

DEPARTMENT OF AGRICULTURE AND FOOD Conservation Division 01.01 CONSERVATION EASEMENT POLICY	
EFFECTIVE DATE: January 1, 2022	REVISION DATE: January 1, 2022
SUMMARY: THE PURPOSE OF THIS POLICY IS TO SET FORTH THE POLICIES AND PROCEDURES GOVERNING CONSERVATION EASEMENTS ENTERED INTO OR MANAGED BY THE UTAH DEPARTMENT OF AGRICULTURE AND FOOD	

References

[UCA Title 57, Chapter 18](#), Land Conservation Easement Act

[UCA Section 57-18-2](#), which defines a conservation easement as an easement, covenant, restriction, or condition in a deed, will, or other instrument signed by, or on behalf of, the record owner of the underlying real property for the purpose of preserving and maintaining land or water areas predominantly in a natural, scenic, or open condition, or for recreational, agricultural, cultural, wildlife habitat, or other use or condition consistent with the protection of open land.

[UCA Section 57-18-3](#), which indicates that a governmental entity may acquire a conservation easement by purchase, gift, devise, grant, lease, or bequest.

UCA Section 4-2-102(2), which gives the department supplemental authority to administer “all laws, services, functions, and consumer programs related to agriculture in this state.”

Please note that this policy is a general outline of the department’s considerations and policies for holding easements. Because each easement is unique, and administrative needs, funding requirements, and holding requirements may differ, this policy should be considered a guide and the actual easement review and holding process may differ in some respects from that stated below.

The department may consider external reports or site visits and documentation from other interested parties in the easement as sufficient to meet its requirements set forth below.

Any party submitting documents to the department under this program should be reminded that, while the department strives to protect personal privacy, some documents may be released in original or redacted form in accordance with GRAMA requirements.

Conservation Values

The department may hold conservation easements that serve the stated purposes of [UCA Section 57-18-2](#). The department will consider its overall mission to “promote healthy growth of Utah agriculture, conserve natural resources, and protect food supply.” The department strives to

balance agricultural and ranching values with open space values and to partner with community, local, state, and federal entities to protect land that might otherwise be lost to development or subdivision. Conservation easements are an excellent way for private property owners to maintain agricultural operations on their land in situations where they might be pressured to sell their property.

Any property owner that seeks to have the department hold an easement must clearly convey the purposes of the easement, agricultural and conservation values to be protected, desired future condition of the land, and potential public benefit derived from the land's protection.

Types of easements

The department will consider holding various types of easements if they serve the agricultural and conservation values set forth above and would benefit the citizens of the State of Utah. This includes traditional easements, easements held in partnership with other entities, as well as historic preservation easements that protect agricultural and special purpose easements, such as: historical or other important structures and property easements, wildlife protection area easements, working forest easements, scenic property easements, trail easements, and garden easements.

Selection Criteria

- If a property owner or entity assisting a property owner with an easement request approaches the department with a request to hold a conservation easement, the department will carefully consider its organizational capacity to monitor and enforce the easement restrictions, given the nature of the property and particular property concerns at issue.
- The department will have at least one staff person to manage the easement program.
- The department will substantially employ the following process in reviewing conservation easement requests:
 - In order to start the process, the easement applicant must write a letter to the Commissioner that includes the following information:
 - Summary/narrative of how the easement will benefit the public and fulfills the conservation purposes of the department and the Land Conservation Easement Act;
 - Monies available to the department for a monitoring fund;
 - A monitoring fund is an amount of money (usually 1% of the value of the easement property) that is held in escrow by the department for future enforcement costs, monitoring costs, external monitoring report/revised baseline report costs, to help UDAF cover the costs of any litigation, or to address other issues that arise with the property).
 - UDAF may waive a monitoring fund or determine an amount to be held in escrow greater or lesser than 1% of the property value in its sole discretion. In determining the monitoring fund needs, UDAF

will take into consideration similar considered in their determination of whether to hold an easement.

