

# TRUST FOR LAND RESTORATION STANDARDS AND PRACTICES

Adopted by the Board of Directors December 13, 2002

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## **Part One: Organizational Strength**

### **Standard 1 – TLR has a clear purpose and goals.**

Mission Statement: “To heal the last worst places by restoring, conserving and protecting environmentally significant lands degraded by mining or other human activities.”

Goals: Set forth in Strategic Plan attached as Exhibit A.

Consistency with Purpose and Goals: Every three years, at a minimum, TLR Board and staff shall review the organization’s Strategic Plan and revise the Plan as necessary or appropriate. Prior to adopting a budget for the forthcoming year, TLR Board and staff shall review, on an annual basis, the goals and objectives set forth in the Strategic Plan.

### **Standard 2 – The Board of Directors must assume responsibility and accountability for the affairs of TLR.**

Basic Legal Standards of Behavior – every new member of the Board is provided with a board member job description that explains a board member’s responsibility and accountability for the organization (Board of Directors and Advisory Board job descriptions attached as Exhibit B).

Informed Participation – Board member job descriptions specify that directors must attend all meetings of the Board unless their absence is excused in advance of a meeting.

Board Meetings – the Board meets at least twice per year, and at least one meeting shall be in person.

Preventing Minority Rule – the Bylaws contain provisions requiring a quorum as a prerequisite for action by the Board and adequate notice of such meetings (Bylaws attached as Exhibit C). TLR’s Bylaws shall be amended in 2003 to reflect commitments reflected in these Standards and Practices.

Delegation of Decision Making Authority – Delegation of authority to committees shall be allowed to the extent permitted by the bylaws and pursuant to committee descriptions (committee descriptions attached as Exhibit D).

**Standard 3 – The Board must take care that directors, officers and staff avoid conflicts of interest.**

Dealing with Conflicts of Interest – TLR’s Conflict of Interest Policy is attached as Exhibit E.

Board Compensation – The organization’s board compensation policy is attached as Exhibit F. The organization’s executive director may serve as a member of the Board of Directors, but shall not serve as Chairperson or President of the Board.

Board Size and Diversity – the bylaws provide for a sufficiently large and diverse board so that a broad range of interests is represented.

**Standard 4 – TLR must understand and fulfill its basic legal requirements as a nonprofit, tax-exempt organization.**

Nonprofit Incorporation – TLR’s articles and bylaws were accepted by the Colorado Secretary of State for filing – confirming they meet the state requirements.

Tax Exemption – the organization has received notice of federal tax exemption.

Retaining Tax Exempt Status and Reporting Requirements – the organization directs its staff and Legal Committee to take all steps with respect to maintaining tax exempt status, addressing issues of private benefit and private inurement, filing of public support forms as necessary, and filing state and federal income tax statements.

**Standard 5 – TLR must conduct fundraising activities in an ethical and responsible manner.**

Charitable Solicitation Laws – the organization will register as a non-profit with the Colorado Secretary of State prior to conducting any fundraising in 2003, as required by state law, and will update such registration as necessary.

Donor Notification of Deductibility – should the organization offer a benefit in exchange for a contribution, it will notify the donor of the amount of the contribution that is deductible.

Accurate Representations – All representations made in public information materials are accurate and not misleading.

Use of Funds as Specified – All funds are spent for the purposes identified in the solicitation of funds or in accordance with the stated wishes of the donor. Staff, the Financial Committee and TLR’s treasurer are charged with assuring that such practices are in place.

Reasonable Fundraising Costs – The Board shall assure that the overall costs of fundraising are reasonable as a percentage of funds raised.

**Standard 6 – The board of directors assures through the exercise of its fiduciary responsibilities to the organization that TLR manages its finances and assets in a thoroughly responsible and accountable way.**

Annual Budget – TLR staff prepares an annual budget and a work plan that reflects the budget, both of which are reviewed and approved by the Board.

Budget Reflects Goals and Purposes – TLR’s annual budget items shall clearly relate to the organization’s goals and purposes.

Revenue is Greater than Expenses – Annual expenses incurred by TLR are generally equal to or less than revenues. Excess funds are invested and managed in accordance with funds investment policies that will be proposed by the Financial Committee and adopted by the Board in 2003.

Approval of Budget Deviations – the Finance Committee is authorized to approve major deviations from TLR’s adopted annual budget. (See Committee Descriptions attached as Exhibit D).

