

Environmental Analysis

Section 6(f)

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APPLICABILITY

Section 6(f) of the Land and Water Conservation Fund (LWCF) Act of 1965 applies to all GDOT projects, regardless of funding source, that cause impacts to any public park, recreation area, or facility acquired or developed with LWCF federal funding.

REGULATIONS, GUIDANCE AND POLICY

Section 6(f) of the LWCF Act establishes a grant program for states and local governments to acquire and develop public outdoor recreation sites and facilities. Part 3 of Section 6(f), or Section 6(f)(3), protects property acquired or developed with assistance under LWCF (Section 6(f) property) from conversion to another use. It states that no Section 6(f) property shall be converted to any use other than public outdoor recreation unless the US Department of Interior (DOI)/National Park Service (NPS) approves a replacement land of at least equal value, location, and usefulness.

The NPS developed a manual to provide administrative procedures and requirements associated with the use of LWCF funds. It sets forth how the requirements apply to transportation projects, including where GDOT actions might cause a Section 6(f) land conversion or temporary non-conforming use.

Land and Water Conservation
Fund State Assistance
Program Federal Financial
Assistance Manual

National Park Service, U.S.
Department of the Interior

One important consideration is that Section 6(f) protected properties are recreational lands, parks, and facilities that are also protected under Section 4(f) of the US Department of Transportation Act by the Federal Highway Administration (FHWA). When federal funds are used for a GDOT project that impacts a recreational land, park, or facility that is protected by Section 6(f), both Section 6(f) and Section 4(f) processes will need to be satisfied.

Additionally, if both regulations are applicable, the Section 4(f) evaluation should be completed *before* the Section 6(f) evaluation. The prerequisites for Section 6(f) property conversions are established in 36 CFR part 59.3(b). It states that “all other relevant agency coordination must be completed, including compliance with Section 4(f)”. There are also no *de minimis* provisions or programmatic evaluations for Section 6(f), as there are with Section 4(f).

As noted before, when a GDOT project is state funded, Section 6(f) conversion approvals will still be required, as Section 6(f) applies regardless of funding source. A conversion is considered when the use changes from recreation to another use.

A conversion of LWCF lands will require GDOT (or local transportation project sponsor) to supply a replacement parcel of land that is equivalent in value, location, and usefulness. Prior to the sponsor or GDOT acquiring the property, GDOT must receive approval from Georgia Department of Natural Resources (GDNR) and NPS that this replacement property will be suitable for Section 6(f).

Project Description and Environmental Screening Form

NPS documents the conversion as a NEPA action through the Project Description and Environmental Screening Form (PD/ESF). This is NPS’s NEPA action and should not be confused with FHWA’s NEPA action, which concludes with the approval of a document prepared by GDOT. The PD/ESF serves as part of the federal administrative record required by the NPS NEPA decision. The PD/ESF supports NPS’ NEPA decision and must be completed before the final action can be taken by NPS. The PD/ESF also documents the Categorical Exclusion (CE) recommendation or the need for further review with an Environmental Assessment (EA) or Environmental Impact Statement (EIS).

IDENTIFYING SECTION 6(F) PROTECTED PROPERTIES

Section 6(f) protected properties are public recreation areas that have received LWCF Section 6(f) funding. To identify these properties, the Environmental Analyst must determine if any public recreation areas (local, state, or federal) are located in the project study area. An on-site review of the project corridor or a GIS search of the corridor is required to identify these areas. If public recreation areas are found within the study area, the Environmental Analyst must determine if they received LWCF Section 6(f) funds. At present, the best way to determine this is through a GIS website managed by the Wilderness Society, which draws its data directly from federal sources:

Mapping the Land and Water Conservation Fund

The Wilderness Society

Be aware of the type of funding used by the recreation area:

- > A = Acquisition;
- > D = New Development;
- > R = Renovation Development;
- > P = Planning;
- > C = Combination;
- > M = Administration; and
- > S = Stewardship

The type of funding used by the recreation facility may determine if the property is considered protected under Section 6(f). If the Environmental Analyst identifies a recreation area in the project corridor that is likely to be impacted by the project footprint, then coordination with GDNR for a Section 6(f) conversion evaluation will be required. In general, the type of funding relevant to Section 6(f) conversions are Acquisition, New Development, Renovation Development, and Combination. Thus, parks and recreation areas that use LWCF only for Administrative or Stewardship activities generally are not subject to Section 6(f).

