



October 23, 2006

TO: Conservancy Members

FROM: Sam Schuchat, Executive Officer  
Jack Judkins, Staff Counsel

RE: Executive Officer's Report: Consideration and Possible Adoption of Standards and Practices Governing Grants for Easement Acquisition

Based on input at the October 2006 Conservancy meeting, staff has prepared a proposed resolution by which the Conservancy would adopt the *State Coastal Conservancy Standards and Practices Governing Grants for the Acquisition Conservation Easements* ("standards and practices"). The standards and practices are attached ("Exhibit A"), along with the memo dated September 28, 2006, presented to the Conservancy in October ("Exhibit B"). As that memo details, the proposed standards and practices are modeled after and parallel to "policies" recently adopted by the Wildlife Conservation Board. The WCB policies were developed through meetings in the past year sponsored by WCB and attended by WCB, Conservancy and other public agency staff and representatives of land trusts and other easement holders.

The proposed resolution would:

1. Adopt the standards and practices as a guideline to Conservancy staff development of conservation easement projects. Conservancy staff will work with potential grantees to establish, at an early stage, the parameters for an easement acquisition, consistent with the standards and practices.
2. Require that any recommendation for Conservancy authorization of funding of a conservation easement discuss the consistency of the proposed project with the standards and practices. At the time of consideration and possible authorization, the Conservancy members will be made aware of whether an easement acquisition project is consistent with the standards and practices.
3. Allow for the Executive Officer to vary from the standards and practices if necessary to achieve the conservation purposes of the Conservancy authorization. This provides

flexibility to address unanticipated events arising after Conservation authorization, which might result in loss of an important easement acquisition.

The proposed resolution reads as below. (“Exhibit A”, a clean copy of the standards and practices presented at the October meeting, follows this memorandum).

In order to ensure public confidence and accountability with respect to conservation easements whose acquisition is funded by the State, the State Coastal Conservancy hereby adopts the *State Coastal Conservancy Standards and Practices Governing Grants for the Acquisition of Conservation Easements* (“standards and practices”), attached to this resolution as Exhibit A. The standards and practices shall guide Conservancy staff in developing conservation easement acquisition projects. In any recommendation for Conservancy authorization of a grant to fund acquisition of a conservation easement, Conservancy staff shall discuss the consistency of the proposed action with the standards and practices. The Conservancy delegates to its Executive Officer the authority to vary from the standards and practices when necessary to achieve the conservation purposes of the Conservancy’s authorization.

As was requested by the Conservancy at the October meeting, Conservancy staff has provided a copy of the standards and practices to each of the representatives of nonprofit and public agency entities who participated in the WCB meetings at which these were developed. Notice was also given that the Conservancy would consider adoption of the standards and practices at its meeting of November 9, 2006. To date, only two comments have been received:

1. From WCB staff: an endorsement of the proposed adoption.
2. From Michele Clark, Transaction Director, California Rangeland Trust: a concern regarding inclusion of the monitoring requirements in the easement language. Under the standards and practices, only the minimum monitoring requirements (the protocol) will be included in the easement; the detailed monitoring plan and any subsequent amendments of it will be created (and approved by the Conservancy) outside of the easement without amendment of the easement language. Failure by the easement holder to monitor will not invalidate the easement, although, as a breach of an essential provision, it will give rise to the right of the Conservancy to take over as easement holder. Ms. Clark was satisfied with this explanation.

Because these standards and practices will bring uniformity to the State’s funding of conservation easement acquisitions and provide guidelines for development of easement acquisition projects that will ensure that the Conservancy’s investment is protected over the long-term, staff recommends that the Conservancy adopt the proposed resolution.

# **EXHIBIT A**

## ***State Coastal Conservancy***

### ***Standards and Practices Governing Grants for the Acquisition of Conservation Easements***

***November 9, 2006***

#### **INTRODUCTION**

The following are intended to guide Conservancy staff in developing projects for the acquisition of a conservation easement by an entity (“the grantee”) to which the Conservancy has authorized the grant of funds for the acquisition.

