

Section 6(f) LAWCON

Contact

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Purpose

The purpose of the Land and Water Conservation Fund Act (LAWCON) is to help preserve, develop and provide accessibility to outdoor recreation resources. LAWCON stipulates that any land acquired or developed with LAWCON funds cannot be converted to other than outdoor recreational use unless replacement land of at least equal fair market value and reasonably equivalent usefulness is provided. Any time a project will cause such a conversion of LAWCON-funded land to other than outdoor recreational use, regardless of project funding source, replacement land must be provided. All conversions must be approved by the National Park Service (NPS).

The MN Dept. of Natural Resources (DNR) is the state agency designated by the Governor to administer the LAWCON program in Minnesota. All conversion requests must first be approved by DNR before they are sent to the National Park Service for final approval. The [DNR website](#) has more information about the LAWCON program and the conversion process.

Relationship to HPDP

LAWCON 6(f) involvement is typically identified early in project development, i.e. scoping of the project. Project staff should have early discussions with the DNR Grants Manager who will confirm the Section 6(f) impact and required mitigation (replacement land), including how DNR can assist with the mitigation process, and explain information needed for the LAWCON conversion request package including appraisals and NEPA review of the proposed conversion/replacement action. Project staff should also involve OES for assistance with DNR/NPS NEPA review requirements.

LAWCON conversions require NPS approval, so they are considered federal actions that required their own NPS NEPA processes. Compliance with Section 6(f) requires two approvals: the conversion of Section 6(f) property and the transportation project must be approved through the NEPA or state project development process.

The actual conversion approval can be lengthy, and may be pursued independently of, or parallel to, the transportation project development process. The conversion approval need not be completed prior to signature of the FHWA NEPA document.

If an environmental document (i.e. CatEx, EA, EAW, or EIS) is being prepared for the highway project, it will discuss (1) the impact to the LAWCON-funded park land including any avoidance/minimization/mitigation measures, (2) an expression that coordination and minimization/mitigation measures identified during NEPA has led to a high degree of confidence of an approved conversion, and (3) include an affirmative statement that Mn/DOT will comply with all the steps and requirements of the National Park Service and Minnesota Department of Natural Resources to approve the conversion.

Normally, the District Right of Way Section is the principal player in the conversion.

Agencies Involved

In addition to the transportation agency, the primary agencies involved are the agency with ownership of the resource (city, county, park board, etc.), the National Park Service, and the [Minnesota Department of Natural Resources](#) (DNR).

Threshold Criteria

Any land acquired or developed with LAWCON funds is subject to Section 6(f) of the Land and Water Conservation Act. This applies to any transportation project, regardless of funding source. Such land cannot be converted to other than outdoor recreational use unless replacement land of at least equal value and usefulness is provided.

LAWCON funding has been used for many recreation and open-space facilities such as community playgrounds, state parks, trail corridors, and wildlife management areas. To determine if any land to be acquired is subject to Section 6(f), check the list of Grant-Funded Parks and Natural Areas. This list also includes parks funded by state grants that have restrictions similar to those of the LAWCON program. Since this list is continually expanding, consultation with the listed DNR contacts is advised (see link to *Grant funded Parks and Grants Manager* listings on the LAWCON website: [Minnesota Department of Natural Resources](#) (DNR)).

If land subject to Section 6(f) is acquired, the Section 6(f) procedural requirements must be satisfied. This is not a minor undertaking, and you should seriously consider options to avoid Section 6(f) involvement.

Underground easement projects that restore the surface, and temporary easements of six months or less are generally not considered Section 6(f) conversions. The DNR and, if necessary, the NPS will make this determination on a case by case basis.

Generally, grants under Section 6(f) stipulate that the entire park will be considered as covered under the conversion restriction – even though the grant may have been for only a

small part of the park. In rare cases, the grant specifies that only a part of the park is covered. The DNR has a copy of every LAWCON agreement.