RESPONSIBLE PARTIES

Conducting a Section 6(f) conversion evaluation is a fluid process. The recommended approach involves the parties outlined below, depending on their availability, interest, and support. There may be deviations from this approach depending on the individuals involved.

Land and Water Conservation Fund Project Sponsor

The agency with jurisdiction over the park that benefited from LWCF funds (e.g., a city's recreation department) is responsible for submitting the LWCF conversion request to GDNR, the agency that administers LWCF for the state.

Georgia Department of Natural Resources

As the agency responsible for administering LWCF in the State of Georgia, GDNR works with the LWCF project sponsor during the conversion process. Once the change is accepted, GDNR formally submits the local jurisdiction request (and revised Section 6(f) boundary map) to NPS with the appropriate forms and amendments to the existing LWCF agreement.

State Liaison Officer

An official within GDNR, the State Liaison Officer (SLO) is responsible for complying with and enforcing Section 6(f) provisions. The SLO will review the conversion request to ensure it is complete and will submit the request to NPS for approval. Be aware that the SLO serves as the only contact with NPS.

National Park Service

The National Park Service (NPS) is solely responsible for approving all conversions. The approval is the signed amendment to the LWCF agreement (including the revised Section 6(f) boundary map).

GDOT Office of Environmental Services

The GDOT Office of Environmental Services (OES) identifies impacts to Section 6(f) protected parks and recreation areas from GDOT transportation projects. It then assesses the size of potential impacts and coordinates with the LWCF Project Sponsor and GDNR. OES ensures that all pertinent requirements are met, including examining all avoidance alternatives to the Section 6(f) protected land. In collaboration with GDNR, OES prepares a conversion request proposal for GDNR and NPS approval (on behalf of the LWCF Project Sponsor). For all projects, including those for which consultants are responsible for the environmental work, OES is the primary facilitator in the conversion process. It works with the local jurisdiction to identify suitable replacement parcels.

GDOT Office of Right of Way

The GDOT Office of Right of Way determines the conversion footprint, provides value estimates, and provides inputs for replacement property proposals for the project team, in particular the project sponsor. The Office of Right of Way conducts the standard appraisals of both the conversion and replacement parcels and manages the acquisition and transfer process (after NPS approval of the conversion). These appraisals follow the Uniform Appraisal Standards for Federal Land Acquisitions in conjunction with the Uniform Standards of Professional Appraisal Practice.

TYPES OF CONVERSIONS

Conversions involve changing properties with parks, recreation areas, or facilities that are protected under Section 6(f) into transportation right-of-way (ROW)/permanent easement or through temporary non-conforming uses, such as temporary easement for staging and other construction-related activities. Permanent ROW impacts and temporary easements lasting longer than 180 days to Section 6(f) protected properties are conversions. This change of land from public outdoor recreation use to transportation use is considered a conversion.

Small Conversions

Small conversions require small portions of the Section 6(f) protected property. They must amount to no more than 10 percent of the Section 6(f) protected area, or five acres, whichever is less.

OES should consult with GDNR (and with NPS through the SLO) to ensure that a conversion can be processed under a small conversion proposal. In addition to the area requirements, small conversions also require:

- > Minor or no environmental impacts would occur on resources being removed from Section 6(f) protection, on the remaining Section 6(f) area, and on the new replacement parcel;
- > The proposed conversion is not controversial; and
- > The replacement parcel is contiguous to the original Section 6(f) area.

Meeting all requirements for a small conversion may be difficult. A small conversion proposal should be discussed in detail with the SLO. Even if it appears that the project impact would constitute a small conversion, the SLO will need documentation submitted to them to review and determine a small conversion. Record keeping is required for this part of the decision-making process as well.

In cases of a small conversion, the PD/ESF itself shall serve as a CE for NPS approval, and no additional NEPA document for NPS is necessary. Please note that if GDOT is using

federal funds, a NEPA document for FHWA will be required. Qualifying characteristics of a small conversion are found in the LWCF Manual.