#### **GRANT AGREEMENTS AND EASEMENTS**

Grant agreements awarding funds for the acquisition of conservation easements and the instrument conveying the conservation easement (“conveyance documents” or “deed of conservation easement”) shall be consistent with the following minimum standards and each must clearly state the purposes of the acquisition. The acquisition purposes should, at a minimum, articulate and be consistent with the relevant purposes and requirements of Division 21 of the Public Resources Code and the funding source(s) used to pay for the acquisition. The resources and conservation values to be protected shall be identified in both the grant agreement and in the deed of conservation easement

#### **RETENTION OF DOCUMENTS**

Approved appraisals, conformed copies of recorded conveyance documents, title reports and title policies, baseline conditions reports, transaction documents, management plans and monitoring reports, as applicable, shall be provided to the Conservancy and retained in the Conservancy offices.

#### **BASELINE CONDITIONS REPORT**

Prior to the close of escrow for the acquisition of a conservation easement purchased with funds approved by the Conservancy, the Executive Officer shall have approved documentation providing detailed information on the condition of the property to be protected. The documentation (Baseline Conditions Report) shall be tailored to the purposes of the grant and the specific conservation values to be protected by the

conservation easement. Descriptions of the condition of the property and conservation values should be sufficiently detailed to allow for meaningful future comparisons.

The Baseline Conditions Report must be completed, signed, and certified by the landowner(s) and the grantee by the close of escrow. The certification must confirm that the Baseline Conditions Report is a current and accurate description and representation of the property, the health of its resources and conservation values as of the closing.

The Baseline Conditions Report shall provide a narrative that characterizes the overall general condition of the conservation values protected by the conservation easement. For purposes of baseline documentation, the report must provide descriptions that are clearly defined and sufficiently detailed to allow for meaningful future comparisons and must: (a) describe and document the features and characteristics of the property in relation to the purposes, conservation values, and terms of the conservation easement at the time the conservation easement is granted; (b) describe and document the conservation values and resources to be protected by the conservation easement; (c) contain all information necessary for the grantee to administer, monitor and enforce the conservation easement; and (d) include a copy of the recorded conservation easement. The grant agreement shall specify these minimum requirements for the content of a Baseline Conditions Report.

## **MONITORING CONSERVATION EASEMENTS**

The grant agreement shall require the grantee to monitor land protected with a conservation easement purchased with Conservancy funds. The deed of conservation easement shall acknowledge the right of the grantee to undertake compliance monitoring and shall establish minimum requirements for monitoring that are consistent with the requirements described below.

Compliance monitoring shall assess compliance with the terms of the conservation easement and note any changes to the property as compared to the Baseline Conditions Report and the prior monitoring report. The grantee shall monitor the property at least annually (or less frequently, if the Conservancy determines that conditions in a specific case do not warrant annual monitoring) to assess compliance with the terms and conditions of the conservation easement, as well as whether the purposes of the conservation easement and the grant agreement are being met.

The grantee shall provide notice to the Executive Officer of any periodic or other monitoring of the protected property and, on request of the Executive Officer, Conservancy staff shall be permitted to accompany the grantee on any monitoring visit. Conservancy staff shall accompany the grantee on periodic or other monitoring to the extent that the Executive Officer determines necessary to assess compliance with the terms, covenants and conditions of the conservation easement and the grant agreement. Where funding for the acquisition of a conservation easement has been provided by one or more other state agencies imposing similar requirements, the Conservancy may accept compliance reports from another such agency in lieu of making its own site visit.

Prior to the close of escrow for the acquisition of a conservation easement purchased with Conservancy funds, the Executive Officer shall have approved an individualized monitoring plan for the property to be protected. Using the Baseline Conditions Report as a benchmark, the monitoring plan should be adaptive and address the purposes, minimum frequency, timing and methods of monitoring the property to be carried out by grantee. The monitoring plan is the framework that will guide the preparation for and implementation of the grantee's monitoring of the conservation easement.

