

COMMONWEALTH OF PENNSYLVANIA
Department of Conservation and Natural Resources
Revised: 11/24/09 7:50 A.M.

Bureau of Recreation and Conservation (BRC)
Administrative Policy/Grant Guidelines

SUBJECT: Ownership and Control Policy

EFFECTIVE DATE: 10/5/09

BACKGROUND:

DCNR provides funding to grantees to acquire property, develop plans for sites/properties and to develop properties. Grantees must own or control property in order to receive grant funding from the Department for development and specific types of planning projects. If awarded a grant the grantee will be required to certify ownership or control of the property or facility.

POLICY:

Control of Property Deed Restrictions and Public Use

- For all development projects and Master Site Development Plans the applicant must own or control the property that will be developed or rehabilitated. Successful grantees will be required to provide a Certification of Title form signed by an attorney.
- Property that is not owned in fee simple must be controlled through a permanent easement or long-term lease agreement (minimum of 25 years) to protect facilities for their useful lifetime.
- Depending on the type of feasibility study, applicants may be required to have control of the site, either through ownership or a long-term lease agreement (minimum of 25 years) and provide evidence of this control.
- Where trails are to be developed on leased land, the Department requires the creation of a permanent easement or, at a minimum, a lease for 99 years, as trail corridors are established for the long-term and involve significant investment.
- In certain rare circumstances, the Department may consider, at its sole discretion, leases of shorter duration. The Bureau Director of the Bureau of Recreation and Conservation or her designee will make and communicate the Department's decision. All easements and lease agreements must be submitted with a Certification of Title and will be reviewed by DCNR.
- All property acquired in fee or through easements and/or land donations provided by grantees as match, funded with DCNR grant assistance require a non-conversion clause be included in the deed, easement or declaration of covenants restricting the use and transfer of the property. For example, properties acquired with Keystone Funding will require the following deed restriction:

This property, or interest in property, was either acquired with, or donated as a match for, funds provided by the Pennsylvania Department of Conservation and Natural Resources ("Department") under the Keystone Recreation, Park and Conservation Fund Act of July 2, 1993, P.L. 359, No. 50 ("Act"). This property, or any portion of it, may not be converted to purposes other than those authorized under the Act for property acquired with Department funds. No change of use or transfer of ownership, control, or interest in this property may occur, and no encumbrance may be placed on this property, without the written consent of the Department or its successor. The restrictions in this paragraph apply to both the surface and subsurface of the property. The restrictions in this paragraph have the effect of a covenant running in perpetuity with the land that is binding upon the owner(s) of the property and upon all subsequent owners, successors, and assigns and is enforceable by the Department and its successors.

- Facilities and property funded by DCNR must be accessible to the public for uses consistent with the purposes for which the land was acquired and/or developed. For example, if the property is acquired for use as a public park, it must be accessible to the general public for park use. Likewise, if a property is acquired or developed as a trail it must be open to the public for trail use.
- For projects such as stream bank improvements, etc., that are not intended to be open to the general public, an agreement is required between the grantee and the landowner giving the grantee access to construct and maintain the improvements unless other provisions satisfactory to DCNR are made which satisfy these construction and maintenance requirements.
- Grantees must maintain ownership or control of the property or facility that will be developed, rehabilitated, etc. for use by the general public.

This policy remains in effect until revised or rescinded.