Partial Conversions

If the requirements of a small conversion cannot be met, a partial conversion application will be prepared. Depending on the outcome of the application, a partial conversion will require the preparation and submittal of an EA for the conversion to satisfy the NPS NEPA requirements. This EA is prepared for NPS's review and approval and is a separate effort from the environmental document prepared for FHWA, if required. Environmental review is required of both the land to be converted and the replacement parcel. For partial conversions, the replacement parcel is not required to be contiguous to the original Section 6(f) property. The replacement parcel must be of comparable fair market value and, if discontinuous, must be large enough to provide stand-alone recreational value.

The contiguousness of a replacement parcel may be a critical decision point. Discussions should occur early and should be well documented. The LWCF Project Sponsor and the current owner of the future replacement parcel should discuss the location, shape, and type of replacement parcel. The finalization of an acceptable replacement parcel should be described in the PD/ESF, which will indicate the need for an EA.

Temporary Non-conforming Uses

These uses include temporary easement for staging and other construction-related activities. All requests for temporary uses should be submitted to and reviewed by the SLO. Temporary uses must be less than 6 months in duration, or they are not considered to be temporary and will result in a conversion of use. A temporary use will not result in a significant impact on public outdoor recreation use and will not result in permanent damage to the park. A temporary use requires:

- > GDNR recommendation;
- > PD/ESF providing a complete description of the proposed temporary use, including:
 - Start and completion dates,
 - Identification of the site affected,
 - Analysis of the alternatives considered and a description of any mitigation actions that may be necessary; and
- > An acknowledgement by the SLO that a full conversion will result if the temporary use has not ceased after the maximum six-month period.

The details and requirements of the temporary use may need to be described in a Special Provision in the construction contract and on the Environmental Commitments Table and shown on the Environmental Resource Impact Table in the plans.

NPS COORDINATION PROCEDURES

There are several primary documents that comprise a typical conversion request package that will be prepared collaboratively by the appropriate personnel from GDOT (OES, OPD, and ROW), the local jurisdiction, and GDNR.

The LWCF Project Sponsor first transmits to the SLO a notice of intent to convert an LWCF property. This is the official action that allows for the Project Sponsor to start discussions with the SLO. This transmittal needs to be on the LWCF Project Sponsor's signed letterhead. Officially all coordination with GDNR/SLO is through the LWCF Project Sponsor, even if the GDOT practitioner is serving as the author of documents or facilitator of materials. The SLO transmits the following to NPS:

1. The PD/ESF and attachments;
2. Appropriate NEPA Document and clearances (EA or CE [in the form of PD/ESF] for small conversions);
3. The vicinity map, and the following 3 official boundary maps:
 - a. Conversion footprint map,
 - b. Survey map of the remaining Section 6(f) protected property with all exclusions, and
 - c. The replacement property map.
4. Property appraisals of both the converted and replacement properties by both GDOT and an outside/independent appraiser. GDNR will approve the results of the outside/independent appraisal. The SLO can provide further information on getting this independent appraisal reviewed.

STEP BY STEP

Outlined below are the steps that the Environmental Analyst must take to comply with Section 6(f) requirements. Be aware the Section 6(f) requirements may require several years to complete. Also, these steps can occur at the same time, but they interact with each other and there may be delays on one effort due to something else.

Step 1 - Identify public recreation areas that have received LWCF Section 6(f) funding in the project study area during the initial scoping phase of the project or when project limits change.

Step 2 - If a recreation area is located within the proposed project footprint, the GDOT Environmental Analyst will contact SLO to determine if the recreation area received LWCF assistance. If Section 6(f) funds were granted, request a copy of the park's LWCF Section

6(f) boundary survey map from the SLO. Be aware that establishing the boundary for the Section 6(f) property may be difficult as many records may be incomplete.

Step 3 - Consider and document alternatives to avoid the Section 6(f) property. Avoiding a Section 6(f) conversion saves time, money, and effort.

Step 4 - If the Section 6(f) property cannot be avoided, begin the conversion process by reviewing guidance in Chapter 8-3 through 8-1 of the LWCF Manual.

Step 5 - Coordinate with the LWCF Project Sponsor to provide GDNR with a notice stating the potential conversion of the Section 6(f) property to transportation use.

