

Part 519 – Farm and Ranch Lands Protection Program

Subpart G – Conservation Easements

B. Deed Provisions

The FRPP uses the local grantee’s conservation easement deed form. There is no standard template. However, there are certain subjects that must be included in the conservation easement deed for it to be legally sufficient and conform to agency policy. Those subjects are set forth below with examples of typical conservation easement deed language. The language for contingent rights of the United States (in deeds that are prepared pursuant to cooperative agreements dated in FY 2005 and prior years), rights of the United States (in deeds that are prepared pursuant to cooperative agreements dated in FY 2006 through FY 2008), right of the enforcement (in deeds that are prepared pursuant to cooperative agreements dated in FY 2009 and subsequent years through the term of the 2008 Farm Bill), environmental warranty and general indemnification are required in all conservation easement deeds by the Office of the General Counsel in the form shown below. The other forms are optional as long as the language used adequately covers the subject matter. The following subjects are listed generally in the order they may appear in the conservation easement deed:

(1) **Introductory Paragraph:**

This paragraph includes the names of the parties to the conservation easement deed, their addresses, and the date. The name of the grantor must be exactly as it appears in the title insurance policy as the fee title holder. The name of the grantee (in deeds that are prepared pursuant to cooperative agreements dated in FY 2005 and prior years and FY 2009 and subsequent years) and the local grantee (in deeds that are prepared pursuant to cooperative agreements dated in FY 2006 through FY 2008) must conform to the grantee’s or local grantee’s official name. In deeds that are the products of cooperative agreements from 2006 and subsequent years, the United States should be identified as a grantee as follows:

“United States of America (“United States”), acting by and through the United States Department of Agriculture, Natural Resources Conservation Service (“NRCS”), acting on behalf of the Commodity Credit Corporation.”

EXAMPLE (in a deed that is prepared pursuant to a cooperative agreement dated in Fiscal Year 2005 and prior years):

THIS CONSERVATION EASEMENT DEED is made and entered into this ____ day of _____, 200_ by _____ (“Grantor”), whose address is _____ to _____ (“Grantee”) whose address is _____, for the purpose of forever conserving the agricultural productivity of the Protected Property and its value for resource preservation and as open space. The Grantor and Grantee are collectively referred to as “The Parties.”

EXAMPLE (in a deed that is prepared pursuant to a cooperative agreement dated in FY 2006 through FY 2008):

THIS CONSERVATION EASEMENT DEED is made and entered into this ____ day of _____, 200_ by _____ (“Grantor”), whose address is _____ to _____ (“Local Grantee”) whose address is _____ and to the United States of America (“United States”) acting by and through the United States Department of Agriculture, Natural Resources Conservation Service (“NRCS”), acting on behalf of the Commodity Credit Corporation, for the purpose of forever conserving the agricultural productivity of the Protected Property and its value for resource preservation and as open space. The Local Grantee and the United States are collectively referred to as the “Grantees.” The Grantor and

Grantees are collectively referred to as “The Parties.”

EXAMPLE (in a deed that is prepared pursuant to a cooperative agreement dated in FY 2009 and subsequent years):

THIS CONSERVATION EASEMENT DEED is made and entered into this ____ day of _____, 20__ by _____ (“Grantor”), whose address is _____ to _____ (“Grantee”) whose address is _____ and to the United States of America (“United States”) acting by and through the United States Department of Agriculture, Natural Resources Conservation Service (“NRCS”), acting on behalf of the Commodity Credit Corporation, as its interest appears herein, for the purpose of forever conserving the agricultural productivity of the Protected Property and its value for resource preservation and as open space. The Grantor and Grantees are collectively referred to as “The Parties.”

(2) Responsibility of Local Grantee

The conservation easement deed must provide for management and enforcement by local grantee, subject to the rights of the United States.

EXAMPLE:

“The Local Grantee must have the primary responsibility for management and enforcement of the terms of this Conservation Easement Deed, subject to the rights of the United States.”

(3) Recitals: (often begins “Witnesseth:” and includes “Whereas” clauses). This section should contain, along with the purposes and State-enabling statute authorizing acquisition of the conservation easement, a citation to the Farm and Ranch Lands Protection Program at 16 U.S.C. Sections 3838h–3838i.

(i) Federal Authority

A standard FRPP clause setting forth the basic Federal statutory authority should be included.

EXAMPLE

“Whereas, the Federal Farm and Ranch Lands Protection Program provides funding for the purchase of Conservation Easements for the purpose of protecting agricultural use and related conservation values of eligible land by limiting nonagricultural uses of that land (16 U.S.C. Sections 3838h and 3838i).”

EXAMPLE (Alternate)

“Whereas, under the authority of the Farm and Ranch Lands Protection Program, (16 U.S.C. Sections 3838h and 3838i) the United States Department of Agriculture’s Natural Resources Conservation Service (hereinafter the “United States”) has provided on behalf of the Commodity Credit Corporation \$ _____ to the Local Grantee for the acquisition of this Conservation Easement, entitling the United States to the rights identified herein as a Grantee.”

(ii) Purposes

The main purpose of the conservation easement is the protection of agricultural use and related conservation values of eligible land by limiting nonagricultural uses of that land. Other compatible purposes are scenic, open space, habitat, forest protection, and protection of historical or archaeological resources.

EXAMPLE

“The Protected Property consists primarily of productive agricultural land. Approximately __percent of the soils has been classified as _____ farmland, and __percent have been classified as _____ farmland by the Natural Resources Conservation Service, U.S.

Department of Agriculture. The primary purpose of this Conservation Easement is to protect the agricultural use and related conservation values of eligible land by limiting nonagricultural uses of the Protected Property in perpetuity.

This Conservation Easement will also serve the following “conservation purposes” as such term is defined in section 170(h)(4)(A) of the Internal Revenue Code: the preservation of *[Here other compatible conservation purposes should be listed].*”

EXAMPLE FOR AN HISTORIC PROPERTY (list of historic values are in the documents that were used to qualify for the National Register of Historic Places maintained by the National Park Service or State or Tribal registers)

“The Protected Property has outstanding historical significance, including the historic farm house built in 1854. The entire farm, including the smokehouse, stone walls, carriage house, granary, well house, and barn have historic value. It is a primary purpose of this Conservation Easement to protect these historic values as well as its Conservation Values.”

