

# **Conservation Partnering Opportunities for Military Departments, Public Agencies, and Private Conservators**

Richard A. Engel

Naval Facilities Engineering Command

April 9, 2003

# INTRODUCTION

- Military departments, public agencies, and private conservators share goals of controlling growth and preserving open space around military bases:
  - To help prevent urban sprawl and encroachment
  - To manage natural resources both on and off base
  - To avoid constraints on water use and other resources
  - To minimize offbase impacts of military operations
  - To ensure the viability of military installations

# PURPOSE OF THIS BRIEFING

- Describe Dept. of Navy and DOD conservation partnering initiatives
- Conservation conveyance legislation
  - Expediting conveyances of unneeded real property while protecting natural resources values
- Encroachment partnering legislation
  - Cost-shared acquisitions of buffer zones and offbase habitat to combat encroachment threats
- Potential partners and partnering opportunities

# BRAC ORIGINS OF NAVY CONSERVATION PARTNERING

- NAVFAC contracted with Marstel-Day, LLC (formerly BAHR Environmental Co) in 2001 to explore ways to convey BRAC parcels with conservation value to private conservators:
  - Including wetlands, critical habitat, open space
  - That public agencies couldn't afford to own or operate but wanted to preserve for natural resources benefits
  - That didn't qualify for other no-cost conveyances
- Conservators endorsed concept; suggested terms for conservation conveyance legislation

# THE CONSERVATORS: A GROWING NUMBER OF INTERESTED PARTIES

- Major nonprofit conservation groups
  - The Nature Conservancy, Trust for Public Land, Conservation Fund, Land Trust Alliance
- Federal, state, and local conservation agencies
- Corporate donors and charitable trusts
- Regional, multi-party conservation partnerships
- Special-focus organizations (ICMA, RRGF)

# CONSERVATION CONVEYANCE LEGISLATION

- Title 10 U.S. Code Sec. 2694a
- Authorizes military departments to convey surplus real property to state and local governments and to nonprofit conservation organizations at no cost:
  - To conserve natural resources in perpetuity
  - With right to convey to other conservation entities
- Conservators suggested expanding conservation partnering to include buffer zone projects around active bases – “encroachment partnering”

# THE ENCROACHMENT ISSUE

- Encroachment: Physical, natural, political, and social factors that impede the ability of military bases to train, operate, or perform their missions
  - Multi-faceted: Residential development, height, light, electro-magnetic interference, water restrictions, noise complaints, endangered species habitat restrictions
- Caused by “urbanization” in its broadest sense
  - Development, loss of habitat, competition for resources

# EXISTING SOLUTIONS' LIMITATIONS

- Zoning: Impermanent, subject to political and market forces; legal limits on reducing density
- Regulatory relief: Politically difficult; military bases often become “habitats of last resort” as offbase development drives species on base
- Fee purchase: Limited funds available; mixed reaction to DOD removing property from tax roles and restricting access to it



# ENCROACHMENT PARTNERING (EP) LEGISLATION

- Title 10 U.S. Code Sec. 2684a
- Authorizes military departments to enter into EP agreements with eligible entities to acquire land:
  - To limit development or property use incompatible with a military installation's mission
  - To preserve habitat *offbase* to relieve current or anticipated environmental restrictions that might interfere with military training *on base*
  - DOD can share real estate acquisition costs for projects that support these purposes (fee purchases, easements)

# COST-SHARING AND OWNERSHIP

- Conservator would negotiate and acquire the real estate interests for EP projects
  - With a “willing seller” (no threat of condemnation)
  - Either fee title or restrictive easement
  - Often at less than appraised value, based on owner’s tax advantages and retained rights (e.g., a life estate)
  - Conservator must transfer real estate interests to DOD upon request, but only the minimum interest required to protect DOD’s interests (e.g., restrictive easement)

# ELIGIBLE ENTITIES

- States and their political subdivisions
  - State wildlife agencies and open space programs
- Private entities whose primary purpose is to conserve, restore, or preserve land or natural resources
- Wide range of eligible entities offers many legal and financial means to control development

# CONCLUSION

- Conservation conveyance and encroachment partnering programs offer DOD opportunities to:
  - Dispose of unneeded military land while protecting its natural resources values in perpetuity
  - Partner with public agencies and private conservators to combat the impacts of urbanization around active bases
  - Leverage its resources to acquire real estate interests
  - Demonstrate DOD's ability to improve readiness and enhance its record of responsible land stewardship

# BACKUPS

## Introduction: a Diverse Land Conservation Community and its Relevance to Encroachment

- The national groups occupy distinct market niches in the land conservation business
- They have different philosophical and mission constraints, and may or may not be interested in a particular landscape or parcel relevant to encroachment
- They compete for members, foundation funding and land
- They market and finance themselves differently
- Local and regional land trusts vary greatly in capacity and sophistication
- There are sham organizations that masquerade as land trusts that should be avoided – it is important to know the community

## These are businesses that compete for market share

- They have differentiated themselves over a continuum of types of land they conserve and styles of operation
- There are limited resources to support their work and they compete for them
- They sell their reputations to members and foundation funders and the public agencies for which they do real estate work
- Not every landowner will work with every one of them
- They are not all interested in all the land in a given location, but are selective according to mission
- Conserving aggregations of land often requires them to work together, and the right combination of organizations can be critical to achieving successful landscape conservation

These are businesses with strong relationships to state and federal acquisition programs

- Most states and many federal agencies have conservation acquisition programs with the potential to significantly leverage military funds
- Florida, for example, spends \$300 million annually
- The national, and many local and regional, conservation organizations do a significant amount of work pre-acquiring land for these existing government programs
- They know the priorities of the existing programs and how they might complement encroachment needs
- The services will benefit financially by working with the entire community



## Conclusions for Encroachment

- Encroachment protection requires aggregating contiguous or closely related pieces of property
- When targeting such a limited market of willing sellers it is useful to have multiple partners. Landowners react differently to different conservation groups
- It is important to understand how these groups interrelate so that appropriate partnerships can be developed and competition minimized
- It is important to understand mission distinctions between conservation organizations
- Conservation organizations are not interchangeable, and the military's interests are best served by access to the broadest range of potential partners

# Summary

- Land conservation groups apply different selective criteria to the real estate they choose to conserve
- They are structured as nonprofit corporations with boards who normally must approve each transaction
- They, like the services compete with each other on occasion
- They are highly competitive and highly networked – information flows freely
- Local and regional land trusts vary greatly in capability
- These groups can access other public funds for land conservation, leveraging the military's
- Working with one conservation group may preclude working with others