- Agricultural interests in the property;
- Financial partnerships, grants, and other funding sources;
- Draft copies of any easement documents;
 - The department will generally verify that all forms and documents are in place or are in the process of being drafted.
 - The department will also generally verify that documents for specific entities, such as the Natural Resources Conservation Service (NRCS), have been approved by those entities or that approval is pending.
 - An example of the documents generally required is attached to this policy as a reference. All documents may not be necessary for the department to hold an easement. Conversely, other documents may be required that do not appear on that list for some properties funded by NRCS or other programs.
- The Commissioner may consult with the Division Director of Conservation, Attorney General's Office, easement staff, and others to determine whether the department has sufficient resources and authority to hold the easement.
 - Generally, department staff will review easement proposals within 30 days of receipt of the proposal.
 - Occasionally the department may have to delay an easement proposal review until a time where the property can be easily accessed. For example, if the easement is located in a remote location or at a high elevation, the department may not be able to do a site visit until after snowmelt.
- Staff will conduct an on-site evaluation of the proposed easement property, meet with the landowner, and document the value of the easement for agricultural and other benefits to the state.
 - If appropriate, the department may initially rely on a site visit report from another interested entity, such as the Nature Conservancy, in determining whether the department has an interest in holding the easement.
- Staff will prepare an evaluation of the easement, including the stewardship implications involved.
 - The evaluation will include the following:
 - Site visit report;
 - Photographs documenting condition of property;
 - Concerns about encroaching development; and
 - Potential partners for funding opportunities, easement drafting and preparation assistance, as identified by the landowner.
- Within 30 days of receipt of the evaluation, the Commissioner in consultation with the Director of the Division of Conservation will decide whether the easement proposal will be accepted, rejected, or if changes or additional information are needed for the department to appropriately evaluate the request.

- If necessary, the easement proposal will be returned to the property owner for corrections or with a request for additional information.
- In reviewing proposals, the department will ensure that the elements below are included in each conservation easement document.

Easement Document Requirements

Pursuant to [UCA Section 57-18-4](#) conservation easements shall be in writing.

- Additionally, the instrument that creates the conservation easement shall:
 - Identify and describe the land subject to the easement by legal description;
 - Specify the purpose for which the easement shall be created; and
 - Include a termination date or statement that the easement shall continue in perpetuity.

The department may require other specific provisions be included to agree to hold the easement.

- The terms of the easement:
 - Should include clear and easy to understand and should include only enforceable restrictions that protect agricultural, historical, or conservation values.
 - Should involve land use that is not harmful to the conservation values of the land to be preserved. Permitted uses should be described.
 - May include both prescriptive and performance standards.
 - Should be drafted to minimize the cost of determining and dealing with violations.
 - Shall indicate that the easement property shall not be subject to any reserved mineral rights unless a mineral report is included indicating that the likelihood of mining is so remote as to be negligible.
 - Shall specify that if the property is subject to a mortgage, the mortgage interest must be subordinate to the conservation easement or preferably mortgage paid in full.
- Generally, only perpetual easements will be considered.
- Pursuant to [UCA Section 57-18-4](#), at least three days prior to receiving an easement, the department shall disclose to the grantor the types of conservation easements available and legal effect of each easement, as well as advise the grantor to contact an attorney concerning any possible legal and tax implications. **The department is unable to provide legal assistance to the landowner regarding the easement.**
- Easements shall be recorded in the office of the recorder of the county in which the easement is granted. Within 10 days after a conservation easement is recorded, the owner of the property shall deliver a copy of the easement and proof of recording to the assessor of the county in which the easement property is located.

- Easement documents should be re-recorded at any time necessary to preserve the department's rights under the easement, consistent with [UCA Title 57, Chapter 9, Marketable Record Title](#), or other relevant state or federal law.

Documentation for Files (See Application Process)

Baseline Documentation

All conservation easements entered into by the department shall include a baseline report. The department may lead the collection of information needed to prepare the report or assist property owners in its preparation. The department may require that an applicant provide this information independently, or may accept a baseline report from a contracted third party. Department staff shall visit an easement property prior to entering into a conservation easement to verify that the baseline report is accurate. Property owners may be present on these visits.

The baseline documentation report:

- Shall include an inventory of the land features on the proposed easement property as well as detailed information about the condition of the property.
- Can be supported by maps and photographs (including survey maps, scale maps, and aerial and on-site photographs) as applicable.
- Shall include information that is clearly defined, easily understood, and closely tied to the specific restrictions in the easement itself.
- Shall include a statement signed by the donor that states that “this natural resources inventory is an accurate representation of the protected property at the time of the conveyance of the easement.”
- Shall include any other information reasonably requested by the department to be included.

The baseline report may be updated/modified during this initial process.

If the department becomes the holder of an easement, the baseline documentation report shall be maintained by the department in electronic or paper format.

Documentation of the condition of the land is required by the Internal Revenue Service if the easement is donated and the donor wishes to receive a charitable donation tax deduction. If the donor wishes to seek a charitable deduction, they must follow all IRS requirements, including obtaining an appraisal to determine the value of the easement interest. **The department cannot provide legal advice regarding tax or other benefits under IRS regulations.**

The Department requires that a rangeland/property management plan be developed in order to hold the easement. The Department will work with the landowner to develop a plan that the landowner is able to implement reasonably according to the landowner's resources. These plans are subject to yearly review and modification.

The department may also require any of the documents in the appendix to this policy, or which the department considers necessary, to be provided for its permanent files.

Stewardship and Monitoring

The department shall take reasonable steps to ensure that the terms of each conservation easement are upheld:

- Department staff shall receive periodic training on easement stewardship, monitoring, and enforcement.
- Staff will monitor the reserved rights and permitted uses described in each easement document and follow the guidelines of the document with regard to notice and approval of land use.
- The department's monitoring program shall require annual visits to the easement property.
- Property owners shall make the property available for inspection during regular business hours. Landowners shall be invited to in-person visits and the department's preference is that landowners attend such inspections in person.
- On visits, staff will look for any relevant changes in the condition of the easement property. Any potential violations will be recorded and may be discussed with property owners during the visit.
- The department shall be informed prior to any material change in the easement property use, such as change in ownership of an easement property, or as otherwise set forth in the recorded easement. The department may require a statement of compliance with the easement prior to change of ownership.
 - Subdivision of property subject to the easement is generally prohibited. A landowner shall inform the department prior to agreeing to subdivide and obtain the department's permission to do so. Generally, the department will not allow subdivision of the property once the easement is in place.
- The department may also require documentation that the landowner or other interested parties are following the requirements of any other entities providing funding or other support for the easement property/easement process.
- The department shall maintain complete and accurate records of all monitoring and stewardship activity.
- Records should be inspected and reviewed periodically, at least every two years.

Enforcement

The department is committed to enforcing any violations of the terms of each conservation easement it holds. Rigorous enforcement is required to protect conservation values, engender public confidence in the department's easement program, maintain enforceability of easements over time, and ensure continued viability of conservation easements as a land conservation tool.

The goal of the department's enforcement policy is to enjoin or prevent any activity or use of the properties that is inconsistent with the purposes of the easement document and require restoration of such areas or features.

Easement documents should allow the department an immediate right of access to easement property if there is a good faith reason to suspect a violation is ongoing or threatened. If a violation is apparent, either on a formal or informal visit to the property, the following enforcement steps shall be followed:

- The potential violation should be documented by the department.
 - Documentation can be via signed and dated photographs, measurements of damage of the affected resource, signed and dated field notes, documentation of phone calls or meetings, copies of correspondence, or any other appropriate method.
- Department staff will review the easement and documentation to determine if a violation has, in fact, occurred. If available, the baseline documentation report should be utilized to verify the original condition of the property.
- If a violation is minor, the department may consider discretionary approval of the violation. Any approval or amendments shall be in writing with a copy provided to the property owner. Amendments shall also be recorded with the appropriate county recorder's office with the original easement. Alternatively, changes that cure the violation may be reflected on the Rangeland Management Plan. Occasionally, a revised Baseline Report may be required, depending on the specifics of the violation.
- The department may defer to the decision of an entity partnering with the landowner in funding or managing the easement as to whether a violation is permissible and may require the landowner to obtain approval from a partnering entity prior to obtaining approval from the department for any potential violations or amendments.
- Staff will contact the property owner in person, if possible, to discuss the violation. This step may be taken at any point during this process, depending on the extent of the violation, the potential for it to undermine the purposes of the easement, the relationship with the landowner and any other considerations considered relevant by the department.
- The department will first seek voluntary agreement with the property owner to correct the violation. Records should be made of all meetings between department staff and the property owner.
- The voluntary agreement will set forth the nature of the violation, any reparations or corrective measures required, a timeline for correction, and a procedure for follow up. Agreements should be signed by the landowner and department staff. This agreement may be documented in the Rangeland Management Plan in lieu of a separate agreement.
- If a voluntary agreement is not possible, mediation will be discussed as a possible option to facilitate resolution of the issues. The cost of the mediation will be paid by the landowner, unless otherwise set forth in the easement.
- If mediation is not possible or fails, the department may pursue litigation to resolve the dispute. All costs of litigation, including attorneys fees, shall be borne by the landowner, unless otherwise set forth in the easement.

Amendments

- The department will consider amendments to an easement if they do not result in degradation of the conservation values of the property or the purposes set forth in the easement document.

- The department may defer decisions on allowing an amendment if amendment requires permission from other interested entities and may require that the landowner obtain permission from those other entities prior to deciding whether an easement amendment may proceed as requested.
- Any amendment should result in a positive or not less than neutral conservation outcome. Amendment requests shall be made in writing.
- Requests shall be reviewed by department staff.
- The Commissioner, in consultation with the Director of the Division of Conservation and the easement monitoring/compliance lead staff member, shall make the decision regarding amendment requests.
- The property owner shall be notified in writing of the department's decision within 60 days of the receipt of the request.
 - The department may require additional time to review the proposed amendment if needed. If so, the department will provide the landowner with an estimate of the additional time needed to evaluate the request.
- The notification shall document the reasons for approving or denying each proposed amendment. If the easement is amended, the amendment shall be recorded in the office of the county recorder in the county where the easement property is located.
- Informal requests to amend an easement may be brought to the department for discussion without engaging in the formal process above.

Partnerships

- Easement partnerships can help to assure a property's long-term preservation.
- At this time, the department has authority to co-hold easements with other entities or organizations.
- Nothing in this section should be read to prohibit the department from working with any interested entity/organization during any part of the easement process.

ADDITIONAL RESOURCES

NOTE: This information is provided to assist the landowner in better understanding what UDAF, as the easement holder, considers in its monitoring and land management practices. If you have specific concerns, please contact _____.

CONSERVATION EASEMENT WORKSHEET

1. Landowner(s): _____

2. Property details: (a) Location: County: _____

(b) Acreage: _____

(c) Appraised value: _____ Date: _____

Appraiser: _____

(d) Type of Property: _____

3. Easement details: (a) Cost (total received by owners): \$ _____

(b) Appraised value: _____ Date: _____

(c) Date: _____ Closing date: _____

4. Funding: (a) State funds: LeRay McAllister funds: \$ _____

(b) Other State funds: \$ _____

(c) ACEP-ALE funds (USDA): \$ _____

(d) Private contributions: \$ _____

(e) Other funds spent: \$ _____

Subtotal \$ _____

(f) Landowner discount/donation: \$ _____

Total \$ _____

5. Additional comments/clarifications: _____

CONSERVATION/AGRICULTURAL LAND MANAGEMENT CONSIDERATIONS UNDER ACEP

The United States Department of Agriculture (USDA) NRCS Farm and Ranch Land Protection Program (FRPP) and Agricultural Conservation Easement Program (ACEP) rules require property management plans. These plans are used for ensuring appropriate agricultural practices like soil improvement, ensuring water quality, remediation/protection of highly erodible or otherwise easily damaged land, and address other problem situations that may be identified with each easement. These management plans can help to keep productive farm and ranchland in responsible agricultural uses.

