Trustee Council will not retain title to any properties purchased. All properties must have a partnering Trustee agency, nonprofit organization, or other governmental unit willing to accept all responsibilities for maintenance and associated liability inherent in property ownership. The Trustee Council shall be held harmless for all liability associated with the property.
- Any interests in the property acquired with Trustee funds must be consistent with the RP/EA.
- All properties purchased through negotiated settlements or using NRDA settlement funds must be from willing sellers, except in the case of property purchased through foreclosure proceedings.
- The Trustee Council may commit funds for property purchase; however, funds will not be released until the appropriate documentation is supplied to the Trustee Council and to the partnering Trustee agency or other organization or agency that will hold title to the land. Each partnering Trustee agency may require different documentation prior to accepting a parcel for acquisition; the group requesting funding for land acquisition must contact the partnering Trustee to determine what documentation is needed. At a minimum, the entity purchasing the property must have already submitted to the Trustee Council Coordinator an appraisal prepared and completed by an individual possessing a certified general real property appraiser's license. In the some situations, the appraiser may need to be certified by the DOI.
- Any interests purchased with Trustee funds by third parties must include a recorded notice of agreement (see Attachment).
- If the property purchased results in a clouded title or if the title cannot be cleared, purchase funds will be reimbursed to the upper Arkansas River Basin Natural Resource Trustee Council.
- This policy incorporates by reference all of the project selection criteria detailed in Chapter 3 of the RP/EA.
 - ✓ An environmental site assessment has been conducted for the property by the DOI.
 - ✓ Appropriate title documentation and/or title insurance has been obtained.

(This form may be modified to meet local land recording requirements)

ATTACHMENT: NOTICE OF COOPERATIVE (GRANT) AGREEMENT

[GRANT RECIPIENT/COOPERATOR] is the owner of [a conservation easement interest in] a certain parcel of land located in [TOWN, COUNTY, STATE] more particularly described in Attachment A (the "Property").

Notice is hereby given that [GRANT RECIPIENT/COOPERATOR] acquired the [conservation easement interest in the] Property with financial support from the [GRANTOR NATURAL RESOURCE TRUSTEE AGENCY] pursuant to a [GRANT/COOPERATIVE] Agreement with the [NATURAL RESOURCE TRUSTEE AGENCY] dated _____, Agreement Number: _____, included in this Notice along with any addenda or task orders, as Attachment B.

The purpose of the [GRANT/COOPERATIVE] Agreement is to provide financial support to partially fulfill the natural resource restoration objectives developed pursuant to the Upper Arkansas River Basin Restoration Plan/Environmental Assessment (RP/EA), a copy of which is kept at [NATURAL RESOURCE TRUSTEE AGENCY OFFICE] and at the offices of the [GRANT RECIPIENT/COOPERATOR].

[GRANT RECIPIENT/COOPERATOR] is placing this notice on record as confirmation of its obligation to ensure the protection and conservation of the Property for the purpose of natural resource restoration as specified by the Upper Arkansas River Basin RP/EA. [GRANT RECIPIENT/COOPERATOR] hereby agrees that this [conservation easement interest in the] Property may not be encumbered in any way that affects the purpose of the [GRANT/COOPERATIVE] Agreement and may only be transferred to another entity incorporated under the provisions of 503(c)3 of the Internal Revenue Code or to an acceptable local government entity (e.g., state, county, or watershed district), provided the [GRANTOR NATURAL RESOURCE TRUSTEE AGENCY] determines in writing the entity is an acceptable successor, and provided further that the entity will manage the property in accordance with the Upper Arkansas River Basin RP/EA published under the authority of CERCLA. If the [GRANT RECIPIENT/COOPERATOR] sells or encumbers the Property in violation of this obligation of the purposes of this [GRANT/COOPERATIVE] Agreement, the proceeds of such sale or encumbrance will be used to pay the [GRANTOR NATURAL RESOURCE TRUSTEE AGENCY], the percentage of the fair market value of the Property attributable to the [GRANT/COOPERATIVE] Agreement.

In witness whereof the [GRANT RECIPIENT/COOPERATOR] has set its hand and seal this _____ day of _____, 2-__.

[GRANT RECIPIENT/COOPERATOR]

By: _____

Its: _____

STATE OF _____)
)ss.

COUNTY OF _____)

On this ____ day of _____, 20__, before me personally appeared _____, to me personally known, who, being by me duly sworn did say that _____ is the _____ of the corporation named in the foregoing instrument; that the seal affixed to said instrument is the corporation seal of said corporation: and acknowledged said instrument to be the free act and deed of said corporation.

Notary Public