

Federal Recreation and Public Purposes Act

In 2005, the City of Peoria applied to the Phoenix Field Office of the BLM for a lease-conveyance of a 160-acre parcel along the Agua Fria for the purpose of developing a community park site (Community Park #3). The City applied under the provisions of the *1954 Recreation and Public Purposes Act (R&PP) (43 United States Code [USC] 869 et seq.)*.

Congress enacted the R&PP in 1954, recognizing a need for a nationwide system of parks and other recreational and public purposes areas. The R&PP is administered by the BLM and authorizes the agency to lease or sell public lands for recreational or public purposes to state and local governments below fair market value.

As part of the acquisition process an environmental analysis is prepared in accordance with *the National Environmental Policy Act (NEPA) (42 USC 4321-4347)*. The assessment addresses the natural, social and economic impacts of any such proposed conveyance of land from the BLM. The analysis of potential impacts typically include the following categories:

- Land Use
- Agriculture
- Water Resources (Hydrology/Flood/Groundwater/Water Quality)
- Biological Resources
- Geology and Soils (Geologic Hazards/Soils/Mineral Resources)
- Hazards (including Hazardous Materials)
- Transportation and Circulation
- Noise
- Air Quality
- Population and Housing
- Public Services (Schools, Police, Fire, Libraries, Parks/Recreation)
- Utilities (Water, Wastewater, Solid Waste, Public Facilities)
- Cultural Resources (Historical, Archaeological, Paleontological)
- Aesthetics (Scenic Resources, Visual Character, Light/Glare)

The amount of land an applicant can purchase is set by law. Whether the land is to be purchased or leased, the BLM will classify for purposes of the act only the amount of land required for efficient operation of the projects described in an applicant's development plan. Cities may purchase up to 640 acres a year for recreation purposes, and an additional 640 acres for other public purposes. These lands must be within the political boundaries or within the area of jurisdiction. The *Recreation and Public Purposes Act* sets no limitation on the amount of land that may be leased. Section 302 of the *Federal Land Policy and Management Act of 1976 (FLPMA)* provides the BLM's authority to issue leases and permits for the use, occupancy, and development of the public lands.

Arizona Preserve Initiative Program

The Arizona Preserve Initiative (API) was passed by the Arizona State Legislature as HB 2555 and signed into law by the Governor in the spring of 1996. It is designed to encourage the preservation of select parcels of State Trust land in and around urban areas for open space to benefit future generations. The law lays out a process by which Trust land can be leased for up to 50 years or sold for conservation purposes. Leases and sales must both occur at a public auction.

Conservation is defined in the law as “protection of the natural assets of State Trust land for the long-term benefit of the land, the beneficiaries, lessees, the public, and unique resources such as open space, scenic beauty, protected plants, wildlife, archaeology, and multiple use values.” In the late 1990’s, amendments to the API were signed into law. Among other provisions, a public-private matching grant program was created under the auspices of the State Parks Board for acquisition or lease of state Trust lands for conservation. Proposition 303, passed by voters in November, 1998, funds the grant program for 11 years beginning in July, 2000.

A local government may petition the State Land Commissioner to have certain Trust land nominated and reclassified for conservation purposes. After all appropriate notifications, public hearings, consideration of physical and economic impacts to lessees and the Trust, the Commissioner may reclassify the subject land as suitable for conservation purposes. The Commissioner must consider recommendations from a five-member Conservation Advisory Committee that was established by law, as well as consult with local and regional planning authorities. Existing leases on any land reclassified for conservation purposes may not be canceled or impaired in any way. A petition for conservation purposes shall include (but may not be limited to) the following information:

1. A legal description of the land and a map);
2. A statement of proposed conservation uses;
3. A statement of why the land is suitable for conservation purposes;
4. A statement of the existing surface uses on the land and the physical and economical impacts of the proposed conservation use;
5. An identification of the local jurisdiction in which the land is located;
6. A statement of the local governing authority's comprehensive plan designation and existing zoning for the land and how the proposed conservation use is or is not consistent with the comprehensive plan and zoning;
7. A statement of the positive and negative physical and economic impacts on the local community nearest the land;
8. A statement of who or what entity will likely manage the land if, after the land is reclassified as suitable for conservation purposes, the land is approved for lease or purchase for conservation purposes; and
9. A statement of any known mineral potential, including sand and gravel, of the lands.