(iii) Property Description

This section of the conservation easement deed contains the legal description of the protected property. The legal description of the protected property must conform to the description set forth in the title records. Reference to existing surveys and the appropriate record book and page as well as the tax parcel number should be made. If the precise legal description of the protected property is long, it should be incorporated by reference in this section of the conservation easement deed and appended to the conservation easement deed as an exhibit. If the conservation easement deed covers only part of the grantor’s property, a survey must be obtained which describes the precise boundaries of the protected property.

EXAMPLE

“Whereas, the Grantor is sole owner in fee simple of certain real property located in _____ Township, _____ County, in the State of _____, described in a deed to Grantor, dated _____ and recorded at Book ____, Page ____ at ____ County Registry of Deeds, herein referred to as the “Protected Property.” The Protected Property is further described and depicted in the attached Exhibit A, which is incorporated herein by reference.”

(4) Granting Clause

This is a brief paragraph stating that the grantor conveys in perpetuity a conservation easement to the local grantee and, in conservation easement deeds prepared pursuant to cooperative agreements dated in FY 2006 through FY 2008, to the United States. The State or local unit of government may also be a grantee.

EXAMPLE

“NOW THEREFORE, the Grantor conveys and warrants to the Grantees a perpetual Conservation Easement over the Protected Property. The scope, terms, and conditions of this Conservation Easement are set forth in this Conservation Easement Deed. This conveyance is a grant from the Grantor to the Grantees. As consideration for such grant, payment has been made to the Grantor in the amount of \$_____.”

(5) Conservation Purposes

The conservation purposes provision must be crafted to the circumstances of the particular protected property. It should be detailed and specific because it is significant to the uses that may be permitted on the protected property.

EXAMPLE

“**Purposes.** The Conservation Easement hereby conveyed is exclusively for the following Conservation Purposes for the public benefit, herein referred to as the “Conservation Purposes,” *[Enter the Conservation Purposes].*”

(6) Prohibited Uses

These provisions usually begin with a general statement that any activities inconsistent with the purposes of the conservation easement are prohibited. This general statement is followed by more comprehensive provisions setting forth specific prohibitions. The prohibited uses section may be attached to the conservation easement deed and incorporated by reference as an exhibit rather than appearing in the body of the conservation easement deed. The following are some of the usual specifically prohibited uses:

(i) Industrial or Commercial Uses

These activities are generally prohibited unless expressly permitted for agricultural purposes.

EXAMPLE

“Industrial or Commercial Uses. The establishment of any commercial or industrial facilities (other than those necessary in the operation or uses of the Protected Property expressly permitted by this Conservation Easement Deed) including, but not limited to, commercial feed lot, any retail sales or service business, restaurant, night club, campground, trailer park, motel, hotel, commercial recreation facility, gas station, retail outlet, or facility for the manufacture or distribution of any product (other than products to be grown or produced on the Protected Property in connection with purposes expressly permitted in this Conservation Easement Deed).”

(ii) Construction on the Protected Property

Construction is limited to structures and improvements that support the agricultural use of the protected property. All structures and improvements must be located within a designated building envelope, often called a “headquarters” (also known as a farmstead area or farmstead complex). The purpose of the building envelope is to prevent a sprawl of construction across the farm or ranch by concentrating construction within the building envelope. The building envelope must be identified as an exhibit to the conservation easement deed.

The building envelope must be located where there are existing buildings, easy access from existing roadways, access to utilities, and minimal impacts to prime, unique, or important soils. Building envelopes established around existing buildings should allow sufficient area for tractor and truck traffic expansion and absorption of storm water runoff. An area of three to five times the amount of permitted impervious surface area is recommended for the absorption of storm water runoff. If an exact location of an envelope cannot be negotiated, the conservation easement deed should be worded to allow construction only within a specified distance from a major road adjacent to the farm or ranch buildings.

All construction is subject to the limitation on impervious surfaces. The building of additional residential dwellings is limited to residences for family members working full time on the protected property and full-time farm workers. The FRPP manager must ensure that permission to construct the additional dwelling is included in the conservation easement deed and considered in determining the appraised fair market value of the protected property.

EXAMPLE

“Construction of Buildings and Other Structures and Improvements. The construction of any building or any other structure is prohibited except in accordance with the subparagraphs below. All structures and improvements are subject to the impervious surface limitation in Section ____.

- **Agricultural Structures & Improvements.** All existing agricultural buildings and agricultural structures may be repaired or replaced, but not enlarged, at their current location, as indicated in the Building Envelope attached as Exhibit _____. New buildings and improvements to be used solely for agricultural purposes, including the sale and processing of agricultural products predominantly

produced on the Protected Property and farm labor housing, may only be built within the Building Envelope attached as Exhibit _____

- Single Family Residential Dwelling and Related Structures. The existing single-family dwelling and related structures (e.g., swimming pool, garage, etc.) located in the Building Envelope identified as Exhibit ____ may be repaired, reasonably enlarged, and replaced within the Building Envelope. No additional single family dwelling may be built anywhere on the Protected Property.”

OR

- Single Family Residential Dwelling and Related Structures. The existing single-family dwelling and related structures (e.g., swimming pool, garage, etc.) located in the Building Envelope identified as Exhibit ____ may be repaired, reasonably enlarged, and replaced within the Building Envelope. [Number of dwellings allowed] additional single family dwellings may be built for the use of immediate family members, family members working on the Protected Property, and season or full-time workers on the Protected Property within the Building Envelope identified as Exhibit ____.”

(iii) Impervious Surfaces

- Impervious surfaces are permanent, nonseasonal rooftops and concrete and asphalt surfaces. Impervious surfaces include residential buildings, agricultural buildings (with and without flooring), and paved areas both within and outside the protected property’s building envelope. Impervious surfaces may not exceed 2 percent of the total acreage of the protected property. For protected property that is less than 20 acres, only one acre of impervious surface area is permitted. Conservation practices listed in the Field Office Technical Guide are exempt from the impervious cover limitation.
- Seasonal structures are exempt from the impervious surface limitation. An example of a seasonal structure is a “hoop house”: a floorless, framed structure covered with plastic during the colder months that is removed, exposing the soil surface, during the warmer months. Conservation easement deed language should clearly define which surfaces and practices create “impervious surface” and which do not.
- An exhibit, depicting impervious surface existing at the time of closing, including a measurement of the area of impervious surface, must be included in the baseline documentation report (exhibit 519.95). All changes in impervious surface must be measured and documented in the annual monitoring reports. The impervious surface on the protected property must be determined by the local grantee and NRCS, not by the grantor.
- In the event of subdivision of the protected property, the impervious surface permitted on the entire protected property area must be allocated between the subdivided parcels so that the total impervious surface permitted on all of the subdivided parcels does not exceed the total impervious surface permitted on the protected property area before subdivision.
- State Conservationists may waive the above-mentioned impervious surface limitation up to 10 percent on a parcel-by-parcel basis if the grantee requests such a waiver on behalf of the grantor. In the event such a waiver is requested, the State Conservationist must use the template available in Exhibit 519.105, “Sample Worksheet for 2% Impervious Surface Waiver Determination,” in order to determine if such a waiver is allowable under FRPP policy. In the event that the State Conservationist deviates from the national template provided in exhibit 519.105, the State Conservationist must retain the criteria listed but may modify the factors’ points within each criterion, provided a sliding scale of points within each of the criterion is retained and the maximum impervious coverage does not exceed 10 percent.