The monitoring plan must be tailored to address the purposes, terms and conditions of the conservation easement and the purposes of grant. The grant agreement and the deed of conservation easement shall describe the minimum requirements for a monitoring plan and describe a process for amending the plan, as necessary, over time.

The grantee shall provide a written report of its monitoring activities and the results of such monitoring to the Conservancy in accordance with the approved monitoring plan. The monitoring plan shall document and describe the monitoring activities in a manner that demonstrates the monitoring was conducted in accordance with the approved monitoring plan.

## **ESSENTIAL PROVISIONS OF CONSERVATION EASEMENTS**

The deed of conservation easement for any acquisition funded by the Conservancy should include the following essential provisions:

1. The deed of conservation easement shall contain language that prohibits its amendment, transfer or use as security for any debt, without the approval of the Executive Officer. (The Executive Officer shall approve any such amendment, transfer or use only if the acquisition purposes and conservation values would not be impaired as a result.)
2. No use of property subject to the conservation easement that is inconsistent with the acquisition purposes shall be permitted.
3. The conservation easement shall continue as a servitude running in perpetuity with the real property. (There shall be no provision in a conservation easement pursuant to which the landowner and the easement holder may voluntarily extinguish the conservation easement. Conservation easements whether in whole or in part, may only be extinguished through appropriate legal proceedings (e.g., eminent domain).)
4. If all or part of the property subject to the conservation easement is taken in the exercise of eminent domain, and if the grantee is entitled to receive any proceeds, whether by agreement or court order, for the public taking of the conservation easement, the grantee shall provide to the Conservancy a share of the proceeds

proportionate to the Conservancy's contribution towards the purchase price of the conservation easement.

5. If the easement holder should abandon the conservation easement or cease to exist (without first transferring its interest to another entity qualified to hold conservation easements and approved by the Executive Officer), or if any of the essential terms above are violated, then all of the easement holder's right, title and interest in the conservation easement shall automatically vest in the State of California for the benefit of the Conservancy or its successor, upon recordation of a certificate of acceptance of the conservation easement following approval by the Conservancy and the Department of General Services and/or the State Public Works Board, if required by law. However, the State, through the Executive Officer of the Conservancy, or its successor, may designate another public agency or a nonprofit organization to accept the right, title and interest, in which case vesting shall be in that agency or organization rather than in the State.

## EXHIBIT B



September 28, 2006

TO: Conservancy Members

FROM: Sam Schuchat, Executive Officer  
Jack Judkins, Staff Counsel

SUBJECT: Executive Officer's Report: Conservation Easement Discussion

The Conservancy has been involved for almost a year in discussion of appropriate standards for projects involving the acquisition of conservation easements. At the Conservancy meeting of February 3, 2006, Deputy Executive Officer Steve Horn presented information on Conservancy practices related to the funding of conservation easements. A copy of the memo provided to the Conservancy is attached.

Subsequently, the Wildlife Conservation Board (WCB) convened a series of meetings with representatives of the land trust community and state agencies to cooperatively develop principles that would ensure that WCB's conservation purpose in funding an easement would remain adequately protected. Conservancy staff participated in these meetings and concurred in the consensus reached by the parties that development of an easement acquisition project funded by the State should generally be guided by five basic principles, summarized as follows:

1. Purpose: The purpose of the conservation easement should be clearly articulated in the State agency grant agreement and in the easement and be consistent with the funding source and the State agency's enabling legislation.
2. Baseline Conditions: Prior to close of escrow, a "Baseline Report", detailing and documenting the conservation values to be protected under the grant, should be prepared, provided to and approved by the State agency, and retained in the offices of the State agency.
3. Monitoring: The easement property should be regularly monitored by the easement holder for compliance, the easement holder should provide the State agency with a copy of each periodic monitoring report, and the State agency should have the right to accompany the easement holder on monitoring visits.
4. Changes to the Easement: The State agency should have the opportunity to review and approve any changes in the easement terms or any transfer to another easement holder.

5. Enforcement: If violation of the easement purpose or other essential terms or conditions occurs, the State agency should have the ability to enforce compliance.

