



Land and Water Conservation Fund Grant Program in Alaska

Conversions

A Handbook for the LWCF Process



State of Alaska
Department of Natural Resources
Division of Parks and Outdoor Recreation
Grants and Administration Section

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Introduction

The Land and Water Conservation Fund (LWCF) grant program was established by Congress in 1965 to provide matching funds to States and Territories for the acquisition and development of land specifically for public outdoor recreation. The fund is administered through the Department of Interior, National Park Service. Areas acquired and/or developed in whole or in part with LWCF assistance are protected in perpetuity for public outdoor recreation.

The LWCF Act of 1965 (Public Law 88-578, as amended) is codified at 54 United States Code (USC) 2003, with accompanying regulations at 36 Code of Federal Regulations (CFR) 59. The original law has been re-codified, and Section 6(f)(3) of the original law is now Section 200305(f)(3). Although the term LWCF recreation area is now used instead of Section 6(f) property, the term Section 6(f) is common and likely to continue in use, as you may see in this handbook.

The LWCF Act mandates:

No property acquired or developed with assistance under this section shall, without the approval of the Secretary (Department of the Interior), be converted to other than public outdoor recreation uses. The Secretary shall approve such conversion only if he finds it to be in accord with the then existing statewide comprehensive outdoor recreation plan and only upon such conditions as he deems necessary to assure the substitution of other recreation properties of at least equal fair market value and of reasonably equivalent usefulness and location.

An LWCF-protected area is established through a grant agreement between the National Park Service and the State or local government, and various attachments to the agreement, such as the LWCF-boundary map--often referred to as the 6(f) map.

LWCF-assisted properties are designated for public outdoor recreation use forever. Conversions are a deliberate process by which this otherwise perpetual obligation or designation may be changed. A typical conversion may take several years to complete, and the project sponsor and/or initiator is responsible for all costs associated with the conversion of use. Costs may include acquisition of replacement property, meeting environmental requirements, performing appraisals, development of facilities, etc.

In this handbook, please note the following terminology:

Project Sponsor = LWCF grant recipient (e.g., City of Homer or State of Alaska)

Initiator = Entity instigating the proposed conversion activity, if not a project sponsor (e.g., Department of Transportation or private entity/individual)

Conversion of Use

In Alaska, grants for outdoor recreation projects are made available by the Land and Water Conservation Fund through the State of Alaska Department of Natural Resources: Division of Parks and Outdoor Recreation (DPOR). The intent of the LWCF grant program is to acquire or develop property and retain it as an outdoor recreation resource for public use in perpetuity.

However, the Act does allow LWCF-assisted property to be converted to a non-outdoor recreation use under certain conditions, provided that other property of equal fair market value, recreational utility, and location is substituted. The process is referred to as a conversion of use and requires the approval of DPOR and the National Park Service (NPS) prior to any change in the original project.

Conversion provisions of the LWCF Act apply to each area or facility for which LWCF assistance was obtained, regardless of the extent of participation of the program in the assisted area or facility, and consistent with the contractual agreement between NPS and the State or local government sponsor. The responsibilities cited therein are applicable to the area depicted or otherwise described on the LWCF boundary map and/or as described in other project documentation approved by the U.S. Department of the Interior. In many instances, this mutually agreed upon area exceeds that actually receiving LWCF assistance so as to assure the protection of a viable recreation unit.

Conversions generally occur in the following four situations:

1. Property interests are conveyed for non-public outdoor recreation uses.
2. Non-outdoor recreation uses (public and private) are made of the project area, or a portion thereof.
3. Non-eligible indoor recreation facilities are developed within the project area.
4. Public outdoor recreation use of property acquired or developed with LWCF assistance is terminated.

Examples of conversions are construction or expansion of thoroughfares, residential, industrial and commercial areas, water or sewer lines, community or senior centers, gymnasiums, transmission towers, electrical easements, and other uses infringing upon LWCF-protected properties.

Procedures

Preliminary Consultation: When construction disturbance on any LWCF-assisted park property is proposed, the Project Sponsor or Initiator (PSI) proposing such action (e.g.: Department of Transportation) must contact DPOR. Disturbance of the site shall not begin before this contact is made.

A written preliminary request should be sent to DPOR describing the proposed action. This should include maps showing the current 6(f) boundary overlaid on the proposed project area, a narrative describing changes proposed by the conversion, and the proposed substitution property.

