

# Groundswell Conservancy Policy

**Name:** Environmental Hazards Assessment

**Approval:** Approved by Executive Committee June 9, 2005  
Amended by Executive Committee October 11, 2010  
Amended by Executive Committee November 1, 2012

Land Trust Alliance Standards and Practices 9C. Environmental Due Diligence. 1. For every land and conservation easement transaction, conduct or obtain a preliminary environmental investigation, transaction screen or Phase I assessment to identify whether there are any conditions that pose environmental risks, and take steps to address any significant concerns.

For properties where Groundswell Conservancy intends to acquire fee interest, Groundswell Conservancy will hire a contractor to conduct a Phase I site investigation of the property. For properties where we intend to acquire holder's interest in a conservation easement, Groundswell Conservancy will conduct a property visit, contract for an environmental records search, and complete the Groundswell Conservancy Preliminary Environmental Hazard Assessment Form. Further due diligence may be undertaken as a result of the findings of these investigations. It is the intent of this policy to provide 1) all appropriate inquiry to establish the innocent landowner defense under CERCLA and 2) all necessary investigation to avoid liability as a responsible party under the Chapter 292 of the Wisconsin Statutes (the Wisconsin "Spills Law").

The purpose of the assessment is to determine whether there are any recognized environmental conditions on the property. A recognized environmental condition is the presence or likely presence of any hazardous substances or petroleum products on a property under conditions that indicate an existing release, a past release, or a material threat of a release of any hazardous substances or petroleum products into structures on the property or into the ground, groundwater, or surface water of the property. The term "recognized environmental condition" includes hazardous substances or petroleum products even under conditions in compliance with laws. The term is not intended to include *de minimis* conditions that generally do not present a material risk of harm to public health or the environment and that generally would not be the subject of an enforcement action if brought to the attention of appropriate governmental agencies.

An assessment prepared by or on the behalf of an agency funding the acquisition of interest in the subject property may be substituted for the due diligence normally completed by the Groundswell Conservancy if, in the opinion of Groundswell Conservancy staff, the agency (or agency-contracted) assessment documents a property visit, environmental records search, and a landowner interview conducted to the same or greater standards than Groundswell Conservancy would do on its own. Such alternative assessment may be no more than 12 months old at the time of its substitution for the due diligence normally completed by the Groundswell Conservancy.

The results of the assessment must be documented in the project files prior to acquisition or acceptance of any interest in the land. The results of the assessment must be considered in determining whether to proceed with the project (which may include undertaking further investigations of possible contamination).

Offers to Purchase or Offers to Option must be written to allow Groundswell Conservancy to inspect the property prior to closing and, at a minimum, refuse to complete the deal if, in the Land Trust's opinion, a potential problem is discovered. If Groundswell Conservancy decides to pursue acquisition of property with a potential problem, it should require that the seller (or donor) make certain representations and warranties about the condition of the property and indemnify Groundswell Conservancy.

Groundswell Conservancy is accredited by the Land Trust Accreditation Commission. Policies may be updated to reflect changing accreditation standards and practices, as well as changing local organizational needs.