At its meeting of August 17, 2006, WCB formally adopted these same five principles as “policies” guiding the WCB procedures for funding conservation easements. A copy of the adopted WCB policies is attached.

Historically, Conservancy staff has incorporated these principles into the development of easement projects. Since each easement acquisition project involves unique conservation values, differing funding partners and individual landowners with different interests, the manner in which these basic principles are integrated into the easement project can and has varied. Conservancy staff will continue to inform the Conservancy of the relevant features in each new easement at the time Conservancy authorization for funding of that easement is requested.

Several Conservancy members have expressed an interest in Conservancy consideration and possible adoption of similar standards. Accordingly, for the purposes of discussion at October, 2006 meeting and for possible action at a future meeting, Conservancy staff has prepared a set of proposed standards, based on these same basic principles. These standards, which have been revised from WCB’s version to reflect the requirements of the Conservancy’s enabling legislation and appropriation language, are attached. The standards are annotated so that the Conservancy’s “standards” are cross-referenced to the parallel or related WCB “policy”.

As noted above, Conservancy staff agrees that these principles should guide the development of any Conservancy funded conservation easements. It is worth remembering that each easement is negotiated with particular landowners and is thus unique. Landowners may have specific sensitivities or needs, and often there are other funders involved with varying requirements which must be harmonized. Thus, overly precise application of these standards and practices may result in the inability to take advantage of a fleeting opportunity to secure an easement that would otherwise unconditionally achieve the Conservancy’s statutory conservation objectives, because, for one reason or another, the project cannot fully meet all aspects of a particular standard. Thus, staff would recommend that any proposed standard be adopted reflecting this possible need for future flexibility.

# ***State Coastal Conservancy***

## ***Standards and Practices Governing Grants for the Acquisition of Conservation Easements October 5, 2006 DISCUSSION DRAFT***

### **INTRODUCTION**

The following are intended to guide Conservancy staff in developing projects for the acquisition of a conservation easement by an entity (“the grantee”) to which the Conservancy has authorized the grant of funds for the acquisition.

### **GRANT AGREEMENTS AND EASEMENTS**

Grant agreements awarding funds for the acquisition of conservation easements and the instrument conveying the conservation easement (“conveyance documents” or “deed of conservation easement”) shall be consistent with the following minimum standards and each must clearly state the purposes of the acquisition. The acquisition purposes should, at a minimum, articulate and be consistent with the relevant purposes and requirements of Division 21 of the Public Resources Code and the funding source(s) used to pay for the acquisition. The resources and conservation values to be protected shall be identified in both the grant agreement and in the deed of conservation easement. [WCB Policy: “Grant Agreements”, p. 1; same, except first sentence deleted and other minor non-substantive changes]

### **RETENTION OF DOCUMENTS**

Approved appraisals, conformed copies of recorded conveyance documents, title reports and title policies, baseline conditions reports, transaction documents, management plans and monitoring reports, as applicable, shall be provided to the Conservancy and retained in the Conservancy offices. [WCB Policy, “Retention of Documents”, page 1; same language]

## BASELINE CONDITIONS REPORT

Prior to the close of escrow for the acquisition of a conservation easement purchased with funds approved by the Conservancy, the Executive Officer shall have approved documentation providing detailed information on the condition of the property to be protected. The documentation (Baseline Conditions Report) shall be tailored to the purposes of the grant and the specific conservation values to be protected by the conservation easement. Descriptions of the condition of the property and conservation values should be sufficiently detailed to allow for meaningful future comparisons.

The Baseline Conditions Report must be completed, signed, and certified by the landowner(s) and the grantee by the close of escrow. The certification must confirm that the Baseline Conditions Report is a current and accurate description and representation of the property, the health of its resources and conservation values as of the closing.