Internal System for Handling Money – the organization has adopted systems of internal controls for handling money including: the Treasurer of the organization reviews checking account reconciliation monthly, the Executive Director may not sign checks in excess of \$2,000.00 without a countersignature by a Board member, and the Executive Director is not authorized to sign his/her own paycheck.

Clear, Complete and Accurate Financial Records – TLR keeps clear financial records, consulting with an accountant from time to time to assure that GAAP and other standards are in place to the extent prudent for an organization of TLR’s size.

Frequency and Form of Financial Reports and Statements – TLR recently changed to a Quickbooks system of reports and statements, thus offering greater ease of understanding. The Board reviews complete financials at its regular meetings and the Finance committee reviews such financials on a quarterly basis.

Annual Audits – It is TLR’s intent to commence securing annual audits by a certified public accountant in 2003.

Investment and Management of Financial Assets and Dedicated Funds – the Finance Committee will prepare for recommendation to the Board policies regarding a policy on the allowable uses of dedicated funds and the investment and management of other TLR assets in 2003.

Sale or Transfer of Assets – TLR has a policy of endeavoring to transfer title to land it acquires, whether by fee or by conservation easement (such policy is attached as Exhibit G).

Risk Management and Insurance – TLR shall at all times maintain a policy of general public liability insurance and a policy of Directors' and Officers Insurance, and shall purchase additional insurance (such as environmental hazard insurance for a particular project) following a recommendation by the Conservation Committee and a decision by the Board that such additional insurance is necessary to safeguard the organization.

**Standard 7 – TLR must have help – from volunteers, consultants, and in many cases paid staff – with appropriate skills and in sufficient numbers to carry out its programs.**

Knowledgeable, Dependable Assistance – TLR has part-time paid staff and hires additional experts as staff and Board deem necessary. TLR's non-discrimination policy is set forth in this paragraph and is applied to all hiring decisions made by the Board or staff.

The Trust for Land Restoration does not discriminate on the basis of race, color, creed, national origin, gender, sexual orientation, religious belief, age, disability or other legally protected status, either as regards to access to or operations of its programs, services or activities, or in its hiring or recruitment of employees, independent contractors and volunteers.

Availability of Training and Expertise – The Board recognizes the importance of training of staff, Board members and volunteers and thus provides a line item in the annual budget to fund such training and the purchase of technical publications.

Managing Volunteers – If TLR decides to use volunteers in the future, it will implement a system for attracting, training and supervising them and recognizing them for their contributions.

Sharing the Work – As finances permit, TLR will move to assure that its successful programs do not depend solely on the activities and expertise of its Executive Director.

Board/Staff Lines of Authority – The lines of authority and responsibility between board and staff are clearly understood, and policies are adopted as needed to put such lines into writing. The Board adopted a job description for the Executive Director and will adopt other job descriptions as necessary when TLR adds additional staff. The Executive Director's job description is used to evaluate the Director's performance on an annual basis.

Personnel Policies – The Executive Committee will draft personnel policies that conform to federal and state law in 2003.

## **Part Two: Land Transactions**

### **Standard 8 – TLR must be selective in choosing land saving projects.**

Project Selection Process and Criteria – TLR has a set of written project selection criteria (attached as Exhibit H) for selecting qualified land and conservation easement acquisitions. In addition, TLR has a Worksheet for Acquisitions (attached as Exhibit I) to assist staff in evaluating proposed transactions for the organization.

Consistency of Transactions with Goals and Purposes – use of the project selection criteria attached as Exhibit H should assure that projects are consistent with TLR's goals.

Public Benefit of Transactions - use of the project selection criteria attached as Exhibit H should assure that projects chosen by TLR provide some public benefit.

Identifying High-Priority Projects – unlike most land trusts, TLR's geographic area is defined by the projects it undertakes rather than having its geographic area define its projects. For that reason, this particular Practice does not apply to TLR.

### **Standard 9 – TLR must select the best available method for protecting each property.**

Selecting the Best Conservation Tool – TLR's unique mission requires it to carefully evaluate whether a fee purchase or acceptance of a conservation easement donation is the best method that can reasonably be expected to protect the property's conservation values over time and what the best remediation tool should be to restore, enhance or remediate the property.

Informing the Landowner of Conservation Options – TLR's policy is to always discuss alternatives for conservation with landowners, including referring landowners to other land conservation organizations or governmental entities when appropriate.

### **Standard 10 – TLR must know the property it protects.**

Doing a Basic Site Inspection – TLR's policy is to always inspect properties before buying them or accepting them as donations to be sure they meet the organization's criteria and to identify any potential management problems. This site inspection occurs prior to confirming TLR will work with a landowner to conserve a particular piece of land. The site inspection is part of TLR's due diligence checklist, attached as Exhibit J.