- A grantee may request permission to use a worksheet for all of its parcels. If permission is requested, the basis for the grantee’s request must be in accordance with the policies of the FRPP. The grantee’s rationale for allowing more than 2 percent impervious surfaces must be based on a set of criteria similar to those in Exhibit 519.105, “Sample Worksheet for 2% Impervious Surface Waiver Determination,” in order to determine if such a waiver is allowable under FRPP policy. The grantee’s rationale must be approved by the Deputy Chief for Easements and Landscape Planning in the NRCS National Headquarters.
- Such a limitation applies to application acceptance and will also be inserted in the conservation easement deed.

EXAMPLE

“**Impervious Surfaces.** Impervious surfaces are defined to include permitted residential buildings, agricultural buildings (with or without flooring), and paved areas on the Protected Property (but not including public or country roads or other roads paved by easement holders who have rights that may be superior to the rights conveyed to Grantees by this Conservation Easement Deed) may not exceed 2 percent of the total Conservation Easement acreage. In the event the Protected Property is subdivided as provided for in Section ___ below the total cumulative impervious surface found on each subdivided parcel may not exceed the 2-percent impervious limitation. In the instrument of subdivision, the total impervious surface limit must be allocated between each subdivided parcel by Grantor with the prior approval of Local Grantee.”

(iv) Mineral Extraction

Policy language on Mineral Extraction is being developed and will be amended to this manual when completed.

EXAMPLE

“Mining or extraction of soil, sand, gravel, oil, natural gas, or other mineral is prohibited, except that Grantor may extract soil, sand, and gravel solely for a permitted use on the Protected Property in a manner consistent with the conservation purposes of this Conservation Easement Deed, minimal in scope and impact, and not exceeding _____ [a defined acreage or area should be specified in this provision to ensure that the scope of such activity is minimal in scope and impact].”

Policy language on Mineral Extraction is being developed and will be amended to this manual when completed.

(v) Motorized Vehicle Use

Use of motorized vehicles on the protected property is prohibited except for certain limited purposes as set forth in the example below.

EXAMPLE

“Grantor may not use motor vehicles on the Protected Property or grant permission for such use except as necessary in the accomplishment of the agricultural, forestry, habitat management, law enforcement and public safety, or other permitted uses of the Protected Property, provided that no use of motorized vehicles may create impacts that are detrimental to the productivity of the soils on the Protected Property and the purposes of this Conservation Easement; however, notwithstanding the foregoing, use of snowmobiles on snow is allowed on the Protected Property.”

(vi) Utilities

The granting of easements for utilities and installation of new utilities (power lines, gas lines, sewer lines, water lines, telecommunications towers, and wind farms) is prohibited as an encumbrance on the property rights of the United States. **Notwithstanding that prohibition,** grantor may grant easements for the installation of utilities necessary for permitted uses of the protected property provided that such installation is consistent with the purposes of this

conservation easement and is done in such a manner as to minimize to the greatest extent possible impact on soils. Existing utilities may be replaced or repaired at their current location.

The Secretary of Agriculture has not been authorized by the Congress to modify or terminate FRPP easements. The grant of a right-of-way or easement would require modification or termination of the FRPP easement and place an additional encumbrance on the United States Interest.

EXAMPLE

“The granting of easements or rights-of-way for power lines, gas lines, sewer lines, water lines, telecommunications towers, and wind farms is prohibited. Notwithstanding this prohibition the Grantee may install utilities for permitted uses of the Protected Property that are consistent with the purposes of the Conservation Easement”

(vii) Waste and Dumping

The disposal or dumping of trash or refuse on the protected property is prohibited except as set forth in the following example.

EXAMPLE

“The dumping or accumulation of trash or refuse on the Protected Property is prohibited, except that the storage of agricultural products for use on the Protected Property and by-products generated on the Protected Property is permitted.”

(viii) Recreation and Education

Recreation or educational activity that requires infrastructure with impervious surfaces is prohibited. Recreation or educational activity that has minimal impact on the protected property is permitted (e.g., hiking, hunting, fishing, wildlife observation, nature photography, cross-country skiing) in accordance with all applicable laws and regulations.

EXAMPLE

“**Recreation and Educational Activity.** Recreational and Educational Activities that require infrastructure (impervious surfaces) are prohibited. Under no circumstances will athletic fields, golf courses or driving ranges, commercial airstrips or helicopter pads, motocross biking, or any other improvement or activity inconsistent with current or future agricultural production be permitted on the Protected Property. Recreational and Educational Activities that do not require infrastructure (impervious surfaces) are permitted as long as such activities are consistent with the purposes of this Conservation Easement and do not adversely impact the soils and/or agricultural operations on the Protected Property.”

(ix) Signs

Signs are prohibited except for signs to identify the farm or ranch, signs to advertise products or services provided by the farm or ranch, and signs to identify the farm or ranch as a participant in FRPP and the local grantee’s program. A sign size limitation is recommended.

EXAMPLE

“Signs are prohibited on the Protected Property with the exception of signs to identify the farm or ranch, signs to advertise products or services provided by the farm or ranch, and signs to identify the farm or ranch as a participant in FRPP and the [fill in Local Grantee’s name] farm and ranch land protection program. Signs are limited to __ square feet.”

(x) Subdivision

Subdivision of the protected property should generally be prohibited. Cooperating entities should be advised that if a Landowner’s intention is to subdivide a parcel in the future, proposals should be submitted for the intended subdivided parcels so ranking will be done on the smaller-sized parcels. Separate conservation easements may be developed on the separate parcels even if the subdivision would not take place for many years.

