



LWCF 2022 Applicant Guide



A. General Requirements

- All LWCF grants must be matched on a 1 to 1 basis by the grant applicant. Generally, other federal funds may not be used to meet the match requirements.
- An awarded grant must be completed within three (3) years after the State of Colorado approves the Grant Agreement.
- Property acquired or developed with LWCF assistance must be retained and used for outdoor recreation providing public access in perpetuity. Change of recreational use requires approval by Colorado Parks and Wildlife Division and/or the National Park Service (Please see the LWCF Change of Use Process web pages on this website at cpw.state.co.us/Documents/Trails/LWCF/LWCFChangeofUseProcess.pdf#search=lwcf)
- The grantee is responsible for continued operation and maintenance of funded facilities to ensure continuing public use in a safe and sanitary manner.

B. General Compliance/NEPA Requirements

All projects must comply with applicable Colorado State statutes, regulatory requirements, and policies. Projects utilizing federal funds must be in compliance with the National Environmental Policy Act (NEPA). Adequate environmental documentation must be submitted in order for NPS to determine whether a proposed LWCF action is either categorically excluded from further environmental analysis or requires an EA or an EIS.

Permitting Requirements

LWCF local government grant projects may involve work that requires permits and clearances from various local, state and federal agencies.

Applicants are required to arrange pre-application meetings with appropriate federal, state, CPW field staff, and local government agencies to determine requirements, processes, time schedules and documentation required for proposed permit applications.

For instance, if a project has wetlands on the project site that may or may not be impacted by development, the applicant will need to provide project information to USACE to see if USACE has jurisdiction and/or concerns. NPS will be provided a copy of the USACE response for their NEPA pathway determination. If USACE says the state needs a 404 permