

## Case Study: Conveying Military Land to Limit Encroachment

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At times an installation may find that it no longer needs or wants certain parcels of land, so Congress gave the Services authority to convey unneeded property under 10 U.S.C. § 2869. The statute allows the military Services to enter into an agreement to convey Base Realignment and Closure (BRAC) or other excess property in exchange for a land acquisition to limit encroachment and other constraints on military training, testing, and operations. By combining this authority with that of the Readiness and Environmental Protection Initiative (REPI) at 10 U.S.C. § 2684a, which allows the Services to enter into cooperative agreements with eligible entities to ensure compatible development in buffer regions, three installations were able to move more rapidly to protect critical areas, enhance their military missions, and save money in the process.

### Background

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In 2009, the Army closed the Kansas Army Ammunition Plant as part of BRAC 2005. With the closing of the plant, the Army had 13,000 acres of unneeded land in Parsons. At the same time, a threat appeared in the buffer region of Fort Riley, home to the 1<sup>st</sup> Infantry Division in northwest Kansas. A landowner adjacent to Fort Riley proposed to create a wind farm that would interfere with the installation's radar and air operations, a critical threat to the installation's training mission. Creative thinking on the part of Army Headquarters planners made excess land in one part of Kansas the means for protecting critical areas in another.

Marine Corps Air Station (MCAS) Beaufort in South Carolina is home to all the Marine Corps' East Coast F/A-18 fighters and located in a rapidly developing area of the country. In 2006, the City of Beaufort annexed the 4,150-acre Clarendon Plantation, making it available for development of 4,500 houses and 300 acres of commercial uses. Until this point, the land had been managed for quail hunting by the owner and contained a 75-year-old longleaf pine stand. Approximately one-third of the plantation was in the Air Installation Compatible Use Zone high noise areas, making its immediate, permanent protection from incompatible development a priority for the air station, which was lacking funds for an easement purchase.

The Navy owned Marsh View, 82 acres of pristine wooded land in the midst of a densely populated Virginia Beach neighborhood that also lay in its nearby Naval Air Station Oceana's noise zone overlay. Although the Navy owned the land, it was separated from the main post and so was not relevant for training. As a result, by 2007 the land had evolved into a stewardship nightmare as a magnet for trespass and other illegal activity and a haven for the homeless who set up a camp. Despite these challenges the City of Virginia Beach wanted to acquire the land as a park, which would be compatible with the mission of this key naval installation—the sole East Coast Master Jet Base and home to seventeen strike fighter squadrons of F/A-18 Hornets and F/A-18 Super Hornets and all the East Coast strike-fighter units (excluding Marine Corps fighter attack squadrons).

### Solutions

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Special Assistant for BRAC for the Deputy Assistant Secretary of the Army-Installations and Housing Mark Jones realized that by using the 2869 authority, the Army could generate enough funds to purchase an easement on the site of the proposed wind farm, removing the threat of incompatible development forever. The plan called for conveying the surplus 12,000 acres of the old ammunition plant to the City of Parsons as an economic development conveyance, reserving 1,000 acres of natural area containing endangered, native tall grass prairie. This parcel was conveyed to the Kansas Department of Wildlife and Parks for \$1 million paid to the Kansas Land Trust. The land trust then used the money along with matching REPI funds to purchase an easement on 6,800 acres of land where the wind farm was planned, preserving a key section of the Fort Riley buffer and a critical agricultural area with 55 percent prime agricultural soils.

In the case of the Marine Corps, Community Plans and Liaison Officer (CPLO) Alice Howard determined that the installation's unneeded 127-acre Laurel Bay parcel, which was adjacent to the Clarendon property, was of interest to its owners. The Marines Corps then transferred the Laurel Bay land to the owner of the Clarendon plantation in exchange for Clarendon granting the Beaufort County Open Land Trust (BCOLT) a conservation easement on 259 acres within Clarendon Plantation. The value of the Laurel Bay land reduced the Marine Corps' cost share from \$5.6 million to \$1.8 million for phases 1 and 2 (520 acres). At the end of the four-year agreement with the landowner and BCOLT that closed in 2011, the Marine Corps combined the authorities to successfully protect 1,203 acres within high noise areas with an investment of \$6.48 million in REPI funds plus the land swap. According to Howard, "The land exchange was necessary to the success of getting the easement. The landowner wanted land and wanted to increase long-leaf pine habitat and a bigger buffer for his hunting activities."

Although the City of Virginia Beach wanted to acquire the Marsh View property, the Navy was unwilling to give away land it purchased only 20 years earlier for \$4.29 million. However, CPLO Ray Firenze and Naval Facilities Engineering Command Real Estate Contracting Officer Patty Hankins realized an opportunity to solve two problems with one cost-saving transaction. The Marsh View property could be conveyed, subject to a conservation easement, to the city in exchange for an easement on another 46 acres of city land in high noise zones. As a result of this deal, the Navy protected over 128 acres of key land in a high noise area and relieved itself of difficult stewardship responsibilities, while the residents of Virginia Beach acquired a new park with extensive recreational facilities planned.

## Challenges

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There were a number of challenges facing the Army in Kansas, but the primary obstacle was lack of funds needed to purchase an easement on the land with the proposed wind mill farm. In addition, city officials in Parsons were reluctant to release the 1,000 acres to benefit Fort Riley in a separate area of the state. According to Jones, persuading officials at Parsons was a difficult proposition because they felt Fort Riley gained too much through BRAC, while the Kansas Army Ammunition Plant was closed, which was difficult for an already depressed county to absorb. In the end, they realized that the deal was a win-win-win-win for the Parsons community, the state of Kansas, native tall grass prairie and Fort Riley soldiers.

According to Howard, the Marine Corps also faced a funding shortfall in trying to acquire an easement on the Clarendon property: "There just wasn't enough time to generate the funds needed." The availability of the Laurel Bay property to fund the easement acquisition was fortuitous; however, since 45 acres of the tract had to be released from a Public-Private Venture housing contract that added a layer of complexity to the project. Also, six acres contained pre-historic sites eligible for listing in the National Register of Historic Places, which meant eight Native American tribes had to sign off on the plan. "Once they learned that the land trust would be overseeing the historic sites and the conservation easement would protect the sites, tribal representatives were happy to sign off on the plan," noted Howard.

With the Marsh View property, it wasn't money that was the obstacle but red tape and deadlines. The city had been interested in acquiring the property as early as 1993, but serious negotiations were not initiated until March 2007. By May of that year, NAS Oceana made a formal request to headquarters for a property exchange, which was endorsed by the Commander, Navy Region Mid Atlantic (CNRMA) and sent to the Commander, Navy Installations Command (CNIC). A procedural flaw in CNIC caused the request to languish there for nine months with no action taken. According to Firenze, a good deal of patience and gentle prodding was necessary to get the application moving and approved by September 2008. This date was tricky because at that time the 2869 land exchange authority had a sunset provision that meant it would expire on October 1, 2008 (the 2869 authority has since been permanently authorized). With the proposed action officially announced that month in the Federal Register, negotiators were able to move forward and finalize the transaction on May 10, 2010 with the execution of a quitclaim deed and conservation easements on the two properties. "Everybody won here. The city and citizens get a park that otherwise would have been densely developed. The land is preserved in perpetuity so the encroachment

buffer intent remains intact, and the Navy secured development rights underneath flight tracks in the southern part of the city," said Firenze.

## Lessons Learned

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While each project has its own unique set of challenges, planners all agree that there are a number of key lessons learned that can benefit future projects:

- Asset conveyance must support the military mission and that point must be clear to all parties involved.
- Planners must work to obtain community buy-in for this type of project. According to Jones, you need to evaluate the situation and figure out how to get cooperation. It's never easy, but planners should look for ways to create a win-win scenario.
- Relationships nurtured over the long term are critical to the success of these types of projects. Participants must be able to trust one another.
- Be patient and persistent in following up with paperwork through the chain of command.

## Accomplishments

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### Fort Riley

- Conveyed surplus land no longer needed by the Army for \$1 million, further multiplied by REPI cost-share match to acquire an easement on 6,800 acres of critical property in the Fort Riley buffer area
- Elimination of planned wind farm that threatened radar and air operations training at Fort Riley

### MCAS Beaufort

- Permanent protection of 1,203 acres in the high noise area surrounding Marine Corps Air Station Beaufort
- Cost savings of \$3.8 million for the Marine Corps used to further leverage REPI investment

### NAS Oceana

- Elimination of onerous stewardship responsibilities on a tract within a high noise zone in a deal that would provide recreational benefits to surrounding community and maintain compatible development
- Additional 46 acres in a high noise area permanently protected for no additional cost