

**Sample BLM Reserve Interest Conservation Easement
(Generic National Conservation Area)**

Recommended by WO 350 Division of Lands and Realty (2005)

(revised 04/2005)

[The following sample is based on examples provided by the U.S.D.A. Forest Service]

Sample Reserved Interest Deed

CONSERVATION EASEMENT DEED

This **CONSERVATION EASEMENT DEED** is made this day of _____, 20___, by and between, the _____, hereinafter called the "**GRANTORS**," and the **UNITED STATES OF AMERICA**, by and through the Secretary of Interior, hereinafter called the "**UNITED STATES**." The acquiring agency is the Department of Interior – Bureau of Land Management (BLM).

WITNESSETH:

WHEREAS, Grantors are the owners of certain real property in _____ County, (State), more particularly described in Part II, below, and located within the boundaries of the _____ National Conservation Area (the "Property"); and

WHEREAS, the Property possesses significant scenic, natural, historic, pastoral, and fish and wildlife values ("Conservation Values") as contemplated in the _____ National Conservation Area (___NCA) enabling legislation, Public Law _____ dated _____ (___ U.S.C. §____, et seq.); and

WHEREAS, the specific Conservation Values of the Property are documented in an inventory of relevant features of the Property dated _____ ("Baseline Documentation"), *on file at the offices of the Grantee or attached hereto as Exhibit _____*, which consists of photographs and other documentation that the parties agree collectively provide an accurate representation of the Property at the time of this grant and which is intended to serve as an objective information baseline for monitoring compliance with the terms of this grant; and

WHEREAS, Grantor intends that the Conservation Values of the Property be preserved and maintained by the continuation of land use patterns, including those existing at the time of this grant, that do not significantly impair or interfere with those values; and

WHEREAS, Grantor further intends, as owner of the Property, to convey to Grantee the right to preserve and protect the Conservation Values of the Property in perpetuity; and

WHEREAS, Section __ of P.L. _____, ___ U.S.C. § _____, authorizes the Secretary of Interior to acquire conservation easements to protect the conservation values for the purposes of P.L. _____.

NOW THEREFORE: The said Grantor, for and in consideration of _____, to the Grantor in hand paid by the United States, the receipt of which is hereby acknowledged, does hereby grant and convey in perpetuity, with general warranty of title, unto the United States and its successor and assigns, all rights, title and interest in the land described in Part II, except those rights and interests specifically reserved by the Grantor in Part III and those affirmative

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obligations retained by Grantor in Part V. This Conservation Easement shall be enforceable by the United States and its successors and assigns in interest. For purposes of this conveyance, the term "Conservation Easement" is interchangeable with the term "Scenic Easement." This Conservation Easement is referred to hereinafter as the "**EASEMENT**."

PART I - PURPOSE

It is the purpose of this Easement to assure that the Property's scenic, natural, historic, pastoral, and fish and wildlife values, as contemplated in P.L. _____ and described in the __NCA Management Plan dated _____, will be maintained forever and to prevent any use of the Property that will significantly impair or interfere with the Conservation Values of the Property. Grantor intends that this Easement will confine the use of the Property to such activities as are consistent with the purposes of this Easement.

To accomplish the above purpose of this Easement, the United States is acquiring all rights to subdivide or partition the Property into separate lots or parcels, except those rights identified in PART III- RESERVATIONS OF RIGHTS BY GRANTORS. The historic uses of the Property that existed as of the date of grant of this Easement and are documented in the Baseline Documentation may continue where reasonably incident to the rights reserved to the Grantor in Part III, below. The Baseline documentation also depicts the general location of structures, facilities and land uses existing on the Property as of the date of this Easement.

PART II - PROPERTY DESCRIPTION

The Property is described as follows:

[Legal Description Goes Here]

Said parcel, as depicted in Exhibit ____, contains a total area of _____ acres, more or less.

PART III – DURATION OF EASEMENT

This Conservation Easement shall be perpetual. It is an easement in gross as such is inheritable and assignable in accordance with Part VI, section J, and runs with the land as an incorporeal interest in the Property, enforceable with respect to the Property by United States against the Grantors and their personal representatives, heirs, successors, and assigns.

PART IV- RESERVATIONS OF RIGHTS BY GRANTORS

The following rights in the Property are reserved to the Grantors:

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- A. The right to retain record title to the Property and to convey title, subject to the rights acquired herein by the United States;
- B. The right of Quiet Enjoyment of the rights herein reserved for _____ purposes (*i.e.* *single family residential, farming, ranching*);
- C. The right to prevent trespass and control access to the Property by the general public;
- D. The right to rebuild, repair, or remodel existing structures within the limits of this easement;
- E. The right to construct, reconstruct, or maintain the improvements specified below, in accordance with the standards specified below, within the Curtilage as shown on Exhibit __, attached hereto and incorporated herein by this reference.
- (1) Family Ranch House - One (1) single family ranch house, for residential use only.
- a. Size. The Family Ranch House shall not exceed a 2,200 square foot footprint (excluding decks, and porches), nor 22 feet in height above the natural ground level.
 - b. Windows. All windows will be rectangular or square, divided light, and no more than 24 square feet in size.
 - c. Design. The Family Ranch House may only be comprised of rectangular or square sections with no more than three ridgelines, excluding dormers. Styles such as geodesic domes, prowwalls, and round exterior rooms are not allowed. Any proposed style must have a history of traditional and common use prior to 1940 within the ___ NCA boundary or _____ County, and it will be the responsibility of the Grantor to provide evidence of such, if necessary.
 - d. Structure Siding. The structure will be log, log-sided, rough-sawn lumber, or board and batten.
 - e. Roofs. Roofs may be wood, composite, or non-reflective metal.
 - f. Additional Structures. Carports, second-story decks, porte-cocheres, greenhouses, solarium-type additions, or similar improvements are not allowed.
 - g. Building Lights. Three (3) night-time exterior lighting sources shielded downward and not to exceed 150 watts each are permitted.
 - h. Final Approval. Prior to construction, actual building location, design, and colors for the Family Ranch House must be approved by the Area Ranger or such other authorized officer of the Forest Service as may be designated.

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- (2) Garage - One (1) garage is allowed.
 - a. Size. Aggregate square foot area of garage not to exceed 600 square feet in gross floor area and not to exceed 18 feet in height.
 - b. Use. The structure shall have no kitchen, sleeping facilities, plumbing, or be otherwise equipped for residential purposes.
 - c. Style. The structures shall be rectangular or square in shape, with a single pitch roof.
 - d. Structure Siding. The structures will be log, log-sided, rough-sawn lumber, or board and batten.
 - e. Windows. All windows will be rectangular or square.
 - f. Roofs. Roofs may be wood, composite, or non-reflective metal.
 - g. Building Lights. Three (3) night-time exterior lighting sources shielded downward and not to exceed 150 watts each are permitted.
 - h. Final Approval. Prior to construction, actual building location, design, and colors for the Garage above must be approved in advance by the Area Ranger or such other authorized officer of the Forest Service as may be designated.

- (3) Other Buildings - One (1) additional outbuilding is allowed.
 - a. Size. Square foot area of outbuilding not to exceed 400 square feet in gross floor area and not to exceed 18 feet in height.
 - b. Use. The structure shall not have kitchen, sleeping facilities, plumbing, or be otherwise equipped for residential purposes.
 - c. Style. The structure shall be rectangular or square in shape, with a single pitch roof.
 - d. Structure Siding. The structure will be log, log-sided, rough-sawn lumber, or board and batten.
 - e. Windows. All windows will be rectangular or square.
 - f. Roofs. Roofs may be wood, composite, or non-reflective metal.

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- g. Final Approval. Prior to construction, actual building location, design, and colors for the Outbuilding must be approved in advance by the Area Ranger or such other authorized officer of the Forest Service as may be designated.
- F. The right to construct, reconstruct, or maintain improvements accessory to the structures identified above such as fences, gates, driveways, walkways, or other similar improvements, subject to approval by the United States as to location, design, materials, and color.
- G. The right to install and maintain satellite dishes antennae, or other communications devices for non-commercial residential uses that the United States determines are not inconsistent with the purposes for which this easement is granted.
- a. Size. Satellite dish may be up to 24 inch diameter or less.
- b. Screening. The satellite dish must be out of public view, or located with an adequate screening plan approved by the authorized officer of the BLM.
- H. The right to maintain landscaping compatible with the setting, which incorporates plants and materials which are indigenous to the surroundings. Landscaping will incorporate native species. Urban landscaping features such as decorative berms and ponds, are not allowed. Other than minor modifications, no landscaping will occur unless approved by the Area Ranger or such other authorized officer of the Forest Service as may be designated (*specify irrigation system allowed, if any*).
- I. The right to construct, reconstruct, and maintain the access road off of Forest Road 315.
- a. Width - The maximum running surface width will be 12 feet.
- J. The right to vehicle travel across the Property for property management purposes; provided that such travel shall be infrequent enough that vegetation along the travel route retains its essential character, soil is not bared, and erosion is not accelerated beyond natural-state levels.
- K. The right to all income, rents, and royalties from the property.
- L. The right to conduct the following agricultural practices: _____ (*i.e. hay production, pasture and range grazing. Specify the irrigation systems allowed.*)

