

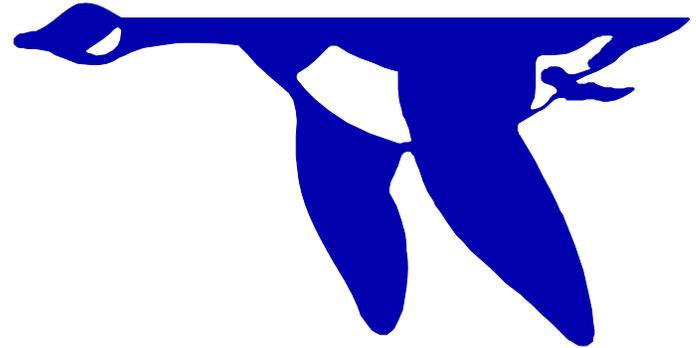
# Eric Alvarez

Secretary, Migratory Bird  
Conservation Commission  
Chief, Division of Realty

National Wildlife  
Refuge System

U.S. Fish and Wildlife Service  
Arlington, Virginia

U.S. DEPARTMENT OF THE INTERIOR  
U.S. Fish and Wildlife Service



**NATIONAL  
WILDLIFE  
REFUGE  
SYSTEM**

# The U.S. Fish and Wildlife Service's major responsibilities are for

- migratory birds
- endangered species
- certain marine mammals
- freshwater and anadromous\* fish

*\* migrating up rivers from the sea to breed in fresh water*



**Public Benefit  
Conveyances (PBCs)  
for  
Wildlife Conservation  
Purposes**

*Why?*



“Wild beasts and birds are by right not the property merely of the people who are alive today, but the property of unborn generations, whose belongings we have no right to squander.”

**President Theodore Roosevelt**

*(The Outlook, January 20, 1915)*



# 41 CFR PART 102-75 -- REAL PROPERTY DISPOSAL

## **Sec. 102-75.55 What are Executive agencies' responsibilities concerning public benefit conveyances?**

Based on a highest and best use analysis, Executive agencies, upon approval from GSA, may make surplus real property available to State and local governments and certain nonprofit institutions at up to 100 percent public benefit discount for public benefit purposes. Some examples of such purposes are education, health, park and recreation, the homeless, historic monuments, public airports, highways, correctional facilities, ports, and wildlife conservation.



# Transfer of Certain Real Property for Wildlife Conservation Purposes Act

of May 19, 1948

(Public Law 80-537) as amended (16 U.S.C. 667b-667d)

Under terms of this Act, GSA may transfer at no cost:

- parcels of Federally-owned real property
- suited for wildlife resources  
*(such as migratory birds, upland game and animals)*
- to the Department of the Interior (DOI)
- or to STATE AGENCIES via Public Benefit  
Conveyance (PBC) procedures
- for management and administration.



## **Sec. 667b. Transfer of certain real property for wildlife conservation purposes; reservation of rights**

Upon request, real property which is under the jurisdiction or control of a Federal agency and no longer required by such agency, (1) can be utilized for wildlife conservation purposes by the agency of the State exercising administration over the wildlife resources of the State wherein the real property lies or by the Secretary of the Interior; and (2) is valuable for use for any such purpose, and which, in the determination of the Administrator of General Services, is available for such use may, notwithstanding any other provisions of law, be transferred without reimbursement or transfer of funds (with or without improvements as determined by said Administrator) by the Federal agency having jurisdiction or control of the property to (a) such State agency if the management thereof for the conservation of wildlife relates to other than migratory birds, or (b) to the Secretary of the Interior if the real property has particular value in carrying out the national migratory bird management program. Any such transfer to other than the United States shall be subject to the reservation by the United States of all oil, gas, and mineral rights, and to the condition that the property shall continue to be used for wildlife conservation or other of the above-stated purposes and in the event it is no longer used for such purposes or in the event it is needed for national defense purposes title thereto shall revert to the United States.



## **Sec. 667c. Publication of designating order**

Whenever any real property is transferred pursuant to sections 667b to 667d of this title, the Administrator of General Services shall make and have published in the Federal Register an appropriate order, which may be revised from time to time in like manner, designating for which of the purposes specified in section 667b of this title the property so transferred shall be used.

## **Sec. 667d. Reports to Congress**

A statement of the acreage and value of such property as may have been transferred pursuant to sections 667b to 667d of this title during the preceding fiscal year shall be annually prepared by the Administrator of General Services.