The Baseline Conditions Report shall provide a narrative that characterizes the overall general condition of the conservation values protected by the conservation easement. For purposes of baseline documentation, the report must provide descriptions that are clearly defined and sufficiently detailed to allow for meaningful future comparisons and must: (a) describe and document the features and characteristics of the property in relation to the purposes, conservation values, and terms of the conservation easement at the time the conservation easement is granted; (b) describe and document the conservation values and resources to be protected by the conservation easement; (c) contain all information necessary for the grantee to administer, monitor and enforce the conservation easement; and (d) include a copy of the recorded conservation easement.

The grant agreement shall specify these minimum requirements for the content of a Baseline Conditions Report. [WCB Policy “Baseline Conditions Report”, p. 2; same language]

## MONITORING CONSERVATION EASEMENTS

The grant agreement shall require the grantee to monitor land protected with a conservation easement purchased with Conservancy funds. [WCB Policy, “Monitoring Conservation Values” ; WCB paragraph “IV”, first sentence] The deed of conservation easement shall acknowledge the right of the grantee to undertake compliance monitoring and shall establish minimum requirements for monitoring that are consistent with the requirements described below. [This sentence is new – reflects that easement is the vehicle for Conservancy requirements – not the grant agreement exclusively]

Compliance monitoring shall assess compliance with the terms of the conservation easement and note any changes to the property as compared to the Baseline Conditions Report and the prior monitoring report. [WCB Policy, “Monitoring Grants and Conservation Values”, WCB paragraph “I”] The grantee shall monitor the property at least annually (or less frequently, if the Conservancy determines that conditions in a specific case do not warrant annual monitoring) to assess compliance with the terms and conditions of the conservation easement, as well as whether the purposes of the conservation easement and the grant agreement are being met. [WCB Policy,

“Monitoring Grants and Conservation Values”, paragraph “IV”, second sentence, with added possible exception for less frequent periodic monitoring]

The grantee shall provide notice to the Executive Officer of any periodic or other monitoring of the protected property and, on request of the Executive Officer, Conservancy staff shall be permitted to accompany the grantee on any monitoring visit.

Conservancy staff shall accompany the grantee on periodic or other monitoring to the extent that the Executive Officer determines necessary to assess compliance with the terms, covenants and conditions of the conservation easement and the grant agreement. Where funding for the acquisition of a conservation easement has been provided by one or more other state agencies imposing similar requirements, the Conservancy may accept compliance reports from another such agency in lieu of making its own site visit. [This replaces WCB Policy “Monitoring Grants and Conservation Values”, paragraph “V”; the Conservancy is not a land management agency and does not have the capacity to monitor every easement “at least every three years”, but retains the right to attend any monitoring visit, as needed]

Prior to the close of escrow for the acquisition of a conservation easement purchased with Conservancy funds, the Executive Officer shall have approved an individualized monitoring plan for the property to be protected. Using the Baseline Conditions Report as a benchmark, the monitoring plan should be adaptive and address the purposes, minimum frequency, timing and methods of monitoring the property to be carried out by grantee. The monitoring plan is the framework that will guide the preparation for and implementation of the grantee’s monitoring of the conservation easement. [WCB Policy “Monitoring Grants and Conservation Values”, paragraph “II”]

The monitoring plan must be tailored to address the purposes, terms and conditions of the conservation easement and the purposes of grant. The grant agreement and the deed of conservation easement shall describe the minimum requirements for a monitoring plan and describe a process for amending the plan, as necessary, over time. [WCB Policy “Monitoring Grants and Conservation Values”, paragraph “III”]

The grantee shall provide a written report of its monitoring activities and the results of such monitoring to the Conservancy in accordance with the approved monitoring plan. The monitoring plan shall document and describe the monitoring activities in a manner that demonstrates the monitoring was conducted in accordance with the approved monitoring plan. [WCB Policy “Monitoring Grants and Conservation Values”, paragraph “IV”, third and fourth paragraphs]

## **ESSENTIAL PROVISIONS OF CONSERVATION EASEMENTS**

[Except as noted below, this is Conservancy-specific language. It is derived from and required by the Conservancy enabling legislation, PRC Section 31116(c), and/or by the

language of most recent bond act appropriations to the Conservancy] The deed of conservation easement for any acquisition funded by the Conservancy should include the following essential provisions:

1. The deed of conservation easement shall contain language that prohibits its amendment, transfer or use as security for any debt, without the approval of the Executive Officer. (The Executive Officer shall approve any such amendment, transfer or use only if the acquisition purposes and conservation values would not be impaired as a result.) [This imposes the Conservancy-specific requirement of approval for an easement amendment and for use of the easement as security, but also sets forth the requirement contained in WCB Policy, "Easement Transfers and Extinguishment, paragraph "I" for approval of easement transfer]
2. No use of property subject to the conservation easement that is inconsistent with the acquisition purposes shall be permitted.
3. The conservation easement shall continue as a servitude running in perpetuity with the real property. (There shall be no provision in a conservation easement pursuant to which the landowner and the easement holder may voluntarily extinguish the conservation easement. Conservation easements whether in whole or in part, may only be extinguished through appropriate legal proceedings (e.g., eminent domain).) [This is parallel to the requirement contained in WCB Policy, "Easement Transfers and Extinguishment, paragraph "II" that prohibits voluntary termination of the easement]
4. If all or part of the property subject to the conservation easement is taken in the exercise of eminent domain, and if the grantee is entitled to receive any proceeds, whether by agreement or court order, for the public taking of the conservation easement, the grantee shall provide to the Conservancy a share of the proceeds proportionate to the Conservancy's contribution towards the purchase price of the conservation easement.
5. If the easement holder should abandon the conservation easement or cease to exist (without first transferring its interest to another entity qualified to hold conservation easements and approved by the Executive Officer), or if any of the essential terms above are violated, then all of the easement holder's right, title and interest in the conservation easement shall automatically vest in the State of California for the benefit of the Conservancy or its successor, upon recordation of a certificate of acceptance of the conservation easement following approval by the Conservancy and the Department of General Services and/or the State Public Works Board, if required by law. However, the State, through the Executive Officer of the Conservancy, or its successor, may designate another public agency or a nonprofit organization to accept the right, title and interest, in which case vesting shall be in that agency or organization rather than in the State. [This is the mechanism, specified by PRC Section 31116(c) and by most of the recent appropriations to the Conservancy, by which the Conservancy must enforce an easement violation. It is

an alternative, but equivalent and effective enforcement mechanism, to the third party enforcement remedy required by WCB Policy “Default and Remedies”]

**Wildlife Conservation Board**  
Policies Governing  
Grant Agreements and Conservation Easements

**IMPLEMENTATION AND REVIEW OF POLICIES**

It is the policy of the Wildlife Conservation Board that:

The Wildlife Conservation Board (WCB) shall establish and regularly review policies to ensure public confidence and accountability in grant agreements and conservation easements purchased with grant funds approved by the WCB. Exceptions to these policies are to be approved by the WCB.

*Adopted: 08/17/06.*

**GRANT AGREEMENTS**

It is the policy of the Wildlife Conservation Board that:

Staff shall develop standard grant agreements designed to allocate fiscal resources and facilitate the completion of projects. Grant agreements shall be consistent with the policies established by the WCB and clearly state the purposes of the conservation effort. The defined purposes must, at a minimum, articulate and be consistent with the purposes and requirements of the funding source(s) used to pay for the conservation effort and identify the resources and conservation values to be protected. The defined purposes of the grant must also be included in the appropriate conveyance documents (deed or conservation easement).

*Adopted: 08/17/06.*

**RETENTION OF DOCUMENTS**

It is the policy of the Wildlife Conservation Board that:

Approved appraisals, conformed copies of recorded conveyance documents, title reports and title policies, baseline conditions reports, transaction documents, management plans, and monitoring reports, as applicable, shall be provided to the WCB and retained in the WCB offices.