Step 6 - Initial coordination meeting with GDOT, LWCF Project Sponsor, and GDNR. At this meeting, the following will happen:

- A. Presentation of the transportation project with Need & Purpose and Concept layout, showing impacts to Section 6(f) property.
- B. Review of all current Section 6(f) property mapping and documentation, including LWCF application, agreement, and amendments.
- C. GDNR confirmation on the size/shape of the Section 6(f) property impacted by the GDOT project, known as the “conversion footprint”.
- D. Discussion and coordination with all agencies on the proposed conversion area, and potential replacement sites of at least equal value, location, and usefulness.
- E. Discussion of the level of NEPA documentation that will be required for the Section 6(f) conversion. The official transmittal of the PD/ESF is required to obtain the GDNR response on level of documentation required. If it is determined likely that an EA will be required, document preparation can begin at this point. The Environmental Analyst would prepare the documentation.
- F. Discussion of a replacement site, if anticipated. A replacement site is not required to be in the same area as the converted property. However, the replacement site should:
 1. Be within the same jurisdiction of the LWCF Project Sponsor,
 2. Be viable to serve the outdoor recreation needs of the same community, and
 3. Be part of a viable park or recreation area.

If the replacement parcel is not contiguous to the LWCF impacted parcel, a small conversion cannot be completed. When a partial conversion is proposed as replacement, the dimensions and area required from the whole parcel may not be determined until the property value and environmental analysis results are complete.

Also the replacement parcel must serve as a standalone recreation area as stipulated by specific criteria outlined in the LWCF Manual.

Step 7 – Initiate technical studies and the PD/ESF for the potential replacement site. Technical studies may have already been completed for the Section 6(f) property proposed for conversion; contiguous replacement parcels often would have been included within the environmental survey boundary. Discontiguous parcels under consideration may require environmental resources identification surveys and technical studies.

- A. Submit to GDNR the complete packet needed to initiate environmental clearance on the proposed replacement parcel. The packet includes a project location map, topographic map with the replacement property clearly identified, a narrative explaining the current use of the property and future use of the replacement property, and the completed Historic Preservation Division (HPD) screening form. Essentially, this is the beginning of the process to identify resources on the proposed replacement parcel. The packet should include HPD's concurrence that no historic properties would be affected by the use of the replacement parcel.
- B. Perform environmental resource identification for the proposed replacement parcel, including identification of all natural, cultural, and social resources within the replacement parcel.
- C. Request GDOT Office of Material and Testing for completion of a Phase 1 Environmental Site Assessment.
- D. Request input from GDOT's Office of Right of Way 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). From previous project experience, the official appraisal process would not have begun at this point. Therefore, this guidance recommends that the survey of a proposed replacement parcel be larger than the intended conversion area. This will provide a buffer for unknown considerations that may result from the replacement parcel negotiation process, the environmental review process, or the appraisal process.

Step 8 - When environmental surveys and ROW cost estimates are complete, coordinate with the local sponsor and GDNR:

- A. Present findings from surveys and cost estimates.
- B. Reach a final agreement with all responsible parties on the replacement parcel. If only a partial replacement is required, reach agreement on location and size of the replacement parcel. The final agreement should cover the NEPA requirements for the LWCF Section 6(f) conversion and indicate whether a CE or an EA will be required.

Step 9 - Once the responsible parties reach an agreement on the location and size of the replacement parcel, the Environmental Analyst must do the following:

- A. Request a property appraisal of the selected site from the GDOT Office of Right of Way. It should address the appraisal standards described in the LWCF Manual (see Chapter 4-19).
- B. Request assistance from the transportation project's design team to produce a revised Section 6(f) map of the original and proposed Section 6(f) boundaries. An official survey of the replacement parcel will be required as well as a plat description. Depending on the size of the park and proximity of the replacement site, multiple maps may be required.
- C. Preparation of the NEPA document to accompany the LWCF Section 6(f) conversion. If this is a small conversion, the PD/ESF will serve as the CE. If this is a partial conversion that does not qualify for a small conversion, and EA will be required. Be aware, if Section 4(f) coordination is required with FHWA, this must be completed before the PD/ESF and environmental document is submitted.

Step 10 - Prepare a PD/ESF. The PD/ESF is the amendment for LWCF conversion and identifies the extent of environmental impacts and level of documentation required for NEPA compliance. The form outlines the steps to be addressed. There is no specific template for the materials required for the PD/ESF; however, GDNR will take the information and incorporate it into the package that is required for NPS. The following sections of the PD/ESF form should be completed:

- A. Page 1 (Cover Page) - Complete the project information.
- B. Page 2 (Step 1) – Select Section 6(f) conversion proposal as the type of LWCF Proposal.
- C. Page 5 (Step 3B) – Describe the Section 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:
 - a. A letter of transmittal from the SLO recommending the proposal.
 - b. Describe the need to convert the parkland (include alternatives, evaluation, and reasons not pursued).
 - c. Describe how conversion meets the Statewide Comprehensive Outdoor Recreation Plan.
 - d. Complete the State Appraisal Review certification for both the converted and replacement parcels.

- e. For the parkland proposed for conversion:
 - i. Identify the location and name of park proposed for conversion.
 - ii. Describe the area proposed for the conversion, acreage converted, and acreage remaining.
 - iii. Describe the community and population served by the park.
 - iv. Produce a revised Section 6(f) map indicating the portion being converted and the portion remaining.
 - f. For the proposed replacement site:
 - i. Produce location map with roadways, waterways, converted site, and replacement site.
 - ii. Describe the site's characteristics, attributes, types of resources, and features.
 - iii. Identify the replacement site owner and its recent history of use/function up to the present.
 - iv. Describe equivalent usefulness, recreation needs met, populations served, and resources.
 - v. Identify who will own and manage the new replacement park.
 - vi. Identify the name of the new replacement park and whether it is added to an existing park.
 - vii. Provide a timeframe for completing the new recreation area and opening it to the public.
 - viii. Produce new Section 6(f) map for the replacement park.
 - g. Conduct the environmental review, including Section 106, for the converted and replacement sites.
- A. Page 8 (Step 5) - Describe any prior environmental reviews still viable for this proposal or related efforts.
- a. Date and purpose of environmental reviews and for whom they were conducted.
 - b. Description of the proposed action and alternatives.
 - c. Who was involved in identifying resource impacts and developing the proposal.

- d. Environmental resources analyzed and impacts for actions and alternatives.
 - e. Mitigation measures to be part of the proposed action.
 - f. Intergovernmental review process and comments received.
 - g. Public comment periods and agency response to comments.
 - h. Formal decision regarding degree of impacts to the human environment.
 - i. Describe whether the LWCF and other analyzed federal actions were included in previous reviews and describe impacts.
- B. Pages 9-11 (Step 6) – Complete the Environmental Screening Form (ESF) for the conversion site and the replacement site.**
- a. In Part A (Environmental Resources), estimate the level of impact (none, negligible, minor, exceed minor) for each resource and explain the assessment.
 - b. 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.
 - c. List the environmental reviewers who provided input on the ESF.
- C. Page 12 (Step 7) – Complete the appropriate information for the recommended NEPA pathway. Identify whether the proposal qualifies for a CE, EA, or EIS.**
- a. In Appendices, include the following information:
 - i. Figures (Location map, Park map, Proposed Transportation Improvements, and other supporting figures);
 - ii. Revised Section 6(f) map(s);
 - iii. Narrative Description and Explanations;
 - iv. Property Appraisals for the Conversion Site and Replacement Site. Appraisals must be prepared using the “Uniform Appraisal Standards for Federal Land Acquisition”;
 - v. Technical Studies (Natural Resources Technical Report, Concurrence from the SHPO, hazardous materials input, community studies data, and other related information);
 - vi. Correspondence with the LWCF Project Sponsor and GDNR/SLO

- vii. Available Environmental Documents for proposed transportation improvements (CE, EA); and
- viii. Previous agency correspondence that was received as part of the environmental review form process.

Step 11 - Submit PD/ESF and supporting materials, applicable NEPA documentation, Section 6(f) conversion maps, and property appraisals to GDNR for review. GDNR will coordinate with GDOT about additional information or revisions needed to be submitted. GDNR completes the remaining forms necessary for the official formal conversion request to NPS.

Step 12 - GDNR submits final conversion request to NPS. The conversion requires an amendment to the original LWCF project agreement.

Step 13 - NPS will conduct an independent review of the proposal. If satisfied with the materials presented, NPS will approve of the conversion, and provide a Signature of Amendment to LWCF Agreement.

Step 14 - Once NPS has approved the conversion and amendment, the replacement property acquisition and GDOT ROW purchase of the conversion property should proceed immediately. Once these parcels have been purchased, the Section 6(f) conversion process is concluded. Be aware that from the time the PD/ESF is first submitted to GDNR to approval through NPS may take up to a year or more.

Guidebook Revision History

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