- Approx. 134 wildlife conservation PBCs totaling almost 175,000 acres since program's inception in 1948.
- Mostly FUDS, ammo plants and BRACs
- And a few fish hatcheries, penitentiaries, areas around dams, radio transmitter sites, Coast Guard river ranges, a VA hospital, and a sanitarium.



- Approx. 134 wildlife conservation PBCs totaling almost 175,000 acres since program's inception in 1948.

# They become State-owned “Wildlife Management Areas”

in perpetuity.

*(Yes, there is a reversionary clause in the Deed)*

*(and yes, there have been reversions,  
but it is extremely rare)*



## Examples of eligible programs for wildlife conservation PBC transfer

**STATE REFUGE LANDS.** Inviolable sanctuaries for the unmolested feeding and breeding of wildlife, generally unavailable to the public.

**GAME MANAGEMENT UNITS.** Areas of value for the feeding, resting, and breeding purposes, part or all of which may be open to controlled public shooting during specified periods as a means of harvesting the surplus wildlife crop.

**NURSERIES AND GAME FARMS.** Limited areas within the State to be used for the production of food plants and certain game species for planting and release on other areas within the State.

**RESEARCH AREAS.** Units primarily used for research purposes in studying the life history, habits and management procedures for wildlife species in their native habitat.



- Approx. 134 wildlife conservation PBCs totaling almost 175,000 acres since program's inception in 1948.

48 were conveyed in the first 15 years  
(1949-1964)



- Approx. 134 wildlife conservation PBCs totaling almost 175,000 acres since program's inception in 1948.

- Size varies: The 7 largest are:

<u>Year</u>	<u>Acres</u>	<u>Formerly:</u>
1949	55,083	Fort Bragg (portion), NC
1949	32,000	Camp Gruber (portion), OK
1949	14,020	Tobyhanna Military Reservation (portion), PA
1962	9,268	Beale AFB (portion), CA
1949	8,683	DoD land in Tennessee
1949	6,714	Naval Air Gunnery School, OK
1949	4,205	Camp Joseph T. Robinson, AR

- *And the 8 smallest are less than an acre!*



Some of those 134 wildlife conservation PBCs are actually multiple PBC conveyances of sub-divided tracts from a single larger tract.

## EXAMPLE:

- What is now the State of Kansas's **Tuttle Creek Wildlife Reservation** was originally one tract of Army land that was split and conveyed as six different tracts (*90 acres, 60 acres, 19 acres, 11 acres, 9 acres, and 3 acres*) over a 15 year period (1988–2002) (*clean-up issues*).
- So what appears as six (of the 134) PBCs . . . is actually just one . . . there are others like this, too.



# Policy Forbids Acceptance of Contaminated Land

(with rare exceptions)

Department of the Interior

Departmental Manual -- 602 DM 2

Part 602: Land Acquisition, Exchange and Disposal

Chapter 2: Real Property Pre-Acquisition Environmental Site Assessments

- 4. Policy.** It is Departmental policy to minimize the potential liability of the Department and its bureaus by acquiring real property that is not contaminated unless directed by the Congress, court mandate, or as determined by the Secretary.



# Levels of Cleanliness

- Hazard identification
- Exposure and dose-response assessments
- Risk characterization

**Highest: Ecological Standards**

( What are the thresholds? . . . It depends . . . )

**Typical: Human Residential Standards**

**Lowest: Human Industrial Standards**



State of Kansas's **Tuttle Creek Wildlife Reservation** was originally one tract of Army land that was split and conveyed as six different tracts (*90 acres, 60 acres, 19 acres, 11 acres, 9 acres, and 3 acres*) over a 15 year period (1988-2002).

In all 6 of those conveyances,  
neither GSA nor the Grantee  
sought FWS input or endorsement.  
(it's optional)

*... which brings me to the next point ...*



# Wildlife Conservation PBCs were occurring in 1948

**Transfer of Certain Real Property for  
Wildlife Conservation Purposes Act**  
of May 19, 1948

**PRIOR TO** the 1949 PBC legislation

Sections 203 and 204 of the  
**Federal Property and Administrative Services Act of 1949**  
**(FPASA) [40 U.S.C. §§ 483, 484]**

govern the utilization of excess Federal property  
and the disposal of surplus Federal property.



