

Environmental Analysis

Land & Water Conservation Fund Act

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INTRODUCTION AND APPLICABILITY

The Land and Water Conservation Fund (LWCF) Act of 1965 applies to all projects that cause impacts to any public park, recreation area, or facility acquired or developed with LWCF federal funding. The LWCF process applies regardless of the GDOT project's funding source i.e., federal, state, or local. The LWCF regulation was formerly included under Part 3 of Section 6(f)(3), and commonly referred to as "Section 6(f)" but is now included under Section 54 U.S.C. 200305(f)(3). Therefore, "LWCF" is now used to refer to the regulation rather than the former reference of "Section 6(f)". The Georgia Department of Natural Resources (GADNR) administers and monitors compliance with the LWCF grant program (LWCF program) in the State of Georgia. The program ensures that property acquired or developed with LWCF funding will not be converted to uses other than outdoor recreation without first obtaining the requisite federal approval.

GDOT and GADNR have entered into an Interagency Governmental Agreement (IGA) to guide these conversions and approvals for GDOT projects. This guidebook has been created to be used in combination with the IGA. If a property conversion is required, project personnel should consult the IGA for details and collaborate closely with the GADNR State Liaison Officer (SLO) or designee to complete the LWCF conversion process.

RESPONSIBLE PARTIES

Most of the following parties have been included in the IGA and are responsible for various parts of the conversion or review process. Additional explanation of these roles is included below. The GDOT Offices of Right of Way (ROW) and Program Delivery (OPD) are also included in this section, though they are not included in the IGA, because they serve essential functions in the LWCF process.

Land and Water Conservation Fund Project Sponsor (local 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 GADNR, 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, GADNR works with the LWCF project sponsor during the compliance process. Once the compliance packet is reviewed by GADNR, GADNR will formally submit the conversion packet to the National Park Service (NPS) for final review and approval.

State Liaison Officer

An official designated by the Governor, the GADNR SLO or designee is responsible for complying with and enforcing LWCF provisions. The SLO/designee will review a compliance request to ensure it is complete and submit the request to NPS for approval. For the purpose of the IGA, the SLO/designee serves as the only direct contact with NPS in the handling of a request for compliance.

National Park Service

The NPS, a bureau within the Department of the Interior, is solely responsible for considering all compliance requests. Approval of a compliance request by the NPS shall be evidenced by an official correspondence and/or signed amendment to the existing LWCF agreement.

GDOT Office of Environmental Services

The GDOT Office of Environmental Services (OES) staff or consultant partner identifies impacts to properties from GDOT transportation projects. OES then assesses the size of potential impacts and coordinates with the LWCF sponsor and GADNR. When agreed to with the LWCF sponsor, OES ensures that all pertinent requirements are met, including examining all avoidance alternatives to the property. In collaboration with the LWCF sponsor, OES prepares a compliance request proposal for GADNR and NPS. When agreed to with the LWCF sponsor and on their behalf, OES will coordinate directly with GADNR during the compliance process. OES also works with the local sponsor to identify suitable replacement parcels, if applicable.

GDOT Office of Program Delivery

The GDOT Office of Program Delivery project manager is responsible for inviting the GADNR representative to the concept team meeting and for communicating with the local sponsor.

GDOT Office of Right of Way

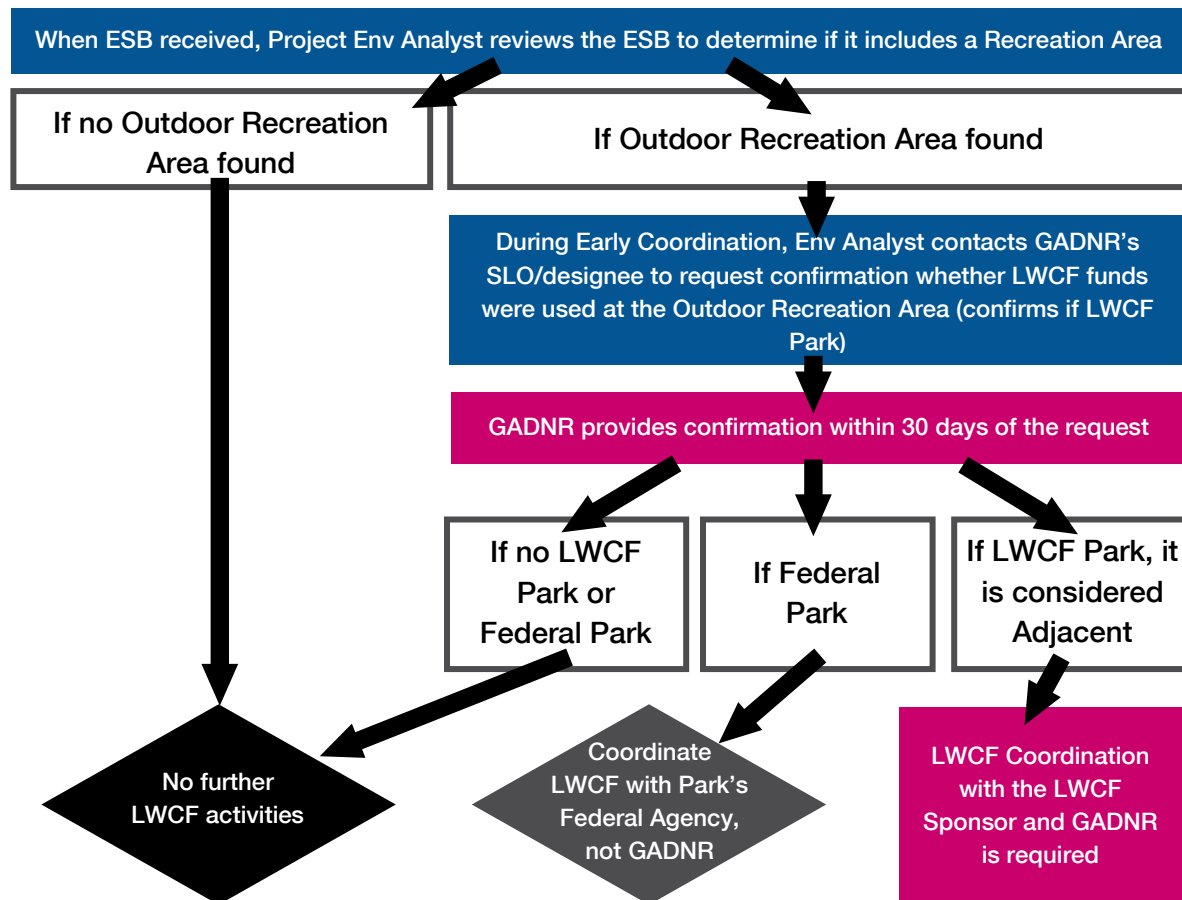
The GDOT Office of ROW determines the conversion footprint, provides value estimates, and provides input for replacement property proposals for the project team, in particular the

project sponsor. The Office of ROW 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.

IDENTIFICATION OF LWCF PROPERTIES

LWCF protected properties are public recreation areas that received LWCF funding. Because LWCF regulations apply only to recreation areas that have received this type of funding, completion of the conversion process is relatively uncommon on GDOT projects. However, it is important to identify LWCF properties early in project planning so that they may be avoided, or so the conversion process can be completed, and the project kept on schedule.

Figure 1 – Determining if LWCF Coordination with GADNR is Required



To identify LWCF properties, the Environmental Analyst must first determine if any public recreation areas (local, state, or federal) are in the project area. Recreation areas could include parks, fields, boat ramps, or other outdoor uses. An on-site review or desktop review of the project corridor is required to identify these areas. If public recreation areas are found within the environmental survey boundary (ESB) further coordination will be needed.

During the concept phase any project with recreational land within the ESB will require the Environmental Analyst to contact the SLO/designee at GADNR to confirm if LWCF funds were used for the property. This is conducted by including the SLO/designee as a recipient of the Early Coordination letter. Within thirty calendar days of the confirmation being requested, GADNR will provide a written response to GDOT and the local sponsor on whether LWCF funds have been used.

If this coordination results in no identification of facilities that have received LWCF funding, then no further coordination is required. However, if GADNR confirms the presence of an LWCF-funded facility within the ESB, then the property will be considered “adjacent”, and the Environmental Analyst will proceed with the steps outlined in the following sections of this guidance. If an adjacent LWCF property is identified, the park boundary must first be identified. There are several ways this can be accomplished including:

- > Title Search using available legal records;
- > Registered Surveyor Maps (land and boundary survey of park frontage gathered during the GDOT Project or of the entire park);
- > Available GADNR documentation directly related to the park boundary including project agreements and maps;
- > Available GDOT documentation and project retention records;
- > Available County/State/Local Government and LWCF sponsor documentation; and,
- > Available NPS documentation.

Projects with LWCF and Section 4(f)

One important consideration is that LWCF-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 recreational land that is also protected by LWCF regulations, both the LWCF 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 LWCF evaluation. The prerequisites for LWCF 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 LWCF, as there are with Section 4(f).

LWCF PROCESS

If it is confirmed through the Early Coordination process that an LWCF property is within the ESB, then the property is considered adjacent and the LWCF process must be completed. If the recreational property is a local, state, or NPS property, this process will be coordinated through GADNR. If another federal agency owns the recreational property in question i.e., US Army Corps of Engineers, then that agency will coordinate the LWCF process.

IGA Applicability and Process

On May 11, 2023, GDOT and GADNR signed an IGA that establishes procedures for compliance with the LWCF on GDOT projects. The term of the IGA is five years but may be extended with a written agreement. The information in this section is based on the terms of that agreement and could be subject to change in the future.

Land and Water Conservation Fund Act IGA,
GDOT and GADNR 2023

The following sections explain the different types of use or conversions and provide an overview of steps in the IGA. If it is determined that a project will require LWCF coordination, the Environmental Analyst should closely consult the IGA for details. As noted before, when a GDOT project is state funded, LWCF compliance will still be required, as the LWCF process applies regardless of funding source.

LWCF Process for Federal Parks

If early coordination reveals that LWCF funding was used for a federal park, owned by any agency other than NPS, the IGA will not apply. In cases like this direct coordination with the federal agency will be required. Early identification of LWCF funding and early coordination with the park and appropriate federal agency will be required to help maintain the project schedule.

TEMPORARY USE AND CONVERSIONS

Conversions involve changing properties with parks, recreation areas, or facilities that are protected under the LWCF Act into transportation 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 LWCF protected properties are conversions. This change of land from public outdoor recreation use to transportation use is considered a conversion. There are three types of conversions which require coordination with NPS: small and full or partial conversions.

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/designee. 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. Temporary use will not result in a significant impact on public outdoor recreation use and will not result in permanent damage to the park. The NPS proposal package for temporary use approval requires:

- > SLO/designee recommendation;
- > Compliance and Stewardship (C&S) Form including a description of the proposed temporary use (C&S Form can be found on the OES NEPA Sharepoint);
 - Start and completion dates;
 - Identification of the site affected;
 - Map showing the relationship of the temporary use site to the full area within the LWCF boundary area;
 - Justification of why the area needed is the minimum necessary for the proposed use;
 - Analysis of the alternatives considered and a description of any mitigation actions that may be necessary;
 - Description of both immediate impacts on the site as a result of the temporary use and any residual or long-term impacts on the site's environment or recreation use;
 - Description of any appropriate actions that will be taken to restore the site for public outdoor recreation use;
 - A schedule for their implementation; and
 - An acknowledgement by the SLO/designee 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 (ECT) and shown on the Environmental Resource Impact Table (ERIT) in the plans.

Small Conversions

Before proceeding with a conversion package submittal, OES should consult with GADNR (and with NPS through the SLO/designee) to ensure that a conversion can be processed under a small conversion proposal. The primary difference between a small conversion and partial or full conversion is that the C&S Form serves as the NPS National Environmental Policy Act (NEPA) document for a small conversion, but partial or full conversions require Environmental Analysis (EA) or Categorical Exclusion (CE) NEPA documents. Small conversions require several elements:

- > No environmental or historic property impacts (must qualify as a NEPA CE and proof must be provided and submitted to NPS);
- > Non-controversial;
- > Replacement property must be contiguous to the original LWCF property; and
- > Converted property must be <10% of the LWCF property.

Meeting all requirements for a small conversion may be difficult. A small conversion proposal should be discussed in detail with the SLO/designee. Even if it appears that the project impact would constitute a small conversion, the SLO/designee 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 C&S Form itself serves as a CE for NPS approval, and no additional NEPA document for NPS is necessary, though all other portions of the Property Conversion Package must be submitted. Please note that if GDOT is using federal funds, a NEPA document for FHWA will also be required. All other documentation requirements are the same for both small and full or partial conversions.

Full or Partial Conversions

If the requirements of a small conversion cannot be met, both full and partial conversions will require conversion packages which will include a NEPA document, see “Property Conversion Package” below. This NEPA document is prepared for NPS 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 LWCF property. The replacement parcel cannot be an existing outdoor recreational facility and must be of comparable fair market value. If the replacement parcel is discontinuous, it 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 C&S Form, which will determine the level of NEPA document.

