



BUREAU OF RECREATION AND CONSERVATION

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| Title: Conversion of Property Interests Acquired or Developed with State Funding | | |
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| Approved By: Tom Ford, Bureau Director | Program Area: All | |

AUTHORITY

Act 18 of 1995, Section 306, Community Recreation and Heritage Conservation. The Department shall have the power to administer Federal and State programs for grants and loans to local governments, municipal authorities and nonprofit organizations for community and regional projects involving the planning, acquisition, rehabilitation and development of public park, recreation and conservation areas, facilities and programs.

SCOPE

Provides directive for administration of the Community Conservation Partnerships Grant Program

PURPOSE

Under the Conservation and Natural Resources Act (Act 18 of 1995), the powers and duties of the former Department of Community Affairs (DCA) and the former Department of Environmental Resources (DER) with respect to the administration of grants were transferred to the Department of Conservation and Natural Resources.

The Department of Conservation and Natural Resources (DCNR) acquires real property interest or contributes to the development of property for recreation, conservation and/or educational purposes through the provision of grants to eligible applicants.

Properties that are acquired or developed with DCNR grant funding are not permitted to be converted to purposes/uses other than public recreation and conservation. No change of use and no transfer of ownership, control, or interest in the property may occur, and no encumbrance may be placed on the property, without written consent of the Department or its successor.

This policy outlines types of issues and legal mandates covering the conversion of property bought and/or developed in full or part with DCNR grant funds. This policy also includes a checklist to be followed by grant recipients when a conversion is not avoidable.

What is a Conversion of State Funded Properties?

A parkland conversion occurs when a past grant recipient wishes to sell, lease, discontinue public access, or accommodate non-recreational uses on their land acquired or developed with state grant funding assistance.

POLICY

- A. DCNR must follow all laws, regulations and policies associated with the funding source used for acquisition and/or development of recreation and conservation properties. The Department determines at its sole discretion when actual or proposed uses are permissible, consistent, or inconsistent with intended uses.
- B. DCNR’s goal is for a “no net loss” of recreation and conservation land, or natural resources and habitats. The Department expects development proposals to “first avoid, then minimize, then compensate for unavoidable impacts.” An alternatives analysis will be required with all conversion proposals.
- C. If your site was previously funded with federal and state funding, or multiple state funding sources, the most restrictive conversion provisions will be applied to resolve the conversion requirement.
- D. In circumstances where a conversion is unavoidable, the Department may provide approval of a conversion consistent with and contingent on compliance with the funding source enabling legislation.

E. The Department may also require other mitigation as determined solely at the discretion of the Department.

Enabling Legislation Provisions Include

A. Project 70 “Land Acquisition and Borrowing Act,” Act 8 of 1964

1. **Approved uses:** Project 70 provided that, “Lands to be acquired by any political subdivision shall be such that they may be utilized for recreation, conservation and historical purposes, and contribute to meet the recreation or conservation needs of the community.”
2. **Restrictions on use:** Project 70 provides that, “No lands acquired with funds made available under this act shall be disposed of or used for purposes other than those prescribed in this act without the express approval of the General Assembly: Provided, That the Commonwealth or a political subdivision, as the owner of such lands, may issue permits, licenses or leases for the exploration, development, storage and removal of oil, gas or other minerals, or for the installation and use of water, gas, electric, telephone, telegraph, oil or oil product lines, under the reasonable regulations prescribed by the owner consistent with the primary use of such lands for “recreation, conservation and historical purposes.”

B. Project 500 “Land and Water Conservation and Reclamation Act,” Act 443 of 1968:

1. **Approved uses:** Project 500 funding was provided “for State grant-in-aid to political subdivisions to pay up to 50% of the cost (i) of development of county and municipal park and recreation lands including lands acquired under...Project 500 to be used for county and municipal park and recreation purpose; (ii) to acquire and develop additional county and municipal park, recreation and open space lands in those regions where the statewide outdoor recreation plan indicates a need for those lands; and (iii) for studies conducted to determine park and recreational needs and the location of facilities.
2. **Restrictions on use:** A variety of definitions for the uses specified above serve to limit the development of compatible uses.

C. “Recreational Improvement and Rehabilitation Act,” Act 106 of 1984

1. **Approved uses:** “grants-in-aid“ were provided to municipalities to protect open space benefits.
2. **Restrictions on use:** Municipalities shall not dispose of nor at any time convert property acquired and/or developed pursuant to the act without the prior written approval of the program administrator. If conversion does occur the Department may:
 - a. Require the municipality to refund all grant in aid funds for that particular project including 10% annual interest compounded four times annually from the original grant in aid until it is repaid.
 - b. Require acquisition of equivalent replacement land, as determined by the Department.

D. “Keystone Recreation, Park and Conservation Fund Act,” Act 50 of 1993:

1. **Approved uses:** Keystone funding provided via bond fund and realty transfer tax receipts used for acquiring land important to maintaining the integrity of existing state park and forests. In addition, grant funding used to pay up to 50% of the eligible project costs for rehabilitation, development and acquisition of recreation and park lands, greenways and natural areas. Any land acquired shall be open to those public uses that are consistent with the purposes for which the land was acquired.
2. **Restrictions on use:** Recipients of grants or funds under this act shall not dispose or nor at any time convert property pursuant to this act to other than the purposes described in the project applications without the prior written approval of the head of the agency, as appropriate. Should disposition or conversion occur, the Department may:
 - a. Require the recipient to refund all grant funds for the particular project, including 10% annual interest compounded four times annually from the original grant in aid until it is repaid
 - b. Require acquisition of equivalent replacement land, as determined by the department

E. “Environmental Stewardship and Watershed Protection Act,” Act 68-1999:

1. **Approved uses:** To provide grants to a county or other municipality, conservation districts and authorized organizations for the purposes of, among others, the development and acquisition of recreation and conservation resources. Grants under this paragraph may not be used by an authorized organization

for land acquisition, unless the authorized organization obtains the approval of all counties in which the land is situated.