By participating in the easement programs, applicants are encouraged to use conservation practices under the easement. Providing a conservation management plan encourages the easement holder to use the practices mandated by the easement itself with the specific uses and non-uses provided in the easement. These plans are also more easily modified on a yearly basis than a traditional easement amendment, which can require significant investment of money and time, and which may become outdated as new agricultural practices develop which serve both an agricultural and conservation purpose.

The purpose of providing conservation technical assistance for easement holders in the form of the management plan is to achieve the benefits of a sustainable, healthy and productive landscape. The primary purposes of the plan are to:

- Reduce soil loss from erosion;
- Solve soil, water quality, water conservation, air quality, and agricultural waste management problems;
- Reduce potential damage caused by excess water and sedimentation or drought
- Enhance the quality of fish and wildlife habitat; and
- Improve the long term sustainability of all lands, including cropland, forestland, grazing lands, coastal lands, and developed and/or developing lands.
- Assist others in facilitating changes in land use as needed for natural resource protection and sustainability.

As FRPP notes, healthy private land is America's strength. Seven out of every ten acres of our Nation's land is privately owned. Healthy working land is the foundation of a prosperous U.S. agricultural industry and the cornerstone of environmental quality and the core of healthy communities.

Individualized easement management plans assist the department by proactively addressing opportunities, concerns, and practices related to the use of agricultural and natural resources that help keep land healthy. The Nation benefits from the strong commitment to private land conservation. Benefits of these activities include sustained and improved agricultural productivity; cleaner, safer, and more dependable water supplies; clean air, abundant wildlife, enhanced recreational opportunities, tranquil and scenic landscapes, reduced damages caused by

flood, fires, and other natural disasters; and an enhanced natural resource base to support continued economic development and strengthen the quality of life.

Our hope for agriculture in the future is to assist and guide our dedicated landowners in applying practices that promote conservation and responsible land management practices to ensure a prosperous and vibrant future for farming and ranching.

UDAF wants you, the landowner, to use your individualized management plan to have a solid foundation to maintain a healthy working and prosperous land within the scope of your easement.

STATE OF UTAH
DEPARTMENT OF AGRICULTURE AND FOOD
CONSERVATION DIVISION

Standards and Practices

Conservation Easement Monitoring

BACKGROUND

The State of Utah, Department of Agriculture and Food (UDAF), Division of Conservation generally monitors its easements at least once per calendar year. Monitoring helps UDAF develop a relationship with the landowner, helps discover changes in land ownership, enables UDAF to see if the easement is effectively fulfilling its stated purpose, helps identify and remediate violations early (saving time and money on enforcement actions), and establishes a record in case of court action. Annual monitoring routinely reminds the landowner of the easement provisions and provides a means for annual landowner contact. With annual monitoring, UDAF can promptly document any changes in the property's condition relative to the easement. All monitoring activities, including informal ones (for example, a drive-by or casual observations not done as part of a formal monitoring), are documented to build record for future monitoring and in case UDAF must address a violation. UDAF makes every effort to complete its monitoring report promptly after the monitoring visit. That monitoring report is shared with other interested parties identified in the easement, if any, and with the landowner.

Critical elements of the monitoring report include the inspection date, name of the property inspected, name of inspector, observations related to the property's condition, and conservation values, and observations related to potential easement violations. Some easements with particularly sensitive conditions, or on land where a landowner is performing management activities, may require monitoring more frequently than once a year. UDAF uses a combination of on-the-ground review, aerial observation, aerial imagery, satellite and other methods in their annual monitoring.