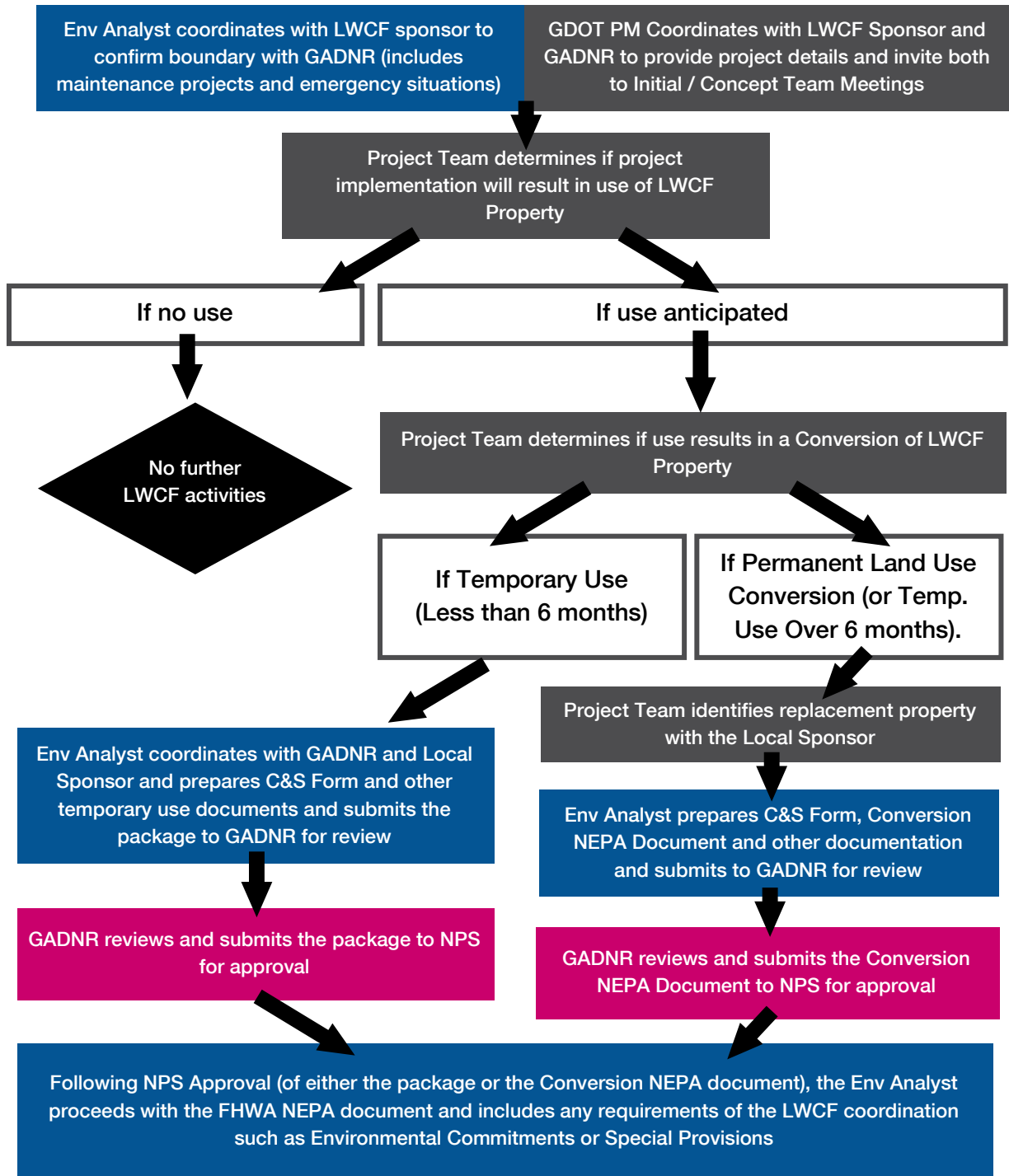
PROPERTY CONVERSION PACKAGE

If a conversion of LWCF lands will be required, GDOT (or local transportation project sponsor) must 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 GADNR and NPS that this replacement property will be suitable for LWCF. The first step in the conversion process is a notice of intent. The LWCF sponsor submits this notice to the SLO/designee. This notice must be signed by the sponsor-on-sponsor letterhead.