2. **Restrictions on use:** Recipients of grants may not dispose of or convert property or equipment acquired with a grant for purposes other than the purposes approved in the project application without the prior approval of the agency awarding the grant.
3. If a violation occurs, the Department may:
 - a. Require the recipient to refund all grants related to the project, including 10% annual interest, compounded four times annually, from the date the original grant was received until the grant is repaid.
 - b. Require acquisition by the recipient of equivalent replacement property, as determined by the agency.
 - c. Take possession of the property or equipment funded by the agency.

F. **Snowmobile & ATV Law**, Chapter 77 of the Pennsylvania Vehicle Code (as amended June 25, 2001):

1. **Approved uses:** DCNR can use moneys from the restricted account that consists of all moneys received from the registration of and issuance of certificates of title for snowmobiles and ATV's; all revenue from the sale of any publications or services relation to snowmobiles and ATV's; and all fines, penalties, fees and costs assessed and collected as a result of enforcement activities conducted by the department's law enforcement personnel under this chapter for land acquisition and eligible project costs for the construction, maintenance and rehabilitation of trails and other facilities for snowmobiles and ATV's. Any land acquired, or trails and facilities developed shall be open to those public uses that are consistent with the purposes for which the land was acquired or developed.
2. **Restrictions on use:** Recipients of grants or funds under this act shall not dispose or nor at any time convert property pursuant to this law to other than the purposes described in the project applications without the prior written approval of the head of the agency, as appropriate. Should disposition or conversion occur, the Department's non-conversion grant agreement clause provides the following remedy: If a provision of this article is violated, the grantee shall do one or both of the following as may be determined and required by the Department: (1) repay to the Department the amount paid under this grant agreement plus 10% annual interest compounded four times annually from the date(s) the grant payment(s) were received until repayment is completed; and (2) replace the disposed or converted property with other property that is determined by the Department to be equivalent to the original property.

Most Common Parkland Conversions Include:

- A. **Pipeline/Energy Development** – New or expanded right-of-way or permanent easement that gives control of a portion of a park to an oil and gas company or public utility. This may also include associated structures that impact the surface of the land.
- B. **Leases/Exclusive Use** - Agreements between the grant recipient and an organization/entity that gives over control of the funded property. Leases can take many forms such as agriculture, commercial or vendor, ground leases, etc.
- C. **Property Sold/Transferred** - Grantee sells or transfers the property to an individual or entity who is not eligible for DCNR grant funding or does not have a recreation or conservation mission.
- D. **Development** - Any non-recreational development such as hotels, residential areas, restaurants, schools, etc. that occurs within a protected site funded by DCNR.
- E. **Cell Towers** - Telecommunication structures and the access to them that are not used for internal park communications is inconsistent with grant funding restrictions.
- F. **Municipal Uses** - Non-recreational structures built on the DCNR funded property. Examples include but are not limited to municipal buildings, recycling facilities, fire stations, maintenance buildings/sheds, etc.
- G. **Composting/Recycling Facilities** - These facilities are non-recreational in nature and are not supported on a DNCR funded property.
- H. **Encroachments** - Private property encroachments include utility sheds, gardens, vehicles, wood piles, sheds, etc. from neighboring landowners that sit over the DCNR funded property boundary line.

- I. **Above Ground Utilities** - New or expanded rights-of-way such as power lines, phone lines, pumping stations, etc. on DCNR funded property.
- J. **Restricting Public Access/Signage** - Posting no trespassing signs, locking gates, and in any way restricting public access is not allowed on a funded park site. Reasonable access restrictions for health and safety (no access after dark) are acceptable if applied to everybody. All grant funded sites must have a sign acknowledging DCNR grant assistance.

State Funding Conversion Checklist

- Official letter from local project sponsor/grantee requesting consideration of the proposed conversion along with a detailed explanation of the conversion proposal that includes:
 - Purpose and benefit of doing the conversion.
 - Description of the conversion, including acreage and value of the property acquired and/or developed area impacted.
 - Discussion of alternatives to the conversion that have been considered.
- Summary and/or documentation of public input/outreach that has occurred to date on the proposed conversion.
- Copy of the deed for the property being converted; including any related agreements, easements, etc.
- Map delineating the proposed conversion.
- Appraised value of the conversion area. Note: A *Waiver Valuation Form* can be used for converted land values under \$25,000.
- Any other documents that will help the Bureau to more fully understand the impact and benefits of the conversion proposal.
- Description of the land being proposed as replacement land that includes the following: a location map, approximate acreage and a description of how the property will provide similar recreation/conservation value.
- Mail the proposal and all documentation to:
 - Department of Conservation and Natural Resources
 - Bureau of Recreation and Conservation
 - 400 Market Street, PO Box 8475
 - Harrisburg, PA 17105
 - Attn: Land Conservation and Stewardship Section

DISCLAIMER

The policies and procedures outlined in this guidance document are intended to supplement existing requirements. The policies and procedures herein are not an adjudication or a regulation. There is no intent on the part of DCNR to give the rules in these policies that weight or deference. This document establishes the framework within which DCNR will exercise its administrative discretion in the future.

PAGE LENGTH

4 pages

EFFECTIVE DATE

Immediately. This policy is to be reviewed and updated every year.

EXPIRATION

This policy remains in effect until revised or rescinded.

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| Tom Ford, Bureau Director | 10/27/21 |
| Name/Title of Bureau or Office Director | Date |