FREQUENCY

Land owners and UDAF should conduct inspections regularly, at least once per calendar year. Violations that are discovered more than a year after commencement of the non-compliant activity may be more difficult to resolve or remediate. This does not necessarily mean UDAF does not have enforcement rights after a year. For more information on this issue, landowners should refer to the Land Conservation Easement Act, UDAF's policies and procedures, and private counsel.

In some situations, more frequent, regular monitoring is beneficial and generally is allowed under the easement terms. Examples of more frequent monitoring may include property location, changes in property use, renovation, or other major projects located on or affecting the easement

property, specific property characteristics, development of new conservation and farming techniques, the availability of land owners and monitors, the monitoring method used, and the resources of UDAF. Other specific examples are listed below, but are not exhaustive:

- A land owner is executing a reserved right that may affect the conservation values if not conducted in accordance with the easement terms. For example, if a landowner is executing a reserved right to build a residence, then UDAF may want to monitor the property during construction to check for compliance with specific terms of the reserved right. Or, if a landowner is harvesting timber on a working forest easement property, then UDAF may need to monitor the harvest to ensure the logger implements best forest management practices and preserves the integrity of the easement.
- There exists greater than average potential for a violation. For example, easements neighboring residential developments have a great potential to be violated by trespassers.
- The land has been transferred to new owners. Please note that this information should be pro-actively shared with UDAF prior to transfer to allow UDAF to ensure future compliance.
- A significant land alteration project, such as construction of a building or excavation, is occurring on an adjacent property.
- Collection of biological or ecological data is needed to support the easement values.
- A landowner requests a statement of compliance (also referred to as an estoppel or compliance certificate), perhaps before a transfer of ownership.

If UDAF conducts additional monitoring outside of its yearly review for a specific reason, then it will document that the monitoring was outside the regular monitoring protocol and the reasons for the additional monitoring. Regular monitoring involves an overall inspection of the property and addresses all easement terms, while occasion monitoring looks at a specific circumstance and addresses only the relevant easement clauses. Likewise, documentation of a monitoring visit conducted to address a landowner's request for a statement of compliance should be so noted.

SCHEDULING MONITORING

Like easement terms, monitoring schedules are tailored to the requirements of the landowner, UDAF, state law, and the specifics of the easement property. To determine the best time to monitor, considerations include, but are not limited to:

- Provisions of the conservation easement – are there any terms that need particular timing for the inspection, such as restriction on specific seasonal agricultural practices or terms involving specific management for rare species?
- Terms of the inspection clause of the easement, such as limits on times of access to the property or requirements about contacting the landowner prior to monitoring.
- Physical factors, such as seasons, weather and accessibility to the easement property.
- Safety concerns, such as hunting on the property or on adjacent parcels.
- Landowners' schedules.
- NRCS monitoring completion date requirements, if applicable.
- UDAF scheduling requirements, as outlined in the monitoring policy.
- Availability of partners who may be beneficial in providing resources to the land owner or are required under the easement.

Note: To get the most from a site inspection, monitoring should occur when the property is most visible and accessible, and ideally when the landowners are most available. UDAF may need to work around a landowner's schedule, such as farmer's planting times or second homeowner's availability.

As UDAF staff establish their annual work plans, it is important to account for the factors listed above to determine an efficient and workable monitoring schedule. To ensure adequate time is allotted to monitor all easements held by UDAF, it is helpful to estimate the total time needed to monitor each easement by multiplying the average time for one inspection by the number of easements. It is also helpful to combine monitoring trips in geographical areas whenever possible and to be familiar with each easement file so that extra time may be allotted to meet NRCS or other deadlines. Staff should also take into account the time necessary to compile the information from a site visit necessary to complete the monitoring report and allow extra time for unforeseen issues, such as land use changes or issues raised by the landowner during the site visit.