PART IV - EXPRESS PROHIBITIONS.

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It is the intent of this Easement that all of the Grantors' rights and uses in the land are specifically and affirmatively stated in Part III, and all remaining interests are conveyed to the United States.

For purposes of clarity and without limiting the rights of the United States acquired under this deed, it is understood by the Grantors that the following actions and uses of the property are prohibited. This is not an exclusive list of prohibited activities, but is provided to clarify the intent of this Easement that certain common activities shall be prohibited. The failure to list a particular use or activity in this section shall not be construed to allow such use unless rights thereto have been expressly reserved by the Grantors in Part III.

1. Commercial, manufacturing, industrial, mining or drilling operations.

2. Grading, excavating or other permanent changes to the topography of the land, except to the extent that the right is expressly reserved in Part III, above.

3. Pumping, diversion or removal of water except in accordance with water rights existing at the time of this conveyance.

4. Division, subdivision, or defacto subdivision of the Property through sales, long-term leases, or otherwise, except to the extent that the right is expressly reserved in Part III, above.

5. Construction, relocation, or placement of any structures or improvements other than underground utilities, except to the extent that the right is expressly reserved in Part III, above.

6. Operation of any commercial business, except to the extent that the right is expressly reserved in Part III, above.

7. Exploration, development, or extraction of minerals.

8. Dumping or accumulation of trash, debris, junk cars, unserviceable equipment, or other unsightly materials, except to the extent that the right is expressly reserved in Part III, above.

9. Placement of residential trailers, mobile homes, modular buildings, or other such semi-permanent structures on any part of the Property, except to the extent that the right is expressly reserved in Part III, above.

10. The placement of towers, antennae, or satellite dishes that are not concealed from public view.

11. Disposal or unlawful storage of hazardous substances, as defined by the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 USC. 9601 et. seq.

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12. Placement of signs, billboards, or advertising devices other than: a property identification sign; and one sale or rental sign not to exceed 2 square feet in area and harmonious in design and color with the surroundings unless approved by the Forest Service in writing.

13. Dude ranch operations.

PART V - AFFIRMATIVE OBLIGATIONS OF THE GRANTORS.

In the exercise of any right reserved in Part III herein, the affirmative obligations of the Grantors include, but are not necessarily limited to, the following:

A. Payment of all real property and other taxes.

B. The reasonable repair and maintenance of the Property including all structures and improvements, in a manner consistent with the purposes of this Easement. The Grantors' maintenance of the Property at the time of the conveyance of this Easement shall be deemed to comply with the requirements to this paragraph. In the event that the Grantors fail to maintain the Property, the United States has the right, but not the obligation, to enter the Property and undertake by itself or through its agents such work as necessary to bring the Property into compliance, in which case the Grantor shall be liable for the costs of such work.

C. Control and eradication of noxious weeds.

PART VI - GENERAL PROVISIONS

A. A general purpose of this conservation easement is to preserve, maintain, and perpetuate the traditional uses of the Property, as they existed at the time of this instrument. "Exhibit A," which is attached and appended to this instrument, depicts the location of land uses existing on the Property, and, to the extent it may be referenced in the text of this deed, other authorized uses.

B. The term "Grantors" shall apply to the present Grantors and to all heirs, successors or assigns. The term "United States" includes the Secretary of Interior, acting by and through the Bureau of Land Management and any authorized agents or assigns.

C. All rights and interests in the Property not expressly and specifically reserved by the Grantors in this Easement are deemed to be acquired by the United States, and uses of the Property not specifically reserved are deemed prohibited. This Easement is conveyed subject to all outstanding rights of record as of the date of conveyance.

