

**LNRA BOARD POLICY  
502 – LAND RESOURCES**

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**502.10 PURPOSE**

This policy establishes guidelines for the acquisition, development, disposition, operation, use and management of all LNRA land resources.

**502.20 DEFINITIONS**

- Conservation Land Use – Land that is not intended for development or public recreational land use, and is managed in its natural state as open space, including hay production, pastures, wildlife habitat and management including controlled hunting, water quality protection, visual buffers or natural science laboratories. It also may include significant archaeological, scenic or historical features that should be preserved.
- Government Land Use – Land that is developed and managed for government service or administrative activities and is not public recreational or conservation land use. Such land use may include facilities associated with LNRA’s headquarters, power production and distribution, flood control, water treatment and distribution, wastewater treatment and collection, public access, utilities, and non-recreational leases or agreements.
- Land Resources – Interests in real property, including, but not limited to, easements, leases, and fee simple ownership and aerial, subsurface, and surface and groundwater rights.
- Public Recreational Land Use – Land which is developed and managed by public or private entities for parks, campgrounds, lodging, food services, boat launching and other water access or recreation facilities.

**502.30 POLICY**

LNRA will acquire, develop, use, manage, operate and dispose of its land resources consistent with the Palmetto Bend Conveyance Act, Public Law 106-512, Board Resolution Nos. 2002-002 and 2002-003, Chapter 49, Texas Water Code, LNRA’s Land Resources Management Plan, and to fulfill its essential corporate purposes and responsibilities prescribed by the LNRA enabling legislation and the Board’s policies.

**502.40 GUIDELINES**

## **502.401 LAND RESOURCES ACQUISITION**

The Board will determine whether acquisition of particular land resources is necessary and will authorize the General Manager or his designee to acquire the land resources subject to the following conditions:

- If deemed appropriate, an environmental due diligence assessment will be prepared on all land resources considered for acquisition.
- Information obtained during the due diligence and on-site assessments will be evaluated prior to final acquisition.
- In determining the method of land resources acquisition, factors to consider include (i) the purpose, type, and life of the facilities to be located on the land, (ii) how the surface of the land will be used, (iii) significance of mineral rights to the integrity of the facility, and (iv) the present or future use of the land by the property owner.
- An independent appraiser licensed by the State of Texas will be engaged to provide an opinion of fair market value as a basis for negotiations on all sales, leases, purchases or exchanges of land resources; provided, however, in instances where LNRA is acquiring land resources from, or disposing of land resources to another public utility or governmental or quasi-governmental agency, such an appraisal is discretionary.
- Acquisition of specific land resources through eminent domain proceedings may be initiated (i) after an official written offer, based upon the amount determined to be just compensation, has been transmitted to the owners of the land resources and the owners have been unable to agree with LNRA upon the fair market value of the land resources and further negotiations for settlement have become futile; (ii) if the title cannot be conveyed without a court judgment; or (iii) if there is a conflict of interest of the owner(s). In no event shall the power of eminent domain be exercised by LNRA beyond the limits of Jackson County. Additionally, the power of eminent domain may not be used for the condemnation of land resources for the purpose of acquiring rights to groundwater or of water or water rights.
- The classification of land resources acquired shall be approved by the Board.

## **502.402 LAND RESOURCES DEVELOPMENT, OPERATION, USE AND MANAGEMENT**

All LNRA land resources will be classified for use as Conservation Land Use, Government Land Use, or Public Recreational Land Use. LNRA will manage its land resources in accordance with its classified use; however, the Board may approve land resources uses other than those assigned if those uses fulfill LNRA corporate purposes or policy.

LNRA may enter into permits, leases, easements, development agreements or other legally binding land use agreements with public, private, or non-profit entities. Such land use agreements will conform to the following criteria:

- Monetary consideration for agriculture/grazing, commercial, (recreation or non-recreation) and private uses will be full fair market rental value.
- Leases for agricultural/grazing uses will be managed such that the lease agreement conserves, protects and maintains LNRA's land resources.
- May be granted for less than full fair-market value to governmental entities or nonprofit organizations when the use of the land resources furthers LNRA's ability to meet its statutory responsibilities or is deemed to be in LNRA's best interest.
- Require the user to undertake full financial responsibility for proper maintenance and use of the land and/or facility. Such financial responsibility may include liability insurance coverage protecting LNRA.
- Will include provisions allowing periodic adjustments of monetary consideration.
- The term will be commensurate with the use of the land, the purposes of the agreement, the amount of capital to be invested by LNRA and/or the user, the anticipated capital payback period, and the projected revenue to LNRA.
- Will contain, as appropriate and necessary, provisions for environmental protection and compliance with applicable laws and regulations, including LNRA ordinance and policies for water quality, nonpoint-source pollution prevention and other environmental quality considerations, such as impacts to cultural and archeological resources, wetlands, and threatened or endangered species and their habitats.