Property appraisals of both the converted and replacement properties must be submitted to GADNR prior to submission of the completed conversion package. GADNR will notify the LWCF sponsor and GDOT of the acceptance of the appraisal. Although OES will create materials for this package, all correspondence must be made through the LWCF sponsor. The following items are to be included in the Property Conversion Package:

- > C&S Form (serves as the NEPA document for small conversions);
- > NEPA document (partial or full conversions);
- > Property appraisals of both the converted and replacement parcels; and
- > Project maps which include:
 - Vicinity map
 - Conversion footprint map
 - Survey map of remaining property
 - Replacement property map
 - Map of the entire new property

Figure 2 – Coordination Requirements for Adjacent Projects



CONCLUDING THE LWCF COORDINATION PROCESS

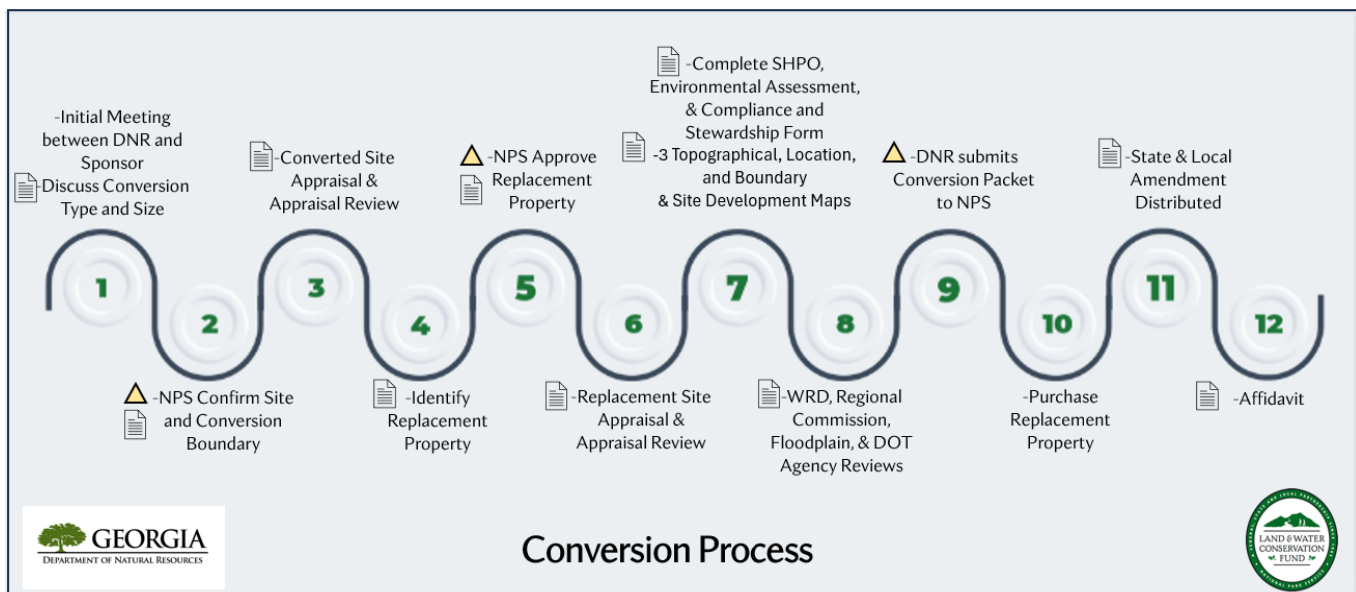
Upon submittal of all relevant documentation, NPS will conduct an independent review of the proposal. If satisfied with the materials presented, NPS will approve of the conversion, and provide a Signature of Amendment to LWCF Agreement.

Once NPS has approved the conversion and amendment, the replacement property acquisition and GDOT ROW purchase of the conversion property should proceed immediately. Once the parcels have been purchased, the LWCF conversion process is concluded. Be aware that from the time between initial consultation with GADNR to approval through NPS may take up to a year or more.

Any stipulations from the LWCF Agreement will be included in the ECT for the proposed GDOT project as well as in the ERIT in the construction documents. The stipulations may also require Special Provisions. The ECT, ERIT, and Special Provisions that result from the LWCF process will also be included in the NEPA document for FHWA. Because these stipulations may not be finalized until the NPS LWCF consultation is complete, the FHWA NEPA document cannot be approved until this time.

Because the LWCF conversion process is time consuming and is likely to disrupt the project schedule, every effort should be made to avoid impacts to LWCF properties. If it is not possible to avoid these properties, and the LWCF conversion must proceed, the Environmental Analyst should coordinate closely with the SLO/designee to achieve a successful result. There are many steps in the LWCF compliance process and for completion of LWCF conversion documentation. While this guidebook outlines the process and involved parties, the IGA should be consulted for additional detailed steps.

Figure 3: Illustration of steps in the conversion process



Guidebook Revision History

Revision Description	Relevant Sections	Revision Date
Initial Publication	All	5/22/2019
Revision Table Added	Last Page	9/21/2020
Updated Hyperlink Buttons	Regulations, Guidance and Policy; Identifying Section 6(f) Protected Properties	4/23/2021
Revised document to align with IGA and changed title	All	4/19/2024