MONITORING METHODS

UDAF may protect a variety of properties in diverse landscapes. Consequently, monitoring methods vary. UDAF staff should select monitoring methods that match the type of land and resources that they are protecting, the easement terms and the capacity of the staff available. Regardless of the method, UDAF must maintain documentation of the monitoring event. Some common monitoring methods include one or more of the following:

- On foot
- Automobile (please note that some properties are accessible only with 4-wheel or other all-terrain vehicles, and plan accordingly)
- Recreational vehicle
- Horseback
- Boat
- Aerial (airplane, helicopter or drone)
- Remote sensing /satellite

GROUND MONITORING CONSIDERATIONS

All monitoring programs must include some component of ground monitoring. Guidelines for monitoring should be contained in written policies or procedures.

Pre-Monitoring Preparations

- Inform the landowner
 - Before UDAF conducts its easement monitoring, it should contact the landowner to provide notice of its monitoring plans, including the date and method of monitoring. If appropriate, UDAF may ask the landowner or another person, such as the property manager, to accompany the monitor during the visit.
 - Please be reminded that it is vital that there is trust, communication, and mutual respect between the land owner and monitoring staff. These relationships take time to develop and staff should always be conscientious and respectful of a land owner's schedule and preferences.

- When calling or sending a letter to landowners about its monitoring plans, UDAF should remind landowners to contact UDAF if they are planning any activities that require notification or approval, which are generally outlined in the easement. A questionnaire asking about the landowner's potential plans for the property over the coming year can be sent. A more conversational approach to notify the landowners of the monitoring visit can be completed by phone or email and a conversation about future plans can be inquired at this time.
- Review Files Thoroughly
 - Easement terms and subsequent amendments, waivers, clarifications and/or required approvals.
 - The baseline documentation report.
 - Previous monitoring reports.
 - Correspondence between UDAF and landowner.
 - Maps, including easement map, survey or plat map and natural resource maps (soils, topography) and aerial photographs
 - Management plans (timber, agricultural, natural resource inventories)
- Field Supplies
 - What to bring for monitoring depends on the type of property and method of monitoring. Prepare and follow a typical list of items that UDAF monitors may need on inspection trips.
 - Monitoring staff should carefully consider what easement-related materials are appropriate for the site visit, if the landowner is to be present, whether any materials could cause problems.
- Safety
 - A monitor should take safety precautions as appropriate. At the very least, monitors should leave word about their whereabouts. If the landowner is at the property but not accompanying the monitor, the monitor usually should let the landowner know they are there. Bringing another person along on the visit may be advisable for large or remote properties, or when meeting difficult landowners and a witness to the inspection and conversation may be useful later. This information should be shared with the landowner to avoid confusion or concerns over trespassing. Monitors may also want to leave a sign or business card in their car window, notifying landowners and others about the monitor's presence on the property. Monitors should be prepared for the unexpected, including bad weather and difficulties with domestic animals or wildlife. Monitors should always leave a property immediately if they do not feel safe, document the incident and arrange for an alternate time to visit.

THE MONITORING VISIT

Useful Considerations in Monitoring

The conservation easement terms, baseline documentation report, and prior monitoring forms are the documents that guide the monitor on what to look for during the monitoring visit. Focus monitoring on the easement's use restrictions and reserved rights: if buildings are prohibited, observe whether there is a new construction; if mining is prohibited, observe whether the land

surface is disturbed; if reserved rights have been exercised, document this fact; and so on. Some features that require attention include:

- Boundaries or other areas that are vulnerable to encroachment
- Road and other access ways
- New trails or access points
- Flagging/survey tape
- Areas of recent activity permitted by the easement
- Signs of disturbance (for example excavation, vegetation distress, dumping, tree felling)
- Indicators of property conditions (for example, erosion, residual dry matter, invasive species, water quality)
- Livestock use
- Activity in or around building areas (existing or reserved), if applicable
- Areas heavily used by landowners or by the public
- Streambanks and lakeshores, if restricted by the easement

In some instances, properties are so large that it is not feasible to monitor the entirety of the easement every year, so it is important to keep a record of which areas UDAF monitored to ensure it monitors other areas of the property on subsequent visits.