Anytime Section 4(f) involvement occurs, the possibility for Section 6(f) involvement also exists. However, a Section 6(f) involvement may be present even though no Section 4(f) involvement exists. For instance, a park determined to be not significant would be exempt from Section 4(f) procedures, but if LAWCON funds had been used, it would still be covered under Section 6(f). Since Section 6(f) applies to the park itself, the funding source for the highway project is not relevant to whether or not there is Section 6(f) involvement; i.e. there may be Section 6(f) involvement on state or locally-funded projects. If a property has been determined to be a Section 4(f) and Section 6(f) property, both processes are completed simultaneously. Depending on the project, approval for Section 6(f) may need to be completed in advance of Section 4(f) approval; these relationships between processes will be developed during project coordination with DNR.

FUNDING SIMILAR TO LAWCON

There are other funding sources for parks, recreation and wildlife refuge lands that have replacement requirements for land conversion similar to the LAWCON Section 6(f) requirement. If the project may result in the acquisition of any park, recreation, wildlife refuge land, it is important to determine if the land has been acquired or developed with any of the following funding sources (in addition to LAWCON):

- Federal Aid Wildlife Restoration Act (Pittman-Robertson Act)
- Federal Sport Fish Restoration Act (Dingell-Johnson Act)
- DNR-administered Local Outdoor Recreation Grant Program
- Minnesota Environmental and Natural Resources Trust Fund
- Minnesota Parks and Trails Legacy Fund
- Minnesota state bonds
- Other state or Metropolitan Council-administered recreation land grant programs

The DNR website that includes LAWCON-funded properties also lists state-grant funded projects. The Owner with Jurisdiction (OWJ) over the property (e.g. City, County, Metropolitan Council, or DNR) should be able to provide information regarding any other applicable funding sources.

The remainder of the information below focuses specifically on LAWCON Section 6(f). Contact OES for more information if other similar funding sources apply to land being considered for acquisition.

Navigating Projects with Section 6(f) Resource(s)

There will be two separate NEPA pathways when a project is a FHWA undertaking requiring NEPA documentation and has a Section 6(f) impact: MnDOT prepares a NEPA document for the transportation project and DNR prepares a NEPA document in coordination with NPS for the Section 6(f) conversion.

The DNR process can be reviewed on the MnDNR's [Conversion of Use – Guidelines and Requirements guide](#).

The following information needs to be included within the appropriate FHWA/MnDOT NEPA document. This information is to be included in the [Section 6\(f\) Standard Attachment for Programmatic Categorical Exclusion \(PCE\) Projects](#) and attached to the appropriate NEPA document.

- (1) Coordination with MnDNR (the MnDNR coordinates with the NPS for project concurrence)
- (2) Nature and extent of Section 6(f) impacts
- (3) Avoidance and minimization measures
- (4) Proposed mitigation (typically land of equivalent use and function)
- (5) Acceptability of the proposed mitigation by OWJ/MnDNR/NPS

Prepared Statements

Class II Action with No Section 6(f) impact

The project has been reviewed for potential Section 6(f) involvement. The project will not cause the conversion of any land acquired or developed with funds from the Land and Water Conservation Fund (LAWCON) to other than outdoor recreation use. No Section 6(f) involvement exists on this project.

Class II Action with Section 6(f) impact

The project has been reviewed for potential Section 6(f) involvement. The project will result in the conversion of land acquired or developed with funds from the Land and Water Conservation Fund (LAWCON) to other than outdoor recreation use. Section 6(f) involvement exists on this project and the [Section 6\(f\) Standard Attachment for Programmatic Categorical Exclusion](#) Projects, which describes the necessary coordination and mitigation agreements, is attached.

Legal Basis

[36 CFR 59](#) Post-Completion Compliance Responsibilities

[Land and Water Conservation Fund Act of 1965, as amended](#)

Guidelines and Regulations

Related regulation: [Section 4\(f\)](#)

[MnDNR Conversions of Use – Guidelines and Requirements](#)