Legal Protection for Grant-Assisted Recreation Sites

Section 6(f)(3) of the LWCF Act

Section 6(f)(3) of the LWCF Act contains strong provisions to protect Federal investments and the quality of assisted resources. The law is firm but flexible. It recognizes the likelihood that changes in land use or development may make some assisted areas obsolete over time, particularly in rapidly changing urban areas. At the same time, the law discourages casual "discards" of park and recreation facilities by ensuring that changes or "conversions from recreation use" will bear a cost - a cost that assures taxpayers that investments in the "national recreation estate" will not be squandered. The LWCF Act contains a clear and common sense provision to protect grant-assisted areas from conversions.

SEC. 6(f)(3) No property acquired or developed with assistance under this section shall, without the approval of the Secretary, be converted to other than public outdoor recreation uses. The Secretary shall approve such conversion only if he finds it to be in accord with the then existing comprehensive statewide outdoor recreation plan and only upon such conditions as he deems necessary to assure the substitution of other recreation properties of at least equal fair market value and of reasonably equivalent usefulness and location.

This "anti-conversion" requirement applies to all parks and other sites that have been the subject of Land and Water grants of any type, whether for acquisition of parkland, development or rehabilitation of facilities. In many cases, even a relatively small LWCF grant (orgn for development of a picnic shelter) in a park of hundreds or even thousands of acres provides anti-conversion protection to the entire park site.

To ensure the continued effectiveness of Section 6(f)(3) protection, several management tools have been developed to monitor and correct changes in assisted sites from year to year. For example, the NPS requires on-site inspections of all grant-assisted areas and facilities at least once in every five years most of which are conducted by cooperating state agencies.

Another important tool to ensure good communication between grantors and grantees is the "6(f)(3) project boundary map." With each application, the grantee submits a dated project boundary map showing the park area to be covered by Section 6(f)(3) anti-conversion protections. This map need not be a formal survey document, but it contains enough site-specific information to serve several purposes:

- it ensures that both the grantee and the administering agency agree on the proper boundaries of the covered site at the time of project approval;
- it provides location, size indicators and a picture of key facilities and landmarks to help later project inspectors better identify and evaluate the site.

Sometimes the protective provisions of LWCF grants result in "win-win" solutions to the problems of changing parks and changing communities. An example of this is Shoreline Park in Long Beach, California.

After using a sizable LWCF grant for basic development of the 20 acre park, the community felt that the park was not meeting its full potential. It was decided to replace the park with a commercial aquarium, amphitheater and shopping mall, and to build a new community park elsewhere in the neighborhood. National Park Service and the State worked closely with Long Beach. Within a short time, a new 24 acre site was identified.

Shoreline Park never succeeded in meeting its usage goals, because of reduced population in the downtown areas. Thanks to common sense replacement provisions, the park site will effectively be relocated and Long Beach residents will be able to enjoy new recreation opportunities as well as a viable tourist and convention site that will aid downtown economic recovery.

The conversion was approved, with the result that the "anti-conversion" mandate of the law, instead of being a negative, helped bring business leaders and community park users together for an improved Science Center AND an entirely new public recreation opportunity in the form of the riverfront park.

If you have concerns about threats to a park area that you think might have received a LWCF grant, contact one of the National Park Service field offices or your State Agency, as listed in the "Contact List." Administrators have databases of grant-assisted sites that will help them to determine whether Fund protections apply; also some States have their own grant programs that afford similar protection.