

## Pledges forgotten, local governments repurpose federally funded parks

By Robert McClure InvestigateWest  
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Robert McClure/InvestigateWest On the shores of Lake Michigan, a private golf course and housing development, seen here in 2009, sits on public land once protected under the Land and Water Conservation Fund Act.

The government promised that the public would get parks where citizens could exercise and stay strong – shared open spaces that would be theirs forever, places that would inspire and invigorate.

But one park became a Las Vegas hotel. Another was almost turned into a beachfront McDonald's. Another is being converted into an upscale private resort in Oklahoma. And in New York City, the National Park Service allowed the New York Yankees, the nation's richest baseball franchise, to

build a parking garage atop public ball fields that needy kids at the local schools didn't see replaced for six years.

Forty-eight years after Congress and President John F. Kennedy promised parks to the public, the budget-battered National Park Service program that awarded \$3.9 billion-plus to state and local governments to buy or improve those parks has routinely allowed the land to be converted to other uses. Frequently, critics contend, these transactions violate federal law and regulations requiring that federally funded recreational acreage be replaced by lands of equal value.

### 'Desperate for funding'

Now, with tough times crimping cities' budgets, parks advocates say they are seeing increasing efforts to privatize parks funded under the Land and Water Conservation Fund Act.

“Cities are just desperate for funding to keep schools open and what-have-you, and that becomes a big threat,” said Huey Johnson, the former California natural resources secretary who founded the parks-advocacy group Defense of Place. “The place the cities turn is, ‘Well let's sell the parks.’ . . . This is really affecting the quality of people's lives.”

For three years, InvestigateWest tracked the Park Service program and several large park conversions where critics contend the Park Service has sanctioned parkland trades that shortchange taxpayers.

In Oklahoma, the state allowed one of its most popular parks -- Lake Texoma State Park -- to deteriorate badly before selling it in 2008 to a developer who is turning it into a luxurious private resort named Pointe Vista. The

development team includes one of the state's wealthiest businessmen. The state still has not replaced the park facilities.

In Michigan, stands of towering trees on a woody 22-acre patch of parkland were knocked down so three holes of a privately owned golf course could be built – extending right to the crest of sand dunes overlooking Lake Michigan. The town, Benton Harbor, the poorest in the state, is predominantly African-American. In exchange, residents are getting a system of hiking trails connecting smaller chunks of inland acreage. The replacement land was located around old industrial areas and contained lead, benzo()pyrene and about 20 other chemicals, according to a report prepared for the developer.

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Towering condos

In Sandusky, Ohio, residents nearly lost a waterfront park to a developer's hotel and towering condos. In exchange for a view of Sandusky Bay on Lake Erie, residents were going to get contaminated acreage inland that looks out on a T.G.I. Friday's. Only the developer's financing problems scotched the deal.

From New York's Yankee Stadium to San Francisco's Candlestick Park, neighborhood public parks improved with grants from the Land and Water Conservation Fund Act are being converted to private uses.



*Paul Joseph Brown / InvestigateWest Retiree Dennis Haile inspects a fishing pole in Lake Texoma State Park in Oklahoma.*

In every case it knows about, the National Park Service says it has wrung from those who take over parkland a promise to replace the open space with land of “at least equal fair market value and of reasonably equivalent usefulness and location.” But the agency relies on states to alert the agency to parkland being converted to different uses in the first place – a key limitation in the Park Service's oversight authority.

And critics say some such conversions go on under the radar without the parks ever being replaced. Even when the Park Service is notified, an imbalance of power between local advocates and wealthy private developers sometimes means uneven deals get struck. Opponents have sought to block a few such deals in court, with mixed success.

InvestigateWest found that the Park Service's internal controls are not adequate to fully police the program, and only in the last 12 years has the agency started to keep detailed information about park names and locations, a necessary step for monitoring compliance. These failures have led to what parks advocates contend is an increasing number of park closures and conversions, including cases where the replacement land is inferior to the original.

Moreover, the federal government relies on states to conduct inspections of LWCF-funded parks within five years of project completion and every five years thereafter, as Park Service rules require. However, some parks go without inspection for up to a decade, leaving large windows of time for opportunists to strike deals to appropriate parkland.

“The financial situations in the states are pretty critical across the board,” said Joel Lynch, chief of the Park Service’s State and Local Assistance Programs Division. “I’m sure some states have forgotten their responsibilities on inspecting the sites. We know that’s occurring. We don’t have a sense if it’s widespread or not.”