Except as provided herein, the Board shall approve long-term land use agreements. The following types of land use agreements may be executed by the General Manager or his designee without Board approval:

- Leases, temporary use permits, licenses and construction permits

Agreements with the private sector for commercial recreation project development, operation and management will conform to the following criteria:

- Private development, operation and management of LNRA land resources shall be consistent with LNRA's role of providing public access for public recreational and conservation land use of LNRA land resources.

- A request for proposals (RFP) must be issued to solicit bids for any such development, operation and management agreement. The RFP process shall be designed to encourage local participation. Board authorization is required prior to issuance of an RFP. Selection of the successful bidder and terms of the agreement require Board approval.

LNRA may grant easements on, across, and/or under land it owns, permit easements to occupy the same easement corridor it has acquired, and/or release its easement rights or portions of land from easements when the best interests of LNRA, its customers and the public are served. Requests for easements on, across, and/or under LNRA land will conform to the following criteria and must be specifically approved by the Board:

- Monetary consideration for easements that serve a private or commercial use will be the full fair-market value as determined by an appraisal obtained by or provided to and approved by LNRA.
- Monetary consideration for easements that serve a public or non-profit use may be less than full fair-market value at the discretion of the Board.
- Easements will contain, as appropriate and necessary, provisions for environmental protection and compliance with existing laws, regulations and LNRA ordinances and policies for water quality, non-point source pollution prevention and other environmental quality considerations, such as impacts to cultural and archeological resources, wetlands, and threatened or endangered species and their habitats.

Requests to occupy a portion of an LNRA easement on, across, and/or under lands that are not owned by LNRA may be approved by the General Manager, or his designee, if they meet the following criteria:

- The requesting entity will first obtain written permission from the landowner to occupy a portion of said land.
- The requesting entity will obtain the written statement of LNRA's non-objection to the proposed easement/use. Such statement of non-objection only will be granted if the proposed joint use of the easement corridor will not interfere with LNRA's superior easement rights, safety, and efficient operations within the easement area.
- The requesting entity may be required to obtain the easement rights, subordinate to LNRA's superior easement rights, from the landowner(s).

LNRA's easements on, across, and/or under private lands that are not necessary to the operation of LNRA may be released by the General Manager. Requests of LNRA to release its easement rights will conform to the following criteria:

- Management will determine that LNRA has no further or anticipated need for easement rights in the area to be released.
- Any processing costs, including the cost of a survey, if required, will be at the expense of the property owner or party requesting the release.
- Easement rights which are considered unnecessary due to an abandonment of a line or facility by LNRA may be released to the current landowner(s).

Public or private use of (including aerial use above or over) LNRA land, except where expressly authorized by LNRA, will be considered an encroachment. Those encroaching on or over LNRA lands will be required to either remove the encroachment as well as any constructed improvements or to secure rights to use the land by entering into an acceptable land use agreement with LNRA. The General Manager, or his designee, may institute appropriate legal action to remove any non-conforming encroachments.

Any use of land classified as Conservation Land Use for mitigation purposes under the Endangered Species Act and associated regulations must be specifically approved by the Board. Management shall notify the Board upon receipt of any request for use of LNRA land for mitigation purposes or any proposal to donate land to LNRA for mitigation purposes.

### **502.403 DISPOSAL OF LAND RESOURCES**

Subject to the Palmetto Bend Conveyance Act, Public Law 106-512, Board Resolution Nos. 2002-002 and 2002-003, any land resources owned by LNRA, which are found by the Board to be surplus and no longer needed for carrying out the business of LNRA, may be sold, under order of the Board either by public or private sale, exchanged for other land resources needed by LNRA for the like fair market value, leased or otherwise disposed. Before a public sale of land resources, LNRA shall give notice of the intent to sell by publishing notice once a week for two consecutive weeks in one or more newspapers with general circulation in Jackson County. In connection with the sale of surplus land resources, the Board, at its discretion, may impose restrictions on the development and use of any disposed land resources.

Any land resources dedicated to or acquired by LNRA without expending LNRA funds may be abandoned or released to the original grantor, the grantor's heirs, assigns, executors, or successors upon terms and conditions deemed necessary or advantageous to LNRA and without receiving compensation for such abandonment or release. Land resources may also be abandoned, released, exchanged, or transferred to another district, municipality, county, countywide agency, or authority upon terms and conditions deemed necessary or advantageous to LNRA.

Narrow strips of land resulting from boundary or surveying conflicts or similar causes, or from insubstantial encroachments by abutting property owners, or land of larger configuration that has been subject to encroachments by abutting property owners for more than 25 years may be abandoned, released, exchanged, or transferred to such abutting owners upon terms and

conditions deemed necessary or advantageous to LNRA. Chapter 272, Local Government Code, does not apply to this paragraph.

#### **502.404 MINERAL ESTATE**

All mineral interests in LNRA land resources retained by the United States or owned by LNRA shall be managed consistent with Federal law and in a manner that will not interfere with the purposes for which the Palmetto Bend Reclamation Project was authorized.

#### **502.50 RESPONSIBILITIES**

##### **502.501 GENERAL MANAGER**

The General Manager shall be responsible for the implementation and coordination of this policy.

**Effective:** January 21, 2004, Amended April 23, 2008