Identifying Conservation Resources – TLR's policy is to require baseline documentation for every interest in land it acquires, whether or not tax benefits require

such documentation. Minimum standards for baseline documentation are attached as Exhibit K.

Environmental Due Diligence for Hazardous Materials – TLR’s policy is to acquire at least a Phase I Environmental Assessment (“EA”) for every property in which it seeks to acquire an interest, unless an EA is deemed unnecessary by the Conservation Committee. All EAs commissioned by TLR must meet current ASTM standards, meet the standards to qualify for all appropriate inquiries of the Brownsfields Act of 2001, and must be prepared by a qualified expert. TLR staff will consult with the Technical Subcommittee of the Conservation Committee to establish the scope, conduct and expected results of any EA commissioned by TLR.

Determining Property Boundaries – TLR shall always determine the boundaries of the properties it seeks to protect through legal descriptions accompanied by physical monumentation, surveys and/or global positioning system coordinates, as appropriate.

Risk/Benefit Assessment – If due diligence on a proposed property acquisition identifies existing or potential problems, TLR shall either correct the problems or the Board shall make a determination that the conservation values can be protected despite the problems and that the benefits of protecting the property outweigh the risks of the protection to the organization.

**Standard 11 – TLR must ensure that every transaction is legally and technically sound and takes steps to avoid future legal problems.**

Technical Expertise – TLR shall retain real estate, tax, financial, hazardous substance and land management expertise for every transaction, either through members of the Board or the Advisory Board, or through other volunteers or contract labor.

Legal Review of Every Transaction – Every TLR transaction must be approved by the Legal Subcommittee of the Conservation Committee prior to its presentation to the Board for approval.

Independent Legal Advice for All Parties – TLR always recommends in writing that each party to a transaction secure independent legal advice.

Don’t Give Legal Advice – Although TLR may discuss general principles of tax benefits and real estate transactions, TLR staff and any contract employee or volunteer working for TLR refrains from giving legal advice to other parties to the transaction.

Clear, Documented Understanding of Purposes and Uses – TLR shall adopt a model conservation easement in 2003 that assures that the purpose of the easement and all intended uses and restrictions on uses of the parties are clearly expressed.

Clear Understanding of Roles, Rights and Responsibilities – The model easement referred to above shall make clear the respective roles, rights and responsibilities of all parties to a transaction. If necessary, the easement will be supplemented by memoranda of understanding, management agreements or other legal instruments.

Record-keeping – TLR's record-keeping policy is attached as Exhibit L hereto.

Title Investigation – TLR 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 and to uncover any liens, mortgages or other encumbrances that may affect the transaction. In most cases, TLR purchases title insurance for the property interests it acquires.

Recording – TLR assures that all transactions are legally recorded at the appropriate real property records office according to local and state law.

Justifying Acquisition Price/Appraisals – TLR shall not acquire by purchase any interest in property without securing an appraisal of the property interest. Should the cost of an appraisal exceed available resources to pay for the appraisal, upon approval by the Financial Committee, TLR may acquire a written opinion of value by a qualified real estate broker to satisfy this requirement.

Justifying Selling Price – TLR assures that it does not sell property for less than its fair market value, according to its Transfer of Assets policy, attached as Exhibit G hereto.

**Standard 12 – TLR must try to assure that landowners who plan to claim a federal tax deduction for a charitable gift or bargain sale of real property interests are informed about relevant Internal Revenue Code requirements and IRS regulations, and that they obtain their own legal and tax advice regarding the gift's deductibility.**

Tax Code Requirements for Conservation Easement Donations – TLR only accepts conservation easements that meet the requirements of Section 170(h) of the Internal Revenue Code and accompanying Treasury Regulations and notifies donors of easements of this requirement.

Appraisal/Substantiation of Charitable Gifts of Real Property – TLR informs landowners donating an easement exceeding \$5,000 in value that the landowner is responsible for securing an appraisal for purposes of federal tax benefits.

Donee Responsibilities – IRS Forms 8283 and 8282 – TLR will sign Forms 8283 presented to it by donor landowners, provided that TLR will only sign such form once it has been completed by the donor's appraiser. Should TLR resell donated property, it will file Form 8282 if applicable.

