

COMMONWEALTH OF PENNSYLVANIA
Department of Conservation and Natural Resources

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

SUBJECT: Conversion of Property Interests Acquired or Developed with State Funding through the Department of Conservation and Natural Resources

EFFECTIVE DATE: 12/2/10

REVISED: 4/10/13; 7/7/14; 10/6/15

Background

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 who acquire and/or develop property interests. Properties that are acquired or developed with DCNR state 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. The properties may not be transferred through fee disposition, lease, or other legal document that transfers the property or control to another entity. This policy outlines issues and legal mandates covering the conversion of property bought and/or developed in full or part with DCNR grant program funds administered by BRC. This policy also includes a checklist to be followed by grant recipients when a conversion is not avoidable. Conversions may include disposition of the property, no public access, accommodating non-recreational uses on a piece of property including but not limited to energy development, commercial development, municipal buildings, telecommunication towers and resource extraction.

Policy

I. Promotion of DCNR Interests

The acquisition, use and management of property interests shall support, promote and enhance the mission and goals of DCNR. Lands acquired and/or developed with DCNR grant funding must have uses that are:

1. Consistent with the mission and goals of the agency,
2. Permitted by the enabling legislation from which funding for the acquisition or development of the property was derived,
3. Consistent with and not negatively impact the other intended uses for the property.

II. BRC Policy on Maintenance of Property and Intended Uses

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 under the Keystone Recreation, Park and Conservation Fund Act were transferred to the Department of Conservation and Natural Resources. Similarly, under the Conservation and Natural Resources Act, the powers and duties of

the former Department of Community Affairs with respect to the administration of grants under the Land and Water Conservation Fund Act, the Recreational Improvement and Rehabilitation Act, the Project 70 Land Acquisition and Borrowing Act, the Project 500 Land and Water Conservation and Reclamation Act and the Heritage Parks program were transferred to the Department of Conservation and Natural Resources.

- (1) DCNR must follow all laws, regulations and policies associated with the funding source used for acquisition and/or development of recreation properties. In no case will development of uses others than those intended or disposition of property rights be permitted to adversely impact resource protection efforts or public recreational opportunities. The Department determines at its sole discretion when actual or proposed uses are permissible and/or consistent or inconsistent with intended uses.
- (2) 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.
- (3) 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. The Department may also require other mitigation as determined solely at the discretion of the Department. The pertinent enabling legislation provisions include:
 - i. Requirements for projects funded under Project 70 "Land Acquisition and Borrowing Act," Act 8 of 1964:
 - i. Approved uses: Project 70 provided that lands can be acquired by political subdivisions and 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."
 - ii. 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."
 - ii. Requirements for projects funded under Project 500 "The Land and Water Conservation and Reclamation Act, Act 443 of 1968:
 - i. Approved uses: DCNR (successor agency to DCA) was allocated funding "for State grant-in-aid to political subdivisions to pay up to fifty percent 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.
 - ii. Restrictions on use: A variety of definitions for the uses specified above serve to limit the development of compatible uses.
 - iii. Requirement for projects funded under "Recreational Improvement and Rehabilitation Act," (RIRA) Act 106 of 1984:
 - i. Approved uses: DCNR (successor agency to DCA) is empowered to provide "grants-in-aid" to municipalities in order to protect open space benefits.

- ii. 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 within DCNR (successor agency to DCA). If conversion does occur the Department may:
 - 1. 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.
 - 2. Require acquisition of equivalent replacement land, as determined by the Department.

- iv. Requirements for projects funded under Key 93 “The Keystone Recreation, Park and Conservation Fund Act,” Act 50 of 1993:
 - i. Approved uses: DCNR (successor agency to DER) can use bond fund and realty transfer tax receipts for acquiring land important to maintaining the integrity of existing state park and forests. DCNR (successor agency to DCA) can use bond funds and realty transfer tax receipts 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.
 - ii. 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:
 - 1. 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
 - 2. Require acquisition of equivalent replacement land, as determined by the department.

- v. Requirements for projects funded under Growing Greener “The Environmental Stewardship and Watershed Protection Act,” Act 68-1999:
 - i. Approved uses: To provide grants to a county or other municipality, conservation districts and authorized organizations for the purposes of...development, acquisition.... 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.
 - ii. Restrictions on use: Recipients of grants under this chapter 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.
 - iii. If a violation occurs, the Agency may:
 - 1. 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.
 - 2. Require acquisition by the recipient of equivalent replacement property, as determined by the agency.
 - 3. Take possession of the property or equipment funded by the agency.

- vi. Requirements for projects funded under Snowmobile & ATV Law, Chapter 77 of the Pennsylvania Vehicle Code (as amended June 25, 2001):
 - i. 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.

ii. 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:

1. 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.

This policy remains in effect until revised or rescinded.

State Funding Conversion Process 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.
- Copy of the deed for the property being converted.
- Map delineating the proposed conversion.
- Appraisal of the value of the property impacted.
- 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