Policy language on Subdivision is being revised and will be amended to this manual when completed.

EXAMPLE

“**Subdivision.** Subdivision of the Protected Property is prohibited.”

(xi) **Water Rights.**

Sufficient water rights must be retained by the grantor to ensure sufficient water to carry on normal agricultural activities on the protected property now and in the future. (This provision is particularly important for conservation easements located in western States where water rights are a critical issue.)

EXAMPLE

“**Water Rights.** Grantor must retain all water rights necessary for present or future agricultural production on the Protected Property and may not transfer, encumber, lease, sell, or otherwise separate such quantity of water rights from title to the Protected Property.”

(xii) **Surface Alterations**

Surface alteration is discouraged and only permitted if it is in accord with general agricultural uses of the protected property.

EXAMPLE:

“**Surface Disturbance.** No removal, filling, or other disturbances of soil surface, nor any changes in topography, surface or subsurface water systems, wetlands, or natural habitat will be allowed unless such activities—

- Are commonly necessary in the accomplishment of agricultural practices, conservation, habitat management, and/or forest management uses of the Protected Property.
- Do not harm State or federally recognized rare, threatened, or endangered species, such determination of harm to be based upon information from the U.S. Fish and Wildlife Service and the State of _____ agency having responsibility for identification and/or conservation of such species.
- Are not detrimental to the protected soils or scenic and wildlife habitat protection purposes of this Conservation Easement, and prior to commencement of any such act, all necessary Federal, State, and local permits and approvals must be secured.”

(7) **Permitted Uses**

(i) **Agriculture**

- **The permitted uses of the grantor** include the production, processing, and marketing of agricultural crops for the purposes consistent with the terms of the conservation easement deed.
- Restrictions of the conservation easement deed on the types of agricultural operations that can function on the protected property are prohibited. If a local grantee chooses to prohibit a type of agricultural operation, such as cultivation or confined animal feeding operations, the local grantee and the grantor may enter into a separate agreement detailing such restrictions. However, under no circumstances can FRPP funds be used to pay for an agreement that limits the type of agriculture that can occur on lands under an FRPP conservation easement. Some allowances may be made in areas bordering riparian corridors, critical areas, or historical and archaeological resource sites, provided such restrictions do not restrict significant acreage from agricultural use. In the event a local grantee and grantor choose to enter into such an agreement, such an agreement must occur after the FRPP conservation easement is acquired, in order to avoid problems with title clearance.

EXAMPLE:

“**Agricultural Production.** Grantor retains the right to use the Protected Property for agricultural production or to permit others to use the Protected Property for agricultural production, in accordance with applicable law and in accordance with the NRCS Conservation Plan.

As used herein, "agricultural production" means the production, processing, storage, or retail marketing of crops, livestock, and livestock products. For purposes hereof, crops, livestock, and livestock products include, but are not limited to—

- (a) Crops commonly found in the community surrounding the Protected Property.
- (b) Field crops, including corn, soybeans, small grains, hay, potatoes, cotton, tobacco, herbs, and dry beans.
- (c) Fruits, including apples, peaches, grapes, cherries, nuts, and berries.
- (d) Vegetables, including lettuce, tomatoes, snap beans, cabbage, carrots, beets, onions, mushrooms, and soybeans.
- (e) Horticultural specialties, seeds, Christmas trees, and flowers.
 - Horticultural crops, such as ornamental trees and shrubs, and the continuous production of sod or other crops where soil is removed above tolerable limits from the farm are prohibited on FRPP easements.
- (f) Livestock and livestock products, including dairy cattle, beef cattle, sheep, swine, goats, horses, poultry, fur-bearing animals, bees, milk and other dairy products, eggs, and furs.
- (g) Timber, wood, and other wood products derived from trees.
- (h) Aquatic plants, aquatic animals, and their byproducts.”

(ii) Forest Management and Timber Harvesting

Forest management and timber harvesting can only be carried out under strictly controlled guidelines as set forth in the example below. A separate section on forest management and timber harvest is not required in every conservation easement deed, but it should be developed for protected properties with a large percentage of the area in forest and protected properties on which active forest management is planned.

EXAMPLE

“Forest management and timber harvesting must be performed in a manner not detrimental to the Purposes of this Conservation Easement.

1. Such forest management and timber harvesting must be performed in accordance with a written forest management plan consistent with this Conservation Easement Deed, prepared by a licensed professional forester, or by some other qualified person approved in advance and in writing by the Local Grantee. Said plan must have been prepared not more than 10 years prior to the date any harvesting is expected to commence or must have been reviewed and updated as required by such a forester or other qualified person at least 30 days prior to said date.

2. At least 30 days prior to timber harvesting, Grantor must submit to Local Grantee a written certification, signed by a licensed professional forester or by some other qualified person approved in advance and in writing by the Local Grantee, that such plan has been prepared in compliance with the terms of this Conservation Easement. Local Grantee may request the Grantor to submit the plan to the Local Grantee within 10 days of such request but acknowledges that the plan’s purpose is to guide forest management activities in compliance with this Conservation Easement and that the actual activities will

determine compliance therewith.

3. Forest management activities and timber harvesting must be conducted in accordance with the forest management plan and be supervised by a licensed professional forester or by another qualified person approved in advance and in writing by the Local Grantee.

4. Such forest management activities must be carried out in accordance with all applicable local, State, Federal, and other governmental laws and regulations and to the extent reasonably practicable, in accordance with then-current, generally accepted best management practices for the sites, soils, and terrain of the Protected Property.”

(iii) Wetland or Pond Restoration and Creation

Wetland restoration and creation may be permitted on the protected property; however, this activity must be consistent with the terms and purposes of the conservation easement deed. Where significant wetland restoration or creation is scheduled to occur on the protected property and agricultural production areas will be impacted, contact the national FRPP manager and the Office of the General Counsel for review of the proposed conservation easement deed provisions. Farm ponds may be allowed to be constructed, primarily for agricultural operations and fire control. The total aggregate area of ponds on the protected property should be identified in the conservation easement deed. The permitted location for constructed ponds should also be identified, if possible.

EXAMPLE

“**Pond Creation and Wetland Restoration.** The Grantor is permitted to construct ponds and restore wetlands in accordance with an NRCS Conservation Plan and NRCS standards and specifications. Ponds must support agricultural operations such as irrigation, livestock water supplies, or fire control. Wetlands must either be used to treat agricultural waste or support critical habitat needs for wildlife species. The size of the ponds and wetlands must be supported by the appropriate documentation in the NRCS Conservation Plan case file.