No Assurances on Deductibility or Tax Benefits – TLR shall not give any assurances as to whether a donation will be deductible, what the monetary value of the gift the IRS will accept, or what the resulting tax benefits of the deduction will be. In addition, TLR shall not assure any donor that he or she will qualify for state income tax credits for qualified conservation easement donations.

**Standard 13 – The full Board must act on every land transaction.**

Full Board Action for Every Land Transaction – The Board shall approve every land transaction. Staff shall use the Worksheet for Acquisitions, Exhibit I, to prepare a project summary for the Board for every transaction.

Transaction approvals shall proceed as follows: TLR staff shall develop a proposal through limited discussion and due diligence in order to be able to communicate the proposal to the Conservation Committee. Once the proposal has been established, staff shall meet with the Conservation and the Legal Committee to develop the proposal further by identifying issues and strategies. Should the Conservation Committee determine that the proposal is outside the mission and goals of TLR, it may decide that no further work should occur on the proposal. Should the Conservation Committee determine that the transaction appears to fit TLR's mission and goals, it may direct staff to proceed to develop the proposal more fully before bringing it to the Board of Directors for approval.

Those transactions that involve TLR: 1) entering into any contract for reclamation services; 2) entering into any agreement with any regulatory agencies regarding properties owned by TLR or which TLR is considering purchasing; or 3) involve the acquisition or sale of a property interest, shall require a vote of approval of no less than three-quarters of all of the Board members (whether or not in attendance at a particular meeting). All other transactions shall require a vote of approval by a majority of the Board, in accordance with TLR's bylaws.

Accurate and Sufficient Information – By developing and summarizing the Worksheet for Acquisitions, Exhibit I, TLR staff will provide the Board with accurate and sufficient information about every transaction so that the Board can make an informed decision on the transaction.

**Standard 14 – TLR must carry out a program of responsible stewardship for its easements.**

Easement Stewardship Funding – Absent unusual circumstances, TLR does not accept a conservation easement unless the conservation easement donor provides an endowment for stewardship and enforcement. Should the Board decide that such circumstances exist, the Board shall raise funds for the stewardship and enforcement endowments from other sources. TLR's stewardship/legal endowment request for every conservation easement is based upon the complexity of the restrictions and the degree of monitoring required, but shall never be less than \$4,000.00. The Financial

Committee shall work with staff to determine appropriate methods of calculating stewardship endowment requests.

Easement Monitoring – TLR shall monitor every conservation easement it accepts at least annually, and shall prepare and keep in accordance with its Record-keeping Policy documentation of each monitoring visit. Such documentation shall include, at a minimum, a completed monitoring form (attached as Exhibit M), but may also include photographs, maps and other materials.

Landowner Contact – TLR endeavors to locate new owners of easement-restricted properties at the earliest possible date, sends them a letter similar to the one attached as Exhibit N, and attempts to schedule a meeting with new landowners to review the easement's provisions and TLR's stewardship policies, including annual monitoring activities.

Enforcement of Easements – TLR enforces the terms of its conservation easements and takes necessary steps to see that violations are remedied through the provisions of its Violation Policy attached as Exhibit O hereto. In addition, TLR adopted an Amendment Policy, attached as Exhibit P hereto.

Contingency Plans/Back-ups – Because TLR's objective is to transfer its conservation easements to other qualified conservation easement holders, it negotiates easements with this objective in mind.

**Standard 15 – TLR must carry out a program of responsible stewardship for its land.**

Financing Land Stewardship – TLR will not purchase or accept a gift of a fee interest in land until it has a plan for raising funds sufficient to pay for all costs associated with land ownership, including liability insurance, maintenance, improvements, property taxes, monitoring and enforcing.

Monitoring Land Trust Properties – If TLR acquires a fee simple interest in land, it will mark the property's boundaries in a manner appropriate to the situation and will monitor the property at least annually for potential management problems such as vandalism, overuse, and safety hazards. If TLR identifies management problems, it shall take steps to correct such problems.

Land Management Plan – TLR will adopt a management plan identifying the land trust's goals for the land and how it plans to achieve them for every land it owns.

Land Stewardship Administration – TLR shall perform all of its administrative duties in a timely and responsible manner (such as establishing policies, keeping records, filing forms, paying taxes and insurance, budgeting and maintaining correspondence files).

Community Relations – Should TLR ever acquire fee ownership in a piece of land, it shall notify neighbors of the land and appropriate public officials of its ownership and management of conservation properties.

Contingency Back-up – Prior to acquiring land in fee simple, TLR shall make contingency provisions for the land in the event TLR ceases to exist or can no longer manage the land.

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