D. There are no regular pre-existing uses of the Property except for those listed in Part IV herein.

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E. Representatives and agents of the United States may make entry upon the Property to administer this Easement, to manage the rights (claims) of the United States, to inspect for violations, and to take enforcement or remedial actions as authorized herein, and to perform such other scenic, aesthetic, historical, fish and wildlife habitat restoration, or sanitation as may be deemed necessary or desirable. However, any inspection of the Property to determine compliance with the above terms and conditions or applicable federal, state and local laws, regulations and ordinances shall, where possible, be done at a date and time mutually acceptable to Grantors, their successors and assigns, and the United States. Agreement as to a mutually acceptable date and time shall not be unreasonably withheld.

F. Grantors shall not undertake or permit any activity requiring prior approval by the authorized BLM official without first having notified and received approval from the authorized BLM official as provided herein. Prior to the commencement of any such activity, the Grantors shall send the authorized BLM official written notice of their intention to undertake or permit such activity. The notice shall inform the authorized BLM official of all aspects of the proposed activity, including location, design, materials or equipment to be used, dates and duration, and any other relevant information, and shall be sent by registered or certified mail, return receipt requested, to the office of the authorized official.

G. For any activity, rights to which are reserved in Part IV herein by the Grantors, which requires prior approval by the Bureau of Land Management, such approval will be at the discretion of the authorized Bureau of Land Management official. In general, approval will be determined on the basis of whether the proposed activity or improvement is compatible with and does not degrade the Conservation Values of the Property and the ___ NCA. Any activity requiring prior approval that is determined to be incompatible shall be prohibited and shall be construed as a right having been acquired by the United States pursuant to this instrument. The denial of approval, or the placement of conditions or restrictions to the same, shall not be grounds for any cause of action, claim or other legal proceeding against the United States, or its agents or assigns. For any activity by the Grantors that requires prior approval by the United States, acting by and through the Bureau of Land Management, such approval will be in writing, and will be at the sole discretion of the authorized Bureau of Land Management official and such approval shall not be unreasonably withheld.

H. Nothing in this Easement shall prevent the Grantors, their successors and assigns, from selling or mortgaging the Property, subject to the rights acquired herein by the United States.

I. The United States is authorized, but not obligated, to survey or otherwise delineate boundaries of the Property or any part thereof and, at the discretion of the United States, to monument and maintain corners. The United States shall have the right to make surveys, plats, take photographs and prepare such other documentation as may be necessary or desirable to administer the provisions of this Easement. Any such map, plat, or other suitable document may be recorded at the discretion of the United States in the land records of the county wherein the Property is located.

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J. The Grantors shall comply with all Federal, State, and local laws, rules, and regulations affecting the ownership and use of private property. All uses of the Property, including those rights reserved in Part IV by the Grantors, shall conform with: (a) the applicable County land application process, and (b) any zoning ordinances which may apply to the Property. In the event that a specific provision of this conservation easement is more restrictive on the use and development of the Property than the above referenced Guidelines or ordinances, the provisions of this conservation easement shall prevail.

K. The Grantors are liable for the costs associated with the cleanup of hazardous substances, under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) and similar State or Federal laws for which it would otherwise ordinarily be liable. Further, the Grantors shall hold the United States and agencies and instrumentalities thereof harmless from liability under said statutes, and indemnify the United States from all costs relating to cleanup, including attorney fees, of hazardous substances which were released prior to the effective date of this Easement, and for all releases caused by or contributed to by the Grantors, their agents, or their successors in interests subsequent to the date of this Easement, but not for costs for cleanup of hazardous substances which are released by agencies and instrumentalities of the United States in the course of engaging in activities that are authorized by this Easement. This clause may be enforced by the United States in a court of competent jurisdiction. Nothing in this paragraph shall be deemed to affect Grantors' right or ability to perform any clean-up of hazardous substances required by any government agency or to imply a right or duty on the part of the BLM to independently initiate a clean-up of hazardous substances on the Property under CERCLA or any similar law or regulation.

L. Nothing herein contained shall be construed as affording the public access to any portion of the Property.

M. Grantors agree to incorporate the terms of this Easement in any deed or other legal instrument by which they divest themselves of any interest in all or a portion of the Property, including, without limitation, a leasehold interest. Grantors further agree to give written notice to the United States of the transfer of any interest at least 30 days prior to the date of such transfer. The failure of Grantors to perform any act required by this paragraph shall not impair the validity of this Easement or limit its enforceability in any way.