(iv) Undeveloped, Passive Recreation and Educational Activity

Recreation and education is only permitted if it does not impact the soils and the agricultural operations and is consistent with the purpose of the conservation easement.

EXAMPLE

“**Recreation and Educational Activity.** Undeveloped recreational and educational activities are permitted as long as such activities are consistent with the purposes of this Conservation Easement and do not adversely impact the soils or agricultural operations on the Protected Property. Recreational and educational improvements may only be built within the Farmstead Complex. Under no circumstances will athletic fields, golf courses or driving ranges, commercial airstrips or helicopter pads, motocross biking, or any other improvement or activity inconsistent with current or future agricultural production be permitted on the Protected Property.”

(v) Customary Rural Enterprises (Not Required to be Addressed in Every Deed)

Customary rural enterprises are permitted on the protected property and in the buildings constructed and maintained for the agricultural use of the protected property. Customary rural enterprises that require their own buildings are generally prohibited unless the building is required as an integral part of the agricultural operation.

EXAMPLE

“**Customary Rural Enterprises.** Grantor has the right to establish and carry out customary rural enterprises provided said activities are compatible with the Purpose of this Conservation Easement and agriculture and forestry uses of the Protected Property

and are subordinate to the agricultural and residential use of the Protected Property. The enterprises must be conducted in the buildings required for the agricultural use of the Protected Property or the residences in which employees or family members of the farm reside. Examples of rural enterprises include by are not limited to, home occupations or cottage industries, educational programming, professional offices within the home, child-care facilities, nonprofit work, bed and breakfast lodging, craft production, and firewood distribution. Enterprises which market petroleum or chemical products are prohibited. Enterprises that require their own buildings are generally prohibited unless they are needed to maintain the viability of the agricultural operation and enterprise.”

(vi) Agritourism

Some low-impact agritourism activities may be allowed on a case-by-case basis, such as farm tours, work experiences, field trips, petting zoos, corn mazes, and hay rides.

EXAMPLE

“Agritourism. The Grantor is permitted to engage in agritourism including, but not limited to, **farm tours, work experiences, field trips, petting zoos, crop mazes, and hay rides.**”

(vii) Roads

The only roads allowed are those already in place and any new roads necessary to carry out the agricultural operations on the protected property.

EXAMPLE

“**Roads.** Existing roads, as identified in the Baseline Documentation Report may be maintained and repaired in their current state. New roads may be constructed only if they are necessary for agricultural operations on the Protected Property. Paved roads are subject to the impervious surface limitation in section ____.”

(viii) Fences.

Present fences can be maintained and replaced and new fences installed if they are necessary for agricultural operations on the protected property or to mark boundaries of the protected property.

EXAMPLE

“**Fences.** Existing fences may be repaired and replaced and new fences may be built on the Protected Property as necessary for agricultural operations on the Protected Property, including customary management of livestock and to delineate the boundary of the Protected Property.”

(8) Conservation Plan

(The required conservation plan section should be placed near the reserved agriculture use since all agricultural use must be carried out in accordance with the plan.)

(i) The grantor must conduct all agricultural operations on the protected property in a manner consistent with NRCS’s highly erodible land (HEL) technical standards in effect on the date of the conservation easement deed. The grantor will not be required to meet subsequent technical standards resulting from regulatory changes to 7 CFR Part 12 that are not expressly required by an act of Congress. Standards may change, and the grantor will be subject to these changing standards only if Congress mandates such changes.

(ii) NRCS recognizes that some local grantees may require a higher level of planning with stricter implementation guidelines. As a result, where this occurs, NRCS State office staff should contact the NRCS NHQ and the Office of the General Counsel to draft language that meets both NRCS’s needs and the needs of the local grantee.

(iii) A conservation plan may be required even if there is no highly erodible land on the protected property. In that case, the language in the example relating to the requirements of the Food Security

Act and to highly erodible land should be deleted.

EXAMPLE:

“Conservation Plan. As required by section 1238I of the Food Security Act of 1985, as amended, the Grantor will conduct all agricultural operations on highly erodible lands within the Protected Property in a manner consistent with a Conservation Plan prepared in consultation with the NRCS and approved by the Conservation District. This Conservation Plan will be developed using the standards and specifications of the NRCS Field Office Technical Guide and 7 CFR Part 12 that are in effect on the date of this Conservation Easement Deed. However, the Grantor may develop and implement a Conservation Plan that proposes a higher level of conservation and is consistent with the NRCS Field Office Technical Guide standards and specifications. The Conservation Plan is incorporated into this Conservation Easement Deed by reference.

NRCS has the right to enter upon the Protected Property with advance notice to the Grantor in order to monitor compliance with the Conservation Plan.

In the event of noncompliance with the Conservation Plan, the United States will work with the Grantor to explore methods of compliance and give the Grantor a reasonable amount of time, not to exceed 12 months, to take corrective action. If the Grantor does not comply with the Conservation Plan, NRCS will inform the Local Grantee of the Grantor’s noncompliance. The Local Grantee must take all reasonable steps (including efforts at securing voluntary compliance and, if necessary, appropriate legal action) to secure compliance with the Conservation Plan following written notification from NRCS that (a) there is a substantial, ongoing event or circumstance of noncompliance with the Conservation Plan, (b) NRCS has worked with the Grantor to correct such noncompliance, and (c) the Grantor has exhausted all appeal rights under applicable NRCS regulations.

If the NRCS standards and specifications for highly erodible land are revised after the date of this Conservation Easement Deed based on an Act of Congress, NRCS will work cooperatively with the Grantor to develop and implement a revised Conservation Plan. The provisions of this section apply to the highly erodible land conservation requirements of the Farm and Ranch Lands Protection Program and are not intended to affect any other natural resources conservation requirements to which the Grantor may be or become subject.”

- (9) Enforcement and Management
 - (i) Baseline Documentation **Report**

The local grantee must prepare a baseline documentation report to establish the condition of the protected property as of the date of the conservation easement deed.

EXAMPLE:

“**Baseline Documentation Report.** The Grantor and Local Grantee agree that the natural characteristics, ecological features, and physical and man-made conditions of the Protected Property on the date of this Conservation Easement Deed are documented in a Baseline Documentation Report prepared by the Local Grantee and signed and acknowledged by the Grantor establishing the condition of the Protected Property on the date of this Conservation Easement Deed and including reports, maps, photographs, and other documentation. The Local Grantee may use the Baseline Documentation Report in enforcing provisions of this Conservation Easement Deed, but is not limited to the use of the Baseline Documentation Report to show a change of conditions. The Baseline documentation Report is incorporated into this Conservation Easement Deed by reference.”

- (ii) Responsibilities of the Local Grantees

The responsibilities of the local grantee, including maintaining the baseline documentation report, enforcement rights, and violation followup, must be described.

EXAMPLE:

“**Responsibilities of Local Grantee.** Responsibilities of the Local Grantee include, but are not limited to—

- Maintaining the Baseline Documentation Report and annually monitoring the Protected Property in accordance with applicable policies and guidelines, such as the Standards and Practices of the Land Trust Alliance.
- Ensuring that active farm operations are in compliance with the Conservation Plan for the Protected Property.
- Investigating potential violations of this Conservation Easement Deed, informing NRCS or successor agency of any violations, taking appropriate enforcement action, and providing an annual monitoring report to NRCS or successor agency, including any follow-up or actions needed to maintain compliance with the terms of this Conservation Easement Deed. The Local Grantee must resolve violations within 60 days of their discovery in accordance with 7 CFR Section 1491.30. Failure to cure the violation may result in enforcement of the terms of the Conservation Easement Deed by the United States.”

(10) Extinguishment and Condemnation Proceeds

Condemnation.—Most Conservation Easement Deeds will have a provision addressing condemnation. NRCS’s primary concern related to condemnation is the termination of the Federal property interest. States do not have the power to condemn a Federal property interest. In cases where a State or local government is proposing to condemn property upon which there is an FRPP conservation easement, NRCS should be notified immediately and the consent of the Federal Government sought before such a condemnation action proceeds. Accordingly, any condemnation provision should require advance notice to NRCS. If the Federal Government consents to condemnation, then part of the proceeds from the condemnation would be owed to the United States. In a potential condemnation situation, the Office of the General Counsel should be contacted as soon as possible.

EXAMPLE

“Extinguishment and Condemnation. This Conservation Easement constitutes a real property interest immediately vested in the Local Grantee and The United States of America, and may be extinguished only with the approval of the Local Grantee and the United States. The Local Grantee and the United States of America stipulate to have a fair market value of _____ percent (____%), the “Proportionate Share” of the fair market value of the Protected Property unencumbered by this Conservation Easement. The Proportionate Share has been determined at the time of conveyance of this Conservation Easement by dividing the fair market value of this Conservation Easement (\$ _____) by the fair market value of the Protected Property without this Conservation Easement (\$ _____). The Proportionate Share will remain constant over time.

If this Conservation Easement is extinguished, terminated, or condemned, in whole or in part, then the Grantor must reimburse the Local Grantee and the United States of America an amount equal to the Proportionate Share of the fair market value of the Protected Property unencumbered by this Conservation Easement. The fair market value of the Protected Property will be determined at the time this Conservation Easement is terminated, extinguished, or condemned by a complete summary appraisal that meets the Uniform Standards of Professional Appraisal Practice (USPAP) (for acquisitions from cooperative agreements of 2005 and prior years) or Uniform Acquisition Standards for Federal Land Acquisition (UASFLA) (for acquisitions of parcels in Cooperative Agreements from Fiscal Year 2006 through 2008), is approved by the Local Grantee and the United States of America, and is completed by a _____[enter State] certified general appraiser. The fair market value of the Protected Property may not include any increase in value after the date of this Conservation Easement Deed attributable to improvements.

The Proportionate Share paid to the Local Grantee and the United States of America must be allocated as follows: (a) to the Local Grantee or its designee, _____ percent (____%) of the Proportionate Share; and (b) to the United States of America _____ percent (____%) of the Proportionate Share, representing the proportion each party contributed to the purchase price of this Conservation Easement. The Proportionate Share of the Local Grantee also includes _____percent (____ %) of the appraised value of this Conservation Easement, donated by the Grantor to the Local Grantee, if any.

Until such time as the Local Grantee and the United States receive the Proportionate Share from the

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Grantor or the Grantor's successor or assign, the Local Grantee and the United States each have a lien against the Protected Property for the amount of the Proportionate Share due each of them. The Local Grantee or its designee must use its allocation of the Proportionate Share in a manner consistent with the conservation purposes of the Conservation Easement. If proceeds from termination, extinguishment, or condemnation are paid directly to Local Grantee, the Local Grantee must reimburse the United States for the amount of the Proportionate Share due to the United States."

(11) General or Standard Provisions

(i) General Indemnifications

A general indemnification clause is required by the Office of the General Counsel for all conservation easement deeds. The required language is as follows:

EXAMPLE

"Grantor must indemnify and hold harmless Grantees, their employees, agents, and assigns for any and all liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions and costs of actions, sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys' fees and attorneys' fees on appeal) to which Grantees may be subject or incur relating to the Protected Property, which may arise from, but are not limited to, Grantor's negligent acts, omissions, or breach of any representation, warranty, covenant, agreements contained in this Conservation Easement Deed, or violations of any Federal, State, or local laws, including all Environmental Laws."

(ii) Warranty of Title

- The conservation easement deed should clearly state that all existing third party rights (mortgage liens, etc.) have been subordinated to the conservation easement. If the subordination clause lists exceptions to subordination, contact the national FRPP manager, who will consult with the Office of the General Counsel in Washington. The conservation easement deed should also state that the grantor warrants good title to the protected property.
- The FRPP State manager should be familiar with the local grantee's policies and processes regarding title and appraisals. In addition, the FRPP State manager should keep copies of the local grantee's policies and processes filed with the executed cooperative agreement. Contact the national FRPP manager immediately if the policies or processes of the local grantee or potential local grantee are inconsistent with NRCS policies and standards under the FRPP program. (See sections 519.62 and 519.63 of this manual)
- We strongly recommend that the State FRPP manager discuss with potential local grantees the expectations of NRCS with regard to the conservation easement deed provisions prior to the award of financial assistance. This will avoid difficult and time consuming negotiations later on and will assist in building positive, cooperative relationships between NRCS and local grantees.

EXAMPLE

"Title Warranty. Grantor warrants that Grantor has good title to the Protected Property, that the Grantor has the right to convey this Conservation Easement, and that the Protected Property is free and clear of any encumbrances. Grantor also warrants that Grantor has no actual knowledge of a release or threatened release of hazardous substances or wastes on the Protected Property."