The 1949 PBC legislation (**FPASA**) allows for surplus Federal property to be conveyed (at monetary discounts of up to 100 percent) to eligible units of **State and local** governments **and certain nonprofit institutions** for certain purposes if a public benefit would result from such use of the property.

But Wildlife Conservation PBCs are under the 1948 Act.

. . . so there are some slightly different rules that apply . . .



## Difference:

Wildlife Conservation PBC's  
can be conveyed to States ONLY.

The land cannot be conveyed  
to less-than-state agencies.

The state can agree with a non-state government entity  
to manage or maintain the land, but only the State agency  
can be the Grantee of the deed, in perpetuity.



## Difference:

Unlike other “PBC Sponsoring Agencies”:

- GSA supplies the application to the Applicant.
- Applicant submits it directly to GSA.
- GSA reviews and approves (not FWS).
- GSA deeds and performs compliance monitoring.

**FWS** (*when requested* by either the Applicant or GSA)  
will **REVIEW** the application  
and make comments or a recommendation.



FWS (when requested by either the Applicant or GSA) will REVIEW the application and make comments or a recommendation.

At their preference or option,  
either the Applicant or GSA  
may request FWS review and comment  
(or endorsement or recommendation).

If so, they will send that request  
directly to the FWS Regional Office  
that has oversight of the location  
being applied for in the PBC application.



# http://rc.gsa.gov/ResourceCenter/laws\_regs\_all/Updated\_Public\_Benefit\_Matrix.xls

http://rc.gsa.gov/ResourceCenter/laws\_regs\_all/Updated\_Public\_Benefit\_Matrix.xls - Microsoft Internet Explorer

File Edit View Insert Format Tools Data Go To Favorites Help

Address http://rc.gsa.gov/ResourceCenter/laws\_regs\_all/Updated\_Public\_Benefit\_Matrix.xls

	A	B	C	D	E	F	G	H	I
	PUBLIC BENEFIT PROGRAM	AUTHORITY	ELIGIBLE PUBLIC AGENCY	SPONSORING AGENT	DISCOUNT	USE RESTRICTION	TIME RESTRICTION	PROCEDURE OUTLINE	COMPLIANCE
1									
9	LAW ENFORCEMENT	40 USC 553 40 USC 484(p)	PUBLIC BODY	DEPARTMENT OF JUSTICE, ATTORNEY GENERAL	100	LAW ENFORCEMENT USE	PERPETUITY	DOJ SUPPLIES APPLICATION: GSA SUPPLIES DEED	ADMINISTRATOR OF THE GENERAL SERVICES
10	EMERGENCY MANAGEMENT RESPONSE, INCLUDING FIRE	40 USC 553 40 USC 484(p)	PUBLIC BODY		100	EMERGENCY MANAGEMENT RESPONSE, INCLUDING FIRE USE	PERPETUITY	FEMA SUPPLIES APPLICATION: GSA SUPPLIES DEED	ADMINISTRATOR OF THE GENERAL SERVICES
11	PORT FACILITY	40 USC 554 40 USC 484(q)	PUBLIC BODY	DEPARTMENT OF TRANSPORTATION, MARITIME ADMINISTRATION	100	DEVELOPMENT AND OPERATION OF A PORT	PERPETUITY	MARAD SUPPLIES APPLICATION & DEED: GSA SUPPLIES ASSIGNMENT LETTER TO MARAD	SECRETARY OF THE DEPARTMENT OF TRANSPORTATION
12	HOMELESS	42 U.S.C. 11411	STATE AND LOCAL AGENCIES AND NON-PROFIT ORGANIZATIONS PROVIDING SERVICES TO THE HOMELESS	DEPARTMENT OF HEALTH AND HUMAN SERVICES	100	HOMELESS-RELATED ONLY	30 YEARS	HHS SUPPLIES APPLICATION & DEED: GSA SUPPLIES ASSIGNMENT LETTER TO HHS	SECRETARY OF HEALTH AND HUMAN SERVICES
13	WILDLIFE CONSERVATION	16 U.S.C. 667b-d	STATE AGENCY ADMINISTERING WILDLIFE RESOURCES	DEPARTMENT OF THE INTERIOR, FISH AND WILDLIFE SERVICE	100	WILDLIFE CONSERVATION USE	PERPETUITY	GSA SUPPLIES APPLICATION & DEED	ADMINISTRATOR OF THE GENERAL SERVICES
14	PUBLIC AIRPORT	49 U.S.C. 47151	PUBLIC BODY	DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION	UP TO 100	DEVELOPMENT, IMPROVEMENT, OPERATION, OR MAINTENANCE OF A PUBLIC AIRPORT	PERPETUITY	GSA SUPPLIES APPLICATION & DEED	ADMINISTRATOR OF THE FEDERAL AVIATION ADMINISTRATION
15	HIGHWAY	23 U.S.C. 107 & 317	STATE WHEREIN THE PROPERTY IS SITUATED	DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION	100	HIGHWAY USE RELATED TO INTERSTATE HIGHWAY NETWORK	PERPETUITY	FHWA SUPPLIES APPLICATION & DEED: GSA SUPPLIES ASSIGNMENT LETTER TO FHWA	ADMINISTRATOR OF THE FEDERAL HIGHWAY ADMINISTRATION
16	WIDENING OF PUBLIC ROADS	40 USC 1304(b) 40 U.S.C. 345c	PUBLIC BODY	HEAD OF THE DISPOSAL AGENCY	0-100	HIGHWAY USE RELATED TO INTERSTATE HIGHWAY NETWORK	PERPETUITY	DISPOSAL AGENCY SUPPLIES APPLICATION & DEED	DISPOSAL AGENCY
	POWER TRANSMISSION	50 U.S.C. App.1622(d)	PUBLIC BODY	GSA	0	PUBLIC OR COOPERATIVE POWER	NONE	GSA SUPPLIES	ADMINISTRATOR OF THE GENERAL