N. No alteration or variation of this instrument shall be valid or binding unless contained in a written amendment signed by the parties; provided that no amendment shall be allowed that affects the qualification of the Easement under the IRS Code. Any such amendment shall be consistent with the purposes of the Easement, shall not affect its perpetual duration, shall not permit additional development or improvements to be undertaken on the Property other than development or improvements currently permitted by the Easement, and shall not impair any of the significant Conservation and Recreational Values of the Property. Any such amendment shall be recorded in the official records of the county in which the Property is located.

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PART VII – ENFORCEMENT AND REMEDIES

A. In the event a violation of any restriction contained herein, whether by Grantors or a third party, comes to the attention of the United States, the United States shall notify Grantor in writing of the violation. Grantor shall have thirty (30) days after the receipt of such notice to undertake remedial actions, including restoration. The United States' costs of suit, including reasonable attorneys' fees shall be borne by Grantors or their heirs, personal representatives, or assigns.

B. Upon any breach of the terms of this Conservation Easement by Grantors, the United States may, after reasonable notice to Grantors, exercise any or all of the following remedies:

- (1) Institute suits to enjoin any breach or enforce any covenant by ex parte, temporary, and/or permanent injunction; and
- (2) Require the Property be restored promptly to the condition required by this Conservation Easement.

Remedies available to the United States shall be cumulative and shall be in addition to any other rights and remedies available to the United States in law or equity. If Grantors are found to have breached any of Grantor's obligations under this Conservation Easement, Grantors shall reimburse the United States for any costs or expenses incurred by the United States, including court costs, reasonable attorney's fees, and additional cost of administration.

C. Enforcement of the terms and provisions of this Easement shall be at the discretion of the United States. Any forbearance on behalf of the United States to exercise its rights hereunder in the event of any breach by Grantors or their heirs, personal representatives, or assigns shall not be deemed or construed to be a waiver of the United States' rights hereunder in the event of any subsequent breach.

D. Representatives and agents of the United States may make reasonable entry upon the Property to administer this Easement, to manage the rights (claims) of the United States, to inspect for violations, to take enforcement or remedial actions as authorized herein. The Grantors will be given twenty-four (24) hours advance notice of any entry onto the Property by the agents or assigns of the United States, except for emergency situations where such advance notice as is practical will be given to Grantors. No authorization is granted to the United States for the entry into personal property without the permission of the Grantors, their successors or assigns, except under applicable law.

E. The provisions of this conservation easement are enforceable by law or equity by the United States, its successors, or assigns. The Grantors and the United States agree that any ambiguities regarding the terms and conditions of this conservation easement shall be resolved in a manner which best effects the overall conservation values of such land and the continuation of existing

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uses. Also, in resolving ambiguities, the Grantors shall bear the burden of proof establishing that any proposed use is reserved under the terms of this instrument.

F. This acquisition represents a real property ownership by the United States and, as such, violations of this conservation easement constitute damage to property of the United States and could be a violation of property damage prohibitions as authorized and provided by the regulations of the Secretary of Interior and as they may be amended and published in the Code of Federal Regulations.

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PART VIII – EXHIBITS

The following exhibits accompany this Conservation Easement:

- A. **Exhibit A: Boundary Description and Property References** shall be attached hereto and made a part hereof. Exhibit A consists of _____ (__) page(s).
- B. **Exhibit B: Summary of Conservation Values** shall be attached hereto and made a part hereof. Exhibit B consists of _____ (__) page(s).
- C. **Exhibit C: Baseline Data Report (color images, maps, aerial photos, property documentation) of the Property with description of images and data report** shall be kept on file at the _____ District Office of the Bureau of Land Management, _____, City, State, Zip Code, and shall be fully and completely incorporated into this Conservation Easement as though attached hereto and made a part hereof. Exhibit C consists of _____ (__) pages.

TO HAVE AND TO HOLD, the herein described estate in land and rights unto the United States, its successors or assigns forever. The rights conveyed herein shall run with the Property and constitute a perpetual servitude thereon. The Grantors covenant for themselves and their successors in interest, will warrant and defend unto the United States the quiet and peaceable use and enjoyment of this land against all claims and demands.

IN WITNESS HEREOF, the Grantors have hereunto set their hand and seal on the day and year indicated above.

NAME GOES HERE

NAME GOES HERE

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Exhibit A - Plat of Property

Exhibit B – Building Curtilage