NOTE: Monitoring should be conducted primarily for compliance with the easement terms. Although staff might notice other land management issues or concerns, it is important to maintain the distinction between easement issues and issues that are not within the purview of UDAF's responsibility. Before UDAF brings non-easement issues to a landowner's attention, it should consider why the issue matters to UDAF, partners, and the easement and how best to raise the issue with the landowner in order to maintain a cooperative partnership.

Decisions about what to say and how to say it are judgment calls based on the monitoring staff's relationship with the landowner. UDAF staff also should carefully consider what observations are in writing on the monitoring form, particularly if UDAF requires the landowner to review and sign the form.

Documentation During Monitoring

A primary purpose of monitoring is to observe and document changes in the condition of the easement property that are relevant to the easement terms. If there is doubt about what changes are relevant to easement terms, err on the side of documentation while in the field and determine the relevance later, while compiling the report. In general, the monitor should document new activities and changes, whether due to human activity (construction, new land use and so on) or natural causes (fire, severe wind damage, flooding). Documentation generally includes taking photographs and keeping a record of photo points on a map for future reference or for any necessary monitoring follow-up. It may also include taking measurements, water samples or other types of analysis implied by the easement terms.

Monitoring staff may prepare ongoing or periodic updates for the baseline documentation at the time of the monitoring visit. UDAF may file these photographs and other materials with the monitoring records or store them in a separate, supplemental baseline documentation file.

UDAF may update their baseline photographs at least once every five to ten years. Others do not routinely update baseline materials or photos according to an established timetable. Still others prepare baseline documentation updates concurrently with the re-recording of the organization's easements, as may be required by state marketable title act statutes. UDAF's monitoring policy and procedures should include direction on when and how to supplement the baseline if this activity is part of UDAF's monitoring practice.

MONITORING PROCEDURES CHECKLIST

1. Pre-field preparation

- a. Annually develop a visitation schedule.
 - 1. Landowner presence is not required.
- b. Each property should be visited at least annually.
 - 1. Check for new aerial photo if needed or necessary.
 - 2. Have a copy of the baseline aerial photograph for field reference and note taking.
 - 3. Review baseline document, previous monitoring forms, and easement.
 - a. Pay close attention to specific items or issues and attach to report.
 - b. Prepare monitoring form.
- c. Plan a route to ensure coverage of property and taking photographs.

d. Required or needed items:

Clipboard

Pencil/pen

Camera/batteries

Compass

Prepared Monitor Report

Baseline document – aerial photos

e. Additional visits may be necessary if resource or management changes are occurring on the property.

2. Field Procedures

- a. Check in with the owner if they are to be present. Ask about management concerns.

- b. Sign and Date Monitoring form; get camera ready.
- c. Traverse property.
- d. Describe changes in ownership, land use, status of leases, and conditions related to natural or man-made disasters.
- e. Examine improvements and facilities. Identify changes from the baseline report or previous monitoring reports from the past year.
- f. Describe new or changed practices (excavation, dumping, off-road use, tree cutting). Show locations on aerial maps.
- g. Describe changes in cultivation practices, natural plant communities, and causes. Describe noxious weeds each year; all or any changes.
- h. Indicate whether erosion problems are static, worsening, or stabilizing and describe control efforts. At a minimum, photograph and locate on field aerial.
- i. Visually estimate and record RDM of all useable areas.
- j. Describe and photograph activities that may have an impact on water quality. Do not mention on the report form that water is being degraded.
- k. If photographs are necessary:
 - 1. First photo should be of a map with property name and date
 - 2. Photos should be minimal yet be concise to assure sufficient documentation.
 - 3. For each photo, record photograph number, subject, location, description, bearing on the report form, and a marked location on the aerial map.
 - 4. Describe location to a landmark that can be easily identified.

3. Post Visit

- a. Print pictures and digital format.
- b. Label pictures.
- c. Transcribe report, sign, and date.
- d. Draft a follow up letter referring to violations or concerns. Offer assistance with ideas or contacts.
- e. Summarize findings.
- f. If there is a violation, initiate violation procedures.

g. Properly store all documents in files.