



United States Department of the Interior

NATIONAL PARK SERVICE
Pacific West Region
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Oakland, California 94607-4807



IN REPLY REFER TO:
L2623 (PWR-PR)

March 29, 2010

Barbara Baker, LWCF Supervisor
Office of Grants and Local Services
California Department of Parks and Recreation
PO Box 942896
Sacramento, CA 94296-0001

Re: Determination of LWCF §6(f)(3) protected area; LWCF Nos. 06-00711; 06-00871; 06-00903 -
Candlestick Point State Recreation Area

Dear Barbara:

Thank you for your letter of March 22, 2010 by which you have requested NPS concurrence in your determination that the §6(f)(3) protected area of Candlestick Point State Recreation Area amounts to the originally developed 35 acre southern portion of the park, plus the utility corridor. Through a process of file investigations, discussions with you, and consultation with our policy office and the Department of the Interior Solicitor's Office, we find that we concur in your conclusions as discussed below.

According to the Land and Water Conservation Fund Act (LWCF) §6(f)(3), "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." This provision of law has consistently been interpreted to mean that it is not just the LWCF assisted development that is protected; rather, it is the entire park area that must be kept in public outdoor recreation use in perpetuity regardless of the level of LWCF assistance received. It has further been maintained that the park area in question must comprise a viable recreation entity. In most cases, this means that an entire park is included within the §6(f)(3) protected boundary. Exceptions to this rule may be allowed when a case is explicitly made that a smaller area represents an independently managed and viable public recreation entity. This usually applies only to very large parks. Viewed from this perspective of law and policy, our first inclination has been to say that the entire State Recreation Area would fall under LWCF §6(f)(3) protection.

We are also bound by past LWCF Grant Agreements, which consist of the Agreement and General Provisions, the Manual in effect at the time of the grant, and the application materials including boundary maps. Because §6(f)(3) boundary maps were not always a required component of grant applications, and because many maps were produced which did not represent the intent of the law, we investigate the project documentation to determine what the viable park area was that received LWCF assistance. As you know, we find many old maps that simply delineate an acquisition parcel or actual LWCF assisted development, that do not represent a viable recreation entity, and therefore do not represent the entire §6(f)(3) protected area.

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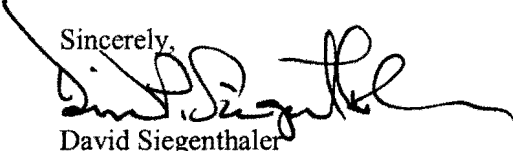
Three LWCF grants were made to the State of California in 1979 and 1980 for recreational development projects within Candlestick Point State Recreation Area. All three grant applications reference the larger 170-175 acre Recreation Area of which the southern portion is to be developed as the "immediate public use area." The State provided a Master Plan for the entire SRA as background material at the time of grant application. All three grant applications are explicit in their intention to develop the southern 35 acre portion of the park as a viable public recreation area, and the area is indicated on the project boundary maps executed at the time. The map for the utility project simply outlined the utility corridor, much of which extended through the northern portion of the park, although it is clear that the purpose was to provide utility service to the 35-acre area.

Since LWCF development assistance funding by law carries the protection provided by §6(f)(3) of the Act, the utility corridor is also within a protected boundary. Although the utility corridor boundary map does not conform to our current policy, we find that the intent to develop the southern 35 acres for public use dictated the delineation of boundaries in the Grant Agreement documentation. The northern portion of the State Recreation Area was not then considered to be in a condition that would support public recreation use.

We therefore concur in your determination that the LWCF §6(f)(3) protected area is the southern 35 acres plus the utility corridor. We understand that the City's statement of the utility corridor acreage was a rough estimate and that it needs to be more precisely determined by ground survey and measurement.

Please feel free to contact me if you have further questions about LWCF boundary issues at Candlestick State Recreation Area. Thank you for your diligence in investigating these issues and responding to our questions regarding your grant documentation.

Sincerely,



David Siegenthaler
LWCF Project Manager

cc: Wayne Strum, NPS, WASO
Michael Linde, NPS LWCF Program Lead, Seattle
Suzanne Boyce Carlson, DOI Field Solicitor's Office