

THE PARK ADVOCATE

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New York State Governor
David A. Paterson
The State Capitol
Executive Chamber
Albany, NY 12224

Dear Governor Paterson,

Regarding the possible closures of several New York State Parks, it is our understanding that any state park facilities that may have had projects funded through the Federal Land and Water Conservation Fund Program (L&WCF) may have protected status. Closing any state parks that have received assistance from the L&WCF may not only put the State in violation of compliance with this program, but it may also endanger any future assistance from this fund.

SEC. 6(f)(3) of the L&WCF provides, in part, "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."

Additionally, 36 C.F.R. § 59.3(a) provides, "Section 6(f)(3) of the L&WCF Act is the cornerstone of Federal compliance efforts to ensure that the Federal investments in L&WCF assistance are being maintained in public outdoor recreation use. This section of the Act assures that once an area has been funded with L&WCF assistance, it is continually maintained in public recreation use unless NPS approves substitution property of reasonably equivalent usefulness and location and of at least equal fair market value."

Please note that, according to the National Parks Service, "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 (e.g., 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."

Moreover, any closures of parkland where that land has been acquired through the Federal Lands to Park Program could lead to the return of such property to federal ownership, as provided through the Federal Property and Administrative Services Act of 1949, amended, 63 Stat. 377; 40 USC 550.

In light of the above, we request that your office please advise if any of the following New York State parks have active projects funded by the Federal Land and Water Conservation Fund or have completed projects funded by this program.

- Brentwood State park
- Brookhaven State Park
- Caleb Smith State Park Preserve
- Cold Spring Harbor State Park
- Heckscher State Park
- Hempstead Lake State Park
- Nissequogue River State Park
- Orient Beach State Park
- Trail View State Park
- Valley Stream State Park

Additionally, please advise if any lands, partial or total, of the above listed parks were obtained through the Federal Lands to Parks program.

Thank you for your attention to this matter and we look forward to your response.

Respectfully,

Linda A. Henninger

Cc: Commissioner Carol Ash
Senator John Flanagan
Assemblyman Michael Fitzpatrick
Assemblyman Steven Englebright