(iii) Environmental Warranty

An environmental warranty is required by the Office of the General Counsel in all FRPP-funded conservation easement deeds. In this clause, the grantor warrants that there are no hazardous materials on the protected property and promises to indemnify and hold harmless the United States and local grantee if any hazardous materials are discovered. The following is the language prescribed by the Office of the General Counsel for the environmental warranty:

EXAMPLE

"Environmental Warranty. Grantor warrants that it is in compliance with, and will remain

in compliance with, all applicable Environmental Laws. Grantor warrants that there are no notices by any governmental authority of any violation or alleged violation of, noncompliance or alleged noncompliance with or any liability under any Environmental Law relating to the operations or conditions of the Protected Property. Grantor further warrants that it has no actual knowledge of a release or threatened release of Hazardous Materials, as such substances and wastes are defined by applicable Federal and State law.

Moreover, Grantor hereby promises to hold harmless and indemnify the United States and the Local Grantee against all litigation, claims, demands, penalties, and damages, including reasonable attorneys' fees, arising from or connected with the release or threatened release of any Hazardous Materials on, at, beneath, or from the Protected Property, or arising from or connected with a violation of any Environmental Laws by Grantor or any other prior owner of the Protected Property. Grantor's indemnification obligation will not be affected by any authorizations provided by the Local Grantee or the United States to the Grantor with respect to the Protected Property or any restoration activities carried out by Grantee at the Protected Property; provided, however, that the Local Grantee is responsible for any Hazardous Materials contributed after this date to the Protected Property by the Local Grantee.

The terms "Environmental Law" and "Environmental Laws" mean any and all Federal, State, local, or municipal laws, rules, orders, regulations, statutes, ordinances, codes, guidelines, policies, or requirements of any governmental authority regulating or imposing standards of liability or standards of conduct (including common law) concerning air, water, solid waste, hazardous materials, worker and community right-to-know, hazard communication, noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection and similar environmental health, safety, and building and land use as may now or at any time hereafter be in effect.

The term "Hazardous Materials" means any petroleum, petroleum products, fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials, and any other element, compound, mixture, solution, or substance that may pose a present or potential hazard to human health or the environment."

(iv) Interpretation of the Conservation Easement Deed

EXAMPLE

"Interpretation. This Conservation Easement Deed must be interpreted under the laws of the State of _____ and the United States. Any general rule of construction to the contrary notwithstanding, this Conservation Easement Deed must be liberally construed to affect the purposes of the Conservation Easement Deed. If any provision in said Conservation Easement Deed is found to be ambiguous, an interpretation consistent with the purposes of said Conservation Easement Deed that would render the provision valid must be favored over any interpretation that would render it invalid."

(v) No Merger

The grantor and grantees explicitly agree that it is their express intent, forming a part of the consideration hereunder, that the provisions of the conservation easement deed set forth herein are to last in perpetuity, and that to that end no purchase or transfer of the underlying fee interest in the protected property by or to the local grantee, the United States, or any successor or assignee will be deemed to eliminate these conservation easement terms, or any portion thereof, pursuant to the doctrine of "merger" or any other legal doctrine.

EXAMPLE

“**Merger.** In the event that the Local Grantee or the United States takes legal title to Grantors' interest in the Protected Property, the Local Grantee must commit the monitoring and enforcement of the Conservation Easement to another qualified organization within the meaning of section 107(h) (3) of the United States Internal Revenue Code (1986), as amended, which organization has among its purposes the conservation and preservation of land and water areas.”

(vi) Amendment

- All FRPP-funded conservation easement deeds should have a provision for amendment. An amendment provision provides for changes to the terms of the conservation easement deed when both the local grantee and the grantor mutually agree that such change is necessary. An amendment provision may be useful when circumstances change or when situations arise not originally addressed by the terms of the conservation easement deed. General amendment clauses are preferable to provisions that provide for periodic review of specific conservation easement deeds.
- The ability to amend does not presuppose (and possibly encourage) the need to change certain aspects of the conservation easement, but rather provides a mechanism for amendment should modification of the conservation easement deed terms be necessary to ensure agricultural viability of the protected property.
- Any amendment clause should include a requirement that NRCS be notified in a timely manner and approve the proposed amendment. Conservation easement deed amendments must be signed by the grantor, the local grantee, and the United States and duly recorded in order to be legally valid. For guidance on what constitutes a major or minor amendment, consult section 519.60O of this manual.
- The conservation easement area may not be amended. Congress has not given the Secretary of Agriculture the authority to modify or terminate the conservation easement so land cannot be disposed of without the permission of Congress.

EXAMPLE

“**Amendment.** This Conservation Easement Deed may be amended only if in the sole and exclusive judgment of the Local Grantee and the United States such amendment furthers or is not inconsistent with the purposes of this Conservation Easement Deed. Any such amendment must be mutually agreed upon by the Local Grantee, the Grantor, and the United States, signed and duly recorded by the parties and comply with all applicable laws and regulations. The Local Grantee must provide to NRCS timely notice in writing of the proposed amendment prior to signing and recordation.”

(vii) Boundary Line Adjustments

Generally, boundary line adjustments in FRPP-funded conservation easement deeds are prohibited unless there were technical errors in the legal description or survey.

EXAMPLE

“Boundary Line Adjustments. Boundary line adjustments are permitted in the case of technical errors made in the survey or legal description. In such cases, boundary line adjustments cannot exceed 2 acres for the entire Protected Property.”

(viii) Subordination of Subsequent Liens

Any mortgage or lien arising after the date of this conservation easement deed must be subordinated to the terms of the conservation easement deed. Any liens, mortgages, easements, or other clouds on title existing prior to the date of the conservation easement deed must be subordinated to the conservation easement deed or otherwise appropriately dealt with prior to recording the conservation easement deed. Securing appropriate legal title is addressed in section 519.63 of this manual.

EXAMPLE

“Subordination. Any mortgage or lien arising after the date of this Conservation Easement Deed must be subordinated to the terms of this Conservation Easement Deed. Any liens, mortgages, easements, or other clouds on title existing prior to the date of the Conservation Easement Deed must be subordinated to the Conservation Easement or otherwise appropriately dealt with prior to recording the Conservation Easement Deed.”

(ix) Responsibility of Grantor Not Affected

Existence of a conservation easement does not affect the existing legal obligations of the grantor. Specifically, the grantor is responsible for payment of all taxes, upkeep, and maintenance of the protected property, and any liability arising from personal injury or property damage occurring on the protected property.