Public Benefit Conveyance Matrix / Sheet2 / Sheet3

The Federal Property and Administrative Services Act of 1949 (FPASA) allows federal property to be conveyed at no less than fair market value to a public agency (such as a state or local governmental agency, including most LRAs) for a public purpose.

### Note about Negotiated Sales (these are not PBCs):

The term "negotiated sale" implies to many that the price of the transaction is negotiable, which is not the case.

Rather, the negotiated sale allows certain federal agencies to direct the sale of the property to a specific recipient, instead of attracting competitive bids.

Negotiated sales include some flexibility in their payment terms, but the transactions are reviewed by Congressional committees.

Finally, negotiated sales include an excess profits clause that entitles the federal government to recover all net profits realized from the resale of the property within a certain period (typically three years).



## **PBC categories covered by FPASA:**

Historic Monument

Education

Public Health

Public Park or Recreation

Non-Federal Correctional Facility

Port Facility

Homeless Assistance [Public Health]

Shrines, Memorials, or Religious Uses  
[only as part of another Public Benefit Conveyance]

## **PBC categories covered by other legislation:**

Power Transmission Lines

Housing for Displaced Persons

**Wildlife Conservation**

Homeless Assistance

Federal-Aid or Other Highways [to States]

Widening of Public Highways or Streets



Details of the **Act of May 19, 1948** are at this DoD website:



## **DoD Base Reuse Implementation Manual**

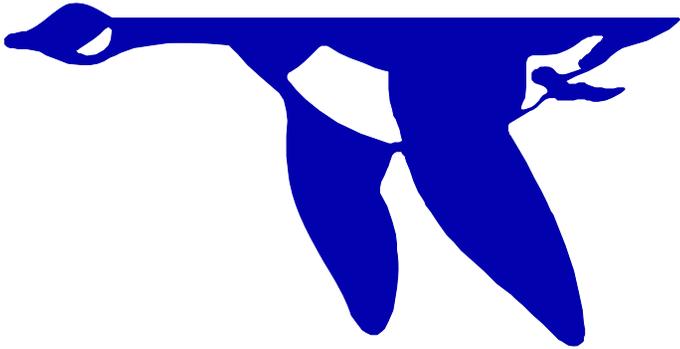
### **Appendix A: Laws and Regulations Affecting Base Reuse Implementation**

[http://www.acq.osd.mil/installation/  
reinvest/manual/appenda.html](http://www.acq.osd.mil/installation/reinvest/manual/appenda.html)



...any  
questions?

**U.S. DEPARTMENT OF THE INTERIOR**  
**U.S. Fish and Wildlife Service**



**NATIONAL  
WILDLIFE  
REFUGE  
SYSTEM**

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