

# Section 6(f)(3) Conversion of Land and Water Conservation Fund (LWCF) Property

Project Development and Environmental Analysis Unit		Approved: May 8, 2015 Version: 1.0
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## **Purpose**

The purpose of this procedure is to guide the Project Planning Engineer (PPE) in completing the Section 6(f)(3) conversion documentation required when a transportation project requires the use of property that was acquired or developed with federal Land and Water Conservation Fund (LWCF) grants.

## **NOTE**

Typically, Section 6(f) properties are recreational lands that are also regulated under Section 4(f) of the Department of Transportation Act of 1966, Section 4(f) and updated by FHWA in 2012 in their “Section 4(f) Policy Paper. Therefore, if both regulations are applicable, Section 4(f) evaluation should be processed before the Section 6(f)(3) evaluation.

There are two reasons for this: 1) The prerequisites for LWCF conversions as established in 36 CFR part 59.3(b) maintains that “all other relevant agency coordination must be completed, including compliance with Section 4(f), and 2) The evaluation of feasible and prudent alternatives to the use of Section 4(f) property would satisfy the Section 6(f) requirement that “all practical alternatives....(must be) evaluated.” Unlike Section 4(f), there is no *de minimis* provision or programmatic evaluations for Section 6(f).

## **Background**

Section 6 of the LWCF Act of 1965 established a grant program for States and local governments to acquire and develop public outdoor recreation sites and facilities. Section 6(f)(3) of the LWCF Act requires these properties to be maintained for public outdoor recreation use in perpetuity unless the US Department of the Interior (DOI)/ National Park Service (NPS) approves a replacement with land of at least equal value, location, and usefulness.

A Section 6(f)(3) conversion occurs when an LWCF-assisted property is to be conveyed for a non-public outdoor recreation use such as highway right of way or permanent easement. If it becomes necessary for a transportation project to convert LWCF-assisted property, NCDOT must obtain NPS approval before acquiring the property. The LWCF Project Sponsor is the agency with jurisdiction over the park and is responsible for submitting an LWCF conversion

request. The State Liaison Officer (SLO) from the NC Department of Environment and Natural Resources (DENR) Division of Parks and Recreation (DPR) is responsible for complying with and enforcing the Section 6(f)(3) provisions. The SLO and the DPR Grants Program Manager review the conversion request to ensure it is complete and submits the request to the NPS for approval.

The LWCF State Assistance Program Manual provides guidance for LWCF conversions (refer to <http://www.nps.gov/ncrc/programs/lwcf/manual/lwcf.pdf>). Chapter 8-3 through 8-11 of the manual describes the conditions and steps required for preparing a formal amendment to request an LWCF conversion.

### **Responsibility**

Since a NCDOT proposal is causing the LWCF conversion, it is the responsibility of the PPE to prepare the documentation for a Section 6(f)(3) conversion and to submit that documentation to the LWCF Project Sponsor (local government or state agency) to initiate the review and approval process.

### **Procedures**

The following steps outline the procedures. Note: Section 6(f) properties are not limited to parks, as shown below. Other resources could include state forests, Wildlife Resource Commission properties, and NC Zoological Park.

Step 1	<p>Identify public parks within the project study area during the initial scoping phase of the project and when study area boundaries change.</p> <ul style="list-style-type: none"> <li>A. Search GIS databases and information published by the local government’s parks and recreation department.</li> <li>B. Review the NPS detailed listing of parks with LWCF grants and determine if any of those properties are located within the study area. Refer to list by county at <a href="http://waso-lwcf.ncrc.nps.gov/public/index.cfm">http://waso-lwcf.ncrc.nps.gov/public/index.cfm</a>. Park names may have changed over time, so it is advisable to confirm the locations of the LWCF listed parks.</li> <li>C. If a park is found within the project study area, contact the local Parks and Recreation Department (i.e. local government) to determine whether the park received LWCF assistance.</li> </ul>
Step 2	<p>If the project has the potential to impact an identified LWCF property, perform the following steps:</p> <ul style="list-style-type: none"> <li>A. Notify the local LWCF Project Sponsor and the DPR Grants Program Manager (refer to <a href="http://www.ncparks.gov/About/grants/lwcf_contact.php">http://www.ncparks.gov/About/grants/lwcf_contact.php</a> for DPR contact information).</li> <li>B. Request a copy of the park’s LWCF Section 6(f) boundary survey map from the DPR Grants Program Manager.</li> </ul>
Step 3	<p>Consider and document alternatives to avoid the LWCF property. Avoiding an LWCF property saves substantial time, expense, and regulatory compliance.</p>
Step 4	<p>If the alternatives analysis concludes an LWCF property cannot be avoided, perform the following steps:</p> <ul style="list-style-type: none"> <li>A. Review the guidance for LWCF conversions found in Chapter 8-3 through 8-11 of the LWCF State Assistance Program Manual.</li> <li>B. Request a right of way cost estimate to determine the fair market value of</li> </ul>