The following eight provisions must be considered by the State Land Commissioner before taking action on the classification of certain Trust lands as suitable for conservation purposes:

1. Consult with the governing body of any affected city, town or county, and the local planning authorities.
2. Consider recommendations of the Conservation Advisory Committee (CAC).
3. Consider all evidence and testimony submitted at the hearing under A.R.S. § 37-312, Subsection F.
4. Consider the physical and economic impacts that the reclassification would have on other lands owned or controlled by the current lessee and the physical and economic impacts on the local community.
5. Consider the existence of any holding lease on the lands.
6. Consider the existence of any planning permit issued under the Urban Lands Act.
7. Consider the amount of progress on any development plans being completed for the lands under the Urban Lands Act.
8. Evaluate the mineral potential of the land.

If the parcel qualifies, the Commissioner may issue an order designating the Trust land as being “under consideration for classification as suitable for conservation purposes.”

Reclassification of state lands as suitable for conservation purposes must be in the best interest of the Trust according to any or all of the following criteria:

1. Existence of substantially undisturbed open space values that make the land's conservation an asset to the community or to other adjacent developable state trust land.
2. Unique scenic beauty or landmark such as a significant mountain vista; or any scenic vista on or through the land, in addition to undeveloped open space.
3. Existence of significant vegetation or wildlife worthy of protection due to the relative lushness, health and diversity of the vegetation or the number and diversity of the wildlife; or the existence of endangered, threatened, or protected plants or endangered or threatened wildlife species as identified under federal or state laws; or existence of significant stands of a signature plant characteristic of the location.
4. Existence of a prehistoric or historic archaeological site; a historic structure; or comparative costs of mitigation, data recovery, or preservation compared to potential revenue production of the land.
5. Existence of sufficient habitat acreage and quality to support populations of endangered, threatened, or other particular species; interconnection between the land under petition and nearby public lands for wildlife movement; diversity of plant communities or biodiversity of plant or animal species; habitat condition, whether intact or degraded; or distance from an existing or proposed roadway, utility line, or urban development.

6. Other:

- a. Existence of a significant wash, slope, or other topographic feature; existence of a unique rock outcropping, formation or other unusual geologic feature; and known soil conditions unsuitable for development purposes.
- b. Relationship of the land to maintenance of the integrity of one or more watersheds; impact of the 100-year floodplain on the land.
- c. Existence of a spring or other wetland; occurrence of perennial or intermittent stream flow; and potential for groundwater recharge.
- d. Long-term viability of the land based on its size, configuration, and location for successfully conserving the resources it seeks to protect; and Relationship of conservation of the land to resolving wildland fire issues, particularly in the urban-wildland interface.
- e. Relationship between the proposed conservation designation and adopted local and regional plans and policies; and relationship of the land to other federal, state, local, or private land trust preserves, holdings, or plans.
- f. Existence of or proposed trail-based or other low impact recreation opportunities; and existence of direct access to or from adjacent public or private lands used for recreational purposes.
- g. Public accessibility and nature of that accessibility to the land; and impact of accessibility, based on the purpose of conservation of the land.
- h. Historic use of the land for scientific research purposes; and opportunities for scientific education.
- i. Multiple use potential of the land; and impact of specific multiple uses on the land.
- j. Existence of grazing lands under petition that a conservation designation may help to protect; existence of prime agriculture areas under petition that a conservation designation may help to protect; and protection of the resource production component (such as grazing, agriculture, mining, and timber) of the local: or regional economy;
- k. Proximity to other state trust lands; development capability of adjacent state trust lands; and anticipated timing of development activity on adjacent state trust lands;
- l. Pre-existing protections: Existence of any federal, state, or local law-requiring protection by existing lessee of proposed conservation values;
- m. Tourism-Impact on local or regional tourism;
- n. Benefit to the Trust: Whether and for what reason reclassification is in the best interest of the Trust.

Once the land is reclassified, the Commissioner may adopt a coordination plan, prepared by the interested parties, for the property to protect conservation values. The Commissioner may also withdraw land from sale or lease for three to five years (with the possible extension for up to three more years) to allow prospective lessees or purchasers time to prepare the plan for the property and to raise funds.

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