*Adopted: 08/17/06.*

## **BASELINE CONDITIONS REPORT**

It is the policy of the Wildlife Conservation Board that:

Prior to the close of escrow for the acquisition of a conservation easement purchased with funds approved by the WCB, WCB shall have approved documentation providing detailed information on the condition of the property to be protected. The documentation (Baseline Conditions Report) shall be tailored to the purposes of the grant and the specific conservation values to be protected by the conservation easement. Descriptions of the condition of the property and conservation values should be sufficiently detailed to allow for meaningful future comparisons.

The Baseline Conditions Report must be completed, signed, and certified by the landowner(s) and the grantee by the close of escrow. The certification must confirm that the Baseline Conditions Report is a current and accurate description and representation of the property, the health of its resources and conservation values as of the closing.

The Baseline Conditions Report shall provide a narrative that characterizes the overall general condition of the conservation values protected by the conservation easement. For purposes of baseline documentation, the report must provide descriptions that are clearly defined and sufficiently detailed to allow for meaningful future comparisons and must: (a) describe and document the features and characteristics of the property in relation to the purposes, conservation values, and terms of the conservation easement at the time the conservation easement is granted; (b) describe and document the conservation values and resources to be protected by the conservation easement; (c) contain all information necessary for the grantee to administer, monitor and enforce the conservation easement; and (d) include a copy of the recorded conservation easement. The grant agreement shall include minimum requirements for the content of a Baseline Conditions Report.

*Adopted: 08/17/06.*

## **MONITORING GRANTS AND CONSERVATION EASEMENTS**

It is the policy of the Wildlife Conservation Board that:

- I. Compliance monitoring shall assess compliance with the terms of the conservation easement and grant agreement and note any changes to the property as compared to the Baseline Conditions Report and the prior monitoring report.
- II. Prior to the close of escrow for the acquisition of a conservation easement purchased with funds approved by the WCB, WCB shall have approved an individualized monitoring protocol for the property to be protected. Using the Baseline Conditions Report as a benchmark, the monitoring protocol should be adaptive and address the purposes, frequency, timing and methods of monitoring the property to be carried out by the grant recipient (grantee). The monitoring protocol is the framework that will guide the preparation for and implementation of the grantee's monitoring of the conservation easement.
- III. The monitoring protocol must be tailored to address the purposes, terms and conditions of the conservation easement and the purposes of grant. The grant agreement shall include minimum requirements for a monitoring protocol and describe a process for amending the protocol as necessary, over time.
- IV. All grant agreements shall require the grantee to monitor land protected with a conservation easement purchased with funds allocated by the WCB. The grantee shall monitor the property at least annually to assess compliance with the terms and conditions of the conservation easement, as well as whether the purposes of the conservation easement and the grant agreement are being met. The grantee shall provide a written report of its monitoring activities and the results of such monitoring to the WCB in accordance with the approved monitoring protocol. The monitoring report shall document and describe the monitoring activities in a manner that demonstrates the monitoring was conducted in accordance with the monitoring protocol approved by the WCB.
- V. At the request of the WCB, not less than once, in any period of three calendar years, the grantee shall arrange for the WCB to access the protected property to assess compliance with the terms, covenants and conditions of the grant agreement. To the extent possible, such visits will be scheduled at the time of the grantee's annual monitoring visit.

*Adopted: 08/17/06.*

## **EASEMENT TRANSFERS AND EXTINGUISHMENT**

It is the policy of the Wildlife Conservation Board that:

- I. The grant agreement shall contain language that requires WCB to approve the transfer of any conservation easement.
  
- II. The landowner and the easement holder cannot voluntarily extinguish the conservation easement. Conservation easements whether in whole or in part, can only be extinguished through appropriate legal proceedings (e.g., eminent domain).

*Adopted: 08/17/06.*

## **DEFAULT AND REMEDIES**

It is the policy of the Wildlife Conservation Board that:

Grant agreements are to include remedies, which the WCB may exercise if any essential term or condition of the agreement is violated. Remedies must include, but are not to be limited to, the right to seek specific performance of the grant agreement and the right to require the Grantee to transfer its interest in the conservation easement to the state or a qualified third party, as the WCB may elect.

*Adopted: 08/17/06.*