	<p>the portion of LWCF property to be converted to right of way or permanent easement (refer to the PDEA procedure entitled “ROW, Utility, and Rail Cost Estimates and Relocation Report Requests.”)</p> <p>C. Coordinate with the LWCF Project Sponsor and the DPR Grants Program Manager to discuss the proposed conversion area and one or more replacement sites of at least equal value, location, and usefulness.</p> <ol style="list-style-type: none"> <li>1) A replacement site is not required to be in the same area as the converted property, but it should be within the same jurisdiction of the LWCF project sponsor, viable to serve the outdoor recreation needs of the same community, and be part of a viable park or recreation area.</li> <li>2) When a partial acquisition of property is proposed as replacement, the dimensions and area required from the larger parcel may not be determined until the property value and environmental analysis results are complete.</li> </ol>
Step 5	<p>For the replacement site(s) to be studied in detail, prepare requests for the following information:</p> <ol style="list-style-type: none"> <li>A. Submit an Environmental Input Request (EIR) from the PDEA Human Environmental Section and Natural Environment Section to evaluate the areas proposed for conversion and replacement (follow the most recent PDEA Unit protocols).</li> <li>B. Request GeoEnvironmental input from the Geotechnical Unit regarding potential hazardous materials that may be encountered (refer to the PDEA procedure entitled “Requesting Geotechnical and GeoEnvironmental Input”).</li> <li>C. Request input from the Right of Way Unit on the estimated property values to help determine the size of the replacement site needed (to be of at least equal value as the conversion site).</li> </ol>
Step 6	<p>When the environmental data and cost estimates are complete, perform the following steps:</p> <ol style="list-style-type: none"> <li>A. Summarize and forward the results to the LWCF Project Sponsor and the DPR Grants Program Manager and reach agreement on the selected replacement site. When only a partial acquisition is required, reach agreement on the specific dimensions and area to be acquired from a larger parcel.</li> <li>B. Request a property appraisal of the selected site from the Right of Way Unit. It should address the appraisal standards described in the LWCF Manual (see Chapter 4-19). A sample appraisal is included in Attachment 1 (this will take place once final ROW plans are available).</li> <li>C. Request assistance from the Roadway Design Unit or Location and Surveys Unit to produce a revised 6(f) map of the original and proposed LWCF boundaries. Depending on the size of the park and proximity to the replacement site, multiple maps may be required (refer to sample maps in the Attachment 2).</li> </ol>
Step 7	<p>Prepare an LWCF Proposal Description and Environmental Screening Form (PD/ESF). A copy of the form is included in Attachment 3 and is available from the NPS at <a href="http://www.nps.gov/ncrc/programs/lwcf/pub.htm">http://www.nps.gov/ncrc/programs/lwcf/pub.htm</a>. The PD/ESF is the amendment for LWCF conversion and identifies the extent of environmental impacts and the level of documentation required for NEPA compliance. The form outlines seven steps to be addressed. The following sections of the PD/ESF form</p>

- that pertain to 6(f) conversion proposals should be completed.
- A. Page 1 (Cover Page) - Complete the project information.
  - B. Page 2 (Step 1) – Select 6(f) conversion proposal as the type of LWCF Proposal.
  - C. Page 5 (Step 3B) – Describe the 6(f) Conversion Proposal using separate sheets for narrative descriptions and explanations, addressing each item according to its step. The narrative descriptions and explanations may be included in an appendix and should address the following items:
    - 1) A letter of transmittal from the SLO recommending the proposal **(NCDENR will handle)**.
    - 2) Describe the need to convert the parkland (include alternatives, evaluation, and reasons not pursued).
    - 3) Describe how conversion meets the Statewide Comprehensive Outdoor Recreation Plan (SCORP). [North Carolina’s SCORP is available at <http://www.ncparks.gov/About/plans/scorp/main.php>.] **(NCDENR will handle)**
    - 4) Complete the State Appraisal Review certification for both the converted and replacement parcels.
    - 5) For the parkland proposed for conversion:
      - a) Identify the location and name of park proposed for conversion.
      - b) Describe the area proposed for the conversion, acreage converted, and acreage remaining.
      - c) Describe the community and population served by the park.
      - d) Produce a revised 6(f) map indicating the portion being converted and the portion remaining.
    - 6) For the proposed replacement site:
      - a) Produce location map with roadways, waterways, converted site, and replacement site.
      - b) Describe the site’s characteristics, attributes, types of resources, and features.
      - c) Identify the replacement site owner and its recent history of use/function up to the present.
      - d) Describe equivalent usefulness, recreation needs met, populations served, and resources.
      - e) Identify who will own and manage the new replacement park.
      - f) Identify the name of the new replacement park and whether it is added to an existing park.
      - g) Provide a timeframe for completing the new recreation area and opening it to the public.
      - h) Produce new Section 6(f) map for the replacement park.
    - 7) Conduct NEPA environmental review, including Section 106, for the converted and replacement sites.
  - D. Page 8 (Step 5) - Describe any prior environmental reviews still viable for this proposal or related efforts.
    - 1) Date and purpose of environmental reviews and for whom they were conducted (LWCF project sponsor should provide to NCDOT)
    - 2) Description of the proposed action and alternatives.
    - 3) Who was involved in identifying resource impacts and developing the proposal.
    - 4) Environmental resources analyzed and impacts for actions and alternatives.

	<ul style="list-style-type: none"> <li>5) Mitigation measures to be part of the proposed action.</li> <li>6) Intergovernmental review process and comments received.</li> <li>7) Public comment periods and agency response to comments.</li> <li>8) Formal decision and reasons regarding degree of impacts to the human environment.</li> <li>9) Describe whether the LWCF and other analyzed federal actions were included in previous reviews and describe impacts.</li> </ul> <p>E. Pages 9-11 (Step 6) – Complete the Environmental Screening Form (ESF) for the conversion site and the replacement site (one ESF for each).</p> <ul style="list-style-type: none"> <li>1) In Part A (Environmental Resources), estimate the level of impact (none, negligible, minor, exceed minor) for each resource and briefly explain the assessment.</li> <li>2) In Part B (Mandatory Criteria), indicate whether the project may affect any of the criteria. If any answers are “yes” or “to be determined,” additional explanations are required, and an Environmental Assessment (EA) or Environmental Impact Statement (EIS) must be prepared.</li> <li>3) List the environmental reviewers who provided input on the ESF.</li> </ul> <p>F. Page 12 (Step 7) – Complete the appropriate information for the recommended NEPA pathway. Identify whether the proposal qualifies for a Categorical Exclusion (CE), EA, or EIS. NCDENR will complete the property appraisal section and fill in the property address, property value, and effective date of value.</p>
Step 8	<p>In Appendices, include the following information:</p> <ul style="list-style-type: none"> <li>A. Figures (Location map, Park map, Proposed transportation improvements, and other supporting figures)</li> <li>B. Revised 6(f) map(s)</li> <li>C. Narrative Description and Explanations (see sample in Attachment 4)</li> <li>D. Property Appraisals for the Conversion Site and Replacement Site. Appraisals must be prepared using the “Uniform Appraisal Standards for Federal Land Acquisition).</li> <li>E. Environmental Studies (Natural Resources Technical Report, Concurrence from the Historic Preservation Office (HPO), hazardous materials input, community studies data, and other related information)</li> <li>F. Correspondence with the LWCF Project Sponsor and DPR Grants Program Manager</li> <li>G. Available Environmental Documents for proposed transportation improvements (CE, EA, EIS, etc.)</li> </ul>
Step 9	<p>The PD/ESF document should be reviewed by the appropriate PDEA Group Leader, appropriate NCDOT Units or Branches, and FHWA. When completed, the PD/ESF documents should be submitted for review as follows:</p> <ul style="list-style-type: none"> <li>A. Three copies (printed and in digital format) to the LWCF Project Sponsor for review and comment.</li> <li>B. Four final copies (printed and in digital format) to the LWCF Project Sponsor to sign and transmit to NCDENR Parks and Recreation for review and approval (see sample letter of NPS approval of the Section 6(f) conversion in Attachment 5).</li> </ul>