EXAMPLE

“Responsibility of Grantor. The Grantor is responsible for payment of all taxes, upkeep, and maintenance of the Protected Property, and any liability arising from personal injury or property damage occurring on the Protected Property.”

(x) Rights and Obligations

The rights and obligations in the conservation easement deed are attached to the land in perpetuity and “run with the land.”

EXAMPLE

“The rights and obligations in this Conservation Easement Deed run with the land and apply to all heirs, successors, and agents.”

(xi) Rights of Local Grantee

The rights of the local grantee include protection of the conservation values of the protected property, ability to periodically monitor compliance on the protected property, ability to enforce terms of the conservation easement deed.

EXAMPLE

“The Local Grantee has the right to protect the Conservation Values of the Protected Property, periodically monitor compliance on the Protected Property, and ability to enforce the terms of the Conservation Easement Deed.”

(xii) Rights of the United States of America

A “Rights of Enforcement” clause must be included in all conservation easement deeds funded by the FRPP for fiscal year 2009 and subsequent years. The clause must be included in all conservation easement deeds funded by the FRPP for fiscal years 2006 through 2008. A “Contingent Rights of the United States” clause must be included in all conservation easement deeds funded by the FRPP for fiscal year 2005 and prior years.

The Office of the General Counsel has prescribed the following language for these clauses.

EXAMPLE (RIGHT OF ENFORCEMENT)

“Right of Enforcement. Under this Conservation Easement, the United States is granted the right of enforcement in order to protect the public investment. The Secretary of the United States Department of Agriculture (the Secretary), on behalf of the United States, will exercise these rights under the following circumstances: In the event that the Grantee fails to enforce any of the terms of this Conservation Easement, as determined in the sole discretion of the Secretary, the Secretary and his or her successors or assigns may exercise the United States’ rights to enforce the terms of this Conservation Easement through any and all authorities available under Federal or State law.”

EXAMPLE (RIGHTS OF THE UNITED STATES)

“Rights of the United States. Under this Conservation Easement Deed, the same rights are granted to the United States that are granted to Local Grantee. However, the Secretary of the United States Department of Agriculture (the Secretary), on behalf of the United States, will only exercise these rights under the following circumstances: In the event that Local Grantee fails to enforce any of the terms of this Conservation Easement Deed, as determined in the sole discretion of the Secretary, the Secretary and his or her successors or assigns may exercise the United States’ rights to enforce the terms of this Conservation Easement Deed through any and all authorities available under Federal or State law. In the event that Local Grantee attempts to terminate, transfer or otherwise divest itself of any rights, title, or interests in this Conservation Easement Deed without the prior consent of the Secretary and, if applicable, payment of consideration to the United States, then, at the option of the Secretary, all right, title, and interest in this Conservation Easement become vested solely in the United States of America.”

EXAMPLE (CONTINGENT RIGHTS OF THE UNITED STATES)

“Contingent Rights of the United States. In the event that the Local Grantee fails to enforce the terms of this Conservation Easement Deed, as determined in the sole discretion of the Secretary of the United States Department of Agriculture (“Secretary”), the Secretary, his or her successors and assigns have the right to enforce the terms of the Conservation Easement Deed through any and all authorities available under Federal or State law. Further, in the event that the Local Grantee attempts to terminate, transfer, or otherwise divest itself of rights, title, or interest in this Conservation Easement Deed or extinguish the Conservation Easement without prior consent of the Secretary and payment of consideration as provided herein, then, at the option of the Secretary, all rights, title, or interest in this Conservation Easement become vested in the United States of America.”

(xiii) Transfer and Assignment

The conservation easement deed must address the transfer of the protected property, transfer of the conservation easement, and extinguishment of the conservation easement.

EXAMPLE

“Transfer of the Protected Property. Upon transfer of the Protected Property or interest in the Protected Property from one Landowner to another, the conveyance document must expressly refer to this Conservation Easement Deed and be subject to its terms.

Transfer of the Conservation Easement. Upon prior written consent from the United States, the Local Grantee may transfer this Conservation Easement to a public agency or nonprofit organization that, at the time of transfer, is a qualified organization under section 170(h) or successor provision of the Internal Revenue Code.

Extinguishment. The Conservation Easement may only be terminated or extinguished by a court

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of competent jurisdiction upon a request to terminate made by the Grantor, the Local Grantee, and the United States and after a finding by the court that the conditions or circumstances on or surrounding the Protected Property have changed to such a degree that it has become impossible to fulfill the conservation purposes of the Conservation Easement.”

(12) Notices

The conservation easement deed must include the names and addresses of each party to the conservation easement deed.

EXAMPLE

“All correspondence related to this Conservation Easement Deed must be sent to the parties at the addresses listed below:

Grantor:	John Smith 1 Main Street Washington, PA
Local Grantee:	Pennsylvania Department of Agriculture 1 Main Street Harrisburg, PA
United States:	Natural Resources Conservation Service 1 Soil Conservation Road Harrisburg, PA”

(13) Habendum

EXAMPLE

“TO HAVE AND TO HOLD the said Conservation Easement hereunto the said Local Grantee, the United States of America, and their successors and assigns forever.”

(14) Signatures, Acknowledgments, and Exhibits

- **Signatures.**—The grantor must sign exactly as grantor’s name appears in this conservation easement deed and exactly as shown in the title evidence as the owner of the fee simple title. While grantees usually do not sign a deed, in this case there are certain rights and obligations included in the deed. Because of this additional contractual nature of the conservation easement deed both the local grantee and the United States must sign as grantees. For conservation easement deeds prepared pursuant to cooperative agreements dated in fiscal year 2005 and before and in fiscal year 2009 and thereafter, the United States signs as third party beneficiary and not as a grantee. An authorized person should sign on behalf of the local grantee and the State Conservationist or other staff person with authority as specified in Title 130, General Manual, Part 400, Subpart B, Section 400.14, “Easement Programs Division,” to sign conservation easements, signs the acceptance signature page for the United States on behalf of the Commodity Credit Corporation.
- **Acknowledgments.**—A model acknowledgment signature block is included in exhibit 519.114.
- **Exhibits.**—Exhibits to the conservation easement deed should include the legal description, description of the building envelope, documentation of water rights, copies of legislation referred to in the conservation easement deed (if appropriate), and any other pertinent documents