Sometimes local governments just don’t want to hear about the law’s requirement that privatized parkland must be replaced, said Sam Hall, who directed the program during the 1970s through the 1990s. When Las Vegas allowed a hotel to be built on federally funded parkland in the early 1990s, city officials wouldn’t agree to build a new park until the Park Service threatened to invoke provisions in federal law that allowed withholding of federal funding for highways and other purposes, Hall said.

Local governments have tried even more outrageous shenanigans. For example, American Samoa started making plans to allow a McDonald’s to be built in a park that offers the only public beach in the South Pacific U.S. territory, said David Siegenthaler of the Park Service, who polices park conversions in California and American Samoa.

When Siegenthaler, who’d gotten an anonymous tip about the proposed deal, called to check on it, Samoan officials repeatedly denied they planned to allow the McDonald’s, he said. Eventually, however, he discovered the governor had signed an agreement to allow the deal. Ultimately the deal was killed.

#### History of abuse

The National Park Service is ill equipped to monitor these parkland takeovers.

Hall, the former program director, said Congress originally provided enough funding to double-check on whether states were enforcing the requirements that privatized parkland be replaced.

“We found a lot of conversions. We found primarily local governments who would sell lands to a local developer for housing, or they put a fire station on the land or wanted to turn it into a municipal city dump,” he said.

In one case in Louisiana, the concessionaire running a state park campground beside a reservoir actually started selling off RV pads, Hall recalled. State inspectors who were coming around dutifully at least once every five years caught him.

“People had put in brick patios and all kinds of developments on their little sites,” Hall said. “It was a major conversion.”

But staff and funding cuts whittled away at the National Park Service’s ability to keep on top of the trend.

Government auditors long ago documented how overwhelmed federal workers were unable to keep up with the growing parkland acreage purchased or improved under the program, although their findings were little noticed by politicians or the public. The U.S. General Accounting Office reported in 1977 that the federal agency then responsible for the program, the Bureau of Outdoor Recreation, had not set up a reliable system for inspecting the parks to make sure they stayed available for outdoor recreation for the public. Auditors described one aspect of the inspection system, checks made on parks under development, as “hit or miss.” They also said staffing levels were too low to police the whole process.

#### Environmental woes imperil America's national parks

Fast-forward to 2008, and the results of a federal Department of Interior Inspector General report suggested that the problems have only snowballed.

“We believe (the Park Service) needs to strengthen its monitoring and oversight of program results,” inspectors wrote.

While the Park Service's rules call for a program audit of each state every three years, Park Service officials say those have not been done in many years for some states, and they are catching up on a backlog that in some cases meant states escaped such scrutiny for eight years or more. Bob Anderson, supervisor of the Park Service's Midwest region for state and local assistance, said while the Park Service previously assigned one person to most states, some workers now manage as many as eight states. And travel money is short.



*Paul Joseph Brown / InvestigateWest A banner announcing the Pointe Vista development at Lake Texoma State Park in Oklahoma is hung in July 2009.*

Michael D. Wilson, who ran the Park Service unit in charge of policing park conversions until 2010, said in recent years the agency has been finding out about increasing numbers of park conversions, although it's unclear whether more are occurring or the agency is just getting better at detecting them through modern methods such as Google alerts. The agency is pursuing more than 60 cases in Oregon, some dating back a decade, for example.

At least some states know they're falling down on the job. Auditors for the Florida Department of Environmental Protection reported in February of this year that the state had stopped doing inspections, instead relying on "limited self-inspections" by cities, noting: "This could lead to misuse of grant funds." The same system is being tried as a pilot program in other states including California, Park Service officials said.

Mark Gelardi is a Portland, Oregon, attorney who analyzed the park-conversion issue in a 2007 law review article at the University of Washington. He pointed out that cities are violating federal law when they convert a park without Park Service permission.

"The National Park Service should be keeping track of the investments that they've made with the public's money in these parks," Gelardi said. "They need to make sure that the recipients of these grants follow federal law."

Johnson, the California parks advocate, cautions that unless reforms are undertaken, more cash-strapped cities are likely to push for privatizing parkland without offering citizens equal recreational opportunities.

"It's just like watching bank accounts if you're a bank president," Johnson said. "If you walk out of the bank and don't watch... someone's going to walk away with some of the money."

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LuAnne Kozma, a Michigan parks activist, said the entire debate needs to be re-framed so that cities and states no longer look to the biggest patch of green on their map when government coffers come up short.

“We’re trying to get people to realize that there shouldn’t be a dollar value attached to a park any more,” she said. “Once a park becomes a park, it’s out of the market . . . It’s just priceless.”

Jason Alcorn contributed to this report, which was edited by Carol Smith. InvestigateWest is a donor-supported investigative newsroom in Seattle. Support its original, independent journalism for \$5 a month.

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