DPOR will review the proposal and determine whether a conversion is warranted or appropriate for this activity. If the activity is not allowable, or does not qualify as an exception, DPOR staff will assess whether plans can be altered voluntarily by the PSI to preclude conversion. (If a non-allowable activity is discovered later in the park, DPOR may also determine whether it can be removed voluntarily from the park to avoid a conversion.)

When a Conversion of Use is Warranted:

1. **Determination:** DPOR shall inform the PSI of the conversion determination and, as a prerequisite to approval, will request completion of the Compliance & Stewardship (C&S) Form. The C&S is required by NPS, and shall contain, among other items, a written description of the proposed action and relevant environmental information.
2. **Alternatives:** If a viable alternative to the conversion is available, the PSI must use it, either voluntarily or due to contractual obligations as specified under the funding agreement, as well as under Section 200305(f)(3) of the LWCF Act.
3. **Replacement Property Requirements:** Agreed upon new property must be substituted for that being converted to other than public outdoor recreation use. It is important the replacement property not be acquired before NPS approval and execution of the grant amendment because property already publicly owned is generally not acceptable as substitution.

An acquisition of replacement property must also comply with the *Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970*.

To determine if a property is acceptable as replacement property, the PSI may submit a waiver valuation for the property in conformity with 49 C.F.R. 24.102(c)(2)(ii), or the following:

- a. Appraisals establishing the fair market value of the property to be converted, and the property proposed for substitution showing the proposed substitution to be at least equal in fair market value to that being converted. This appraisal must be conducted by a state-certified appraiser and meet *Uniform Appraisal Standards for Federal Land Acquisition*. (UASFLA is commonly termed the “Yellow Book” appraisal standards.)
 1. This also necessitates a review of appraisals prepared in accord with the current UASFLA for both the property proposed to be converted and that recommended for substitution. The PSI will be responsible for the cost of the appraisals and reviews.
 2. Property improvements will be excluded from all fair market value consideration for properties to be substituted. Exceptions are allowable only in those cases where property proposed for substitution contains improvements that directly enhance its outdoor recreation utility.
- b. Written narrative demonstrating the proposed replacement property is of reasonably equivalent usefulness and location as that being converted. Depending on the situation and discretion of DPOR, the replacement property need not provide identical recreation experiences or be located at the same site. However, it should be in a reasonably equivalent location and be administered by the same political jurisdiction as the converted property.

Equivalent usefulness and location will be determined by evaluating the types of recreation needs being fulfilled by the existing facilities, and the types of available outdoor recreation resources and opportunities.

The proposed substitution property must then be evaluated in a similar manner to determine if it will meet recreation needs that are at least like in magnitude and impact for the user community. This criterion is applicable in the consideration of all conversion requests with the exception of those where wetlands are proposed as replacement property.

In accordance with the LWCF Act as amended by *Section 303 of the Emergency Wetlands Resources Act of 1986*, areas which have been identified in the wetlands provisions of the *Statewide Comprehensive Outdoor Recreation Plan* shall be considered to be of reasonably equivalent usefulness with the property proposed for conversion regardless of the nature of the property proposed for conversion.

- c. A statement of assurance that the property proposed for substitution meets the eligibility requirements for LWCF-assisted acquisition. The replacement property must also constitute, or be part of, a viable recreation area.

Unless each of the following conditions is met, (See LWCF Manual, Chapter 3) land currently in public ownership, including that which is owned by another public agency, may not be used as replacement land for land acquired as part of an LWCF project:

1. The land was not originally acquired by the sponsor seller for recreation.
 2. The replacement land has not been previously dedicated or managed for recreational purposes while in public ownership.
 3. No Federal assistance was provided in the replacement land's original acquisition, unless the Federal assistance was provided under a program expressly authorized to match or supplement LWCF assistance.
 4. Where the project sponsor acquires replacement land from another public agency, the selling agency must be required, by law to receive payment for land so acquired. (See Chapter 3.A.9.)
- d. A statement that the project sponsor is aware of and complies with requirements of P.L. 91-646 *Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970*.
 - e. For LWCF-assisted areas that are partially rather than wholly converted, the impact of the converted portion on the remaining area shall be considered. If such a conversion is approved, the unconverted area must remain recreationally viable or be part of the conversion footprint.
 - f. All necessary coordination with other federal agencies has been satisfactorily accomplished including, for example, compliance with Section 4(f) of the Department of Transportation Act of 1966.
 - g. An environmental analysis for the property to be converted as well as the substitute property which will fulfill NEPA requirements. (See C&S form.)

Maps, Drawings, and Site Plans must be submitted to DPOR:

- a. Map of the existing property. Preferably 11x17" aerial overlay (such as from Google Earth) depicting land within the entire 6(f) boundary. Identify the area which is proposed for conversion with a call-out box, inset or other method. Include North arrow, legal boundaries, GPS pinpoint locations, street names, mileposts, rights-of-way, and easements. Depict/label structures on the ground. Include legend, date and signature block. Show total number of acres within current boundary, number of acres proposed for conversion, and provide LWCF grant number(s).
- b. Map of the proposed replacement property. Preferably 11x17" aerial overlay (such as from Google Earth). Include North arrow, legal boundaries, GPS pinpoint locations, street names, mileposts, rights-of-way, and easements. Depict/label structures on the ground. Include legend, date and signature block. Show total number of acres within the replacement parcel and provide LWCF grant number(s).
- c. Location maps depicting both the converted site and the replacement site. Each map must contain sufficient detail so site can be found by a person unfamiliar with the area. (Show street names, mileposts, etc.)
- d. Site development plan, if applicable, for the replacement property. Drawn to scale with layout of all intended development in relation to the boundaries discussed above. Include a narrative and development schedule.

DPOR will review and advise whether the plan will meet the LWCF recreation utility requirements. As necessary, DPOR will prepare a justification to request NPS approval.

Public Involvement: At least 30 days prior to submitting a request to convert an LWCF property, the PSI must conduct activities sufficient to inform the public and gather adequate public opinion on the action. A report on public outreach shall be provided to DPOR. A request for conversion will not advance to NPS without this report.

State Recommendation to NPS: The State Liaison Officer (SLO) will review the proposal. If the SLO supports the action, the proposal will be sent to NPS for final review and approval. If the SLO does not concur with the proposal, the PSE must submit a new proposal until the conversion is resolved.

Title Restriction: After NPS formally approves the conversion by issuing an amendment to the LWCF grant, the replacement property may be transferred to the project sponsor (DPOR or local governmental unit). Restrictions shall be placed on the title of this new LWCF-protected property. Sponsor shall record relevant language on the property title, such as:

This property received financial assistance from Land and Water Conservation Fund (LWCF) grant number XXXXXXXX through the National Park Service and the State of Alaska Division of Parks and Outdoor Recreation. The property is held in perpetuity for public outdoor recreation under the LWCF Act of 1965.

LWCF Conversion Checklist

Project Name:

Sponsor:

Dates

For Converted Site

DPOR Received
from Sponsor or
Initiator

DPOR Reviewed &
Sent to NPS

_____ Appraisal	_____	_____
_____ Appraisal review	_____	_____
_____ SHPO Section 106 determination	_____	_____
_____ C&S Form & NEPA/SEPA determination	_____	_____
_____ General location map	_____	_____
_____ Current LWCF map with conversion call-out box or highlight*	_____	_____
_____ New LWCF boundary map signed and dated *	_____	_____
_____ Report on Public Process	_____	_____

For Replacement Site(s)

_____ Appraisal	_____	_____
_____ Appraisal review	_____	_____
_____ SHPO Section 106 determination	_____	_____
_____ C&S Form & NEPA/SEPA determination	_____	_____
_____ General location map	_____	_____
_____ Proposed LWCF boundary map signed and dated *	_____	_____
_____ Proposed development schedule, if applicable	_____	_____

Additional State Submittals to NPS

_____ Cover letter/SLO Recommendation: address 675.93b	_____	_____
_____ Appraisal summary (may be part of cover letter)	_____	_____
_____ Amendment request completed in GrantSolutions	_____	_____
_____ Intergovernmental review (SHPO, US Army Corps of Engineers, etc)	_____	_____
_____ DNF for each site (NPS 10-903)	_____	_____
_____ SF 424	_____	_____

State Retains

_____ Full appraisal for each site
_____ Control & tenure documents
_____ Permits

* Maps: 11x17" aerial overlay depicting land within entire LWCF boundary. Include North arrow, legal boundaries, GPS pinpoint corner locations, street names, mileposts, ROWs, easements, legend, date & signature block. Label structures on ground. Show number of acres within LWCF boundary, and number of acres proposed for converted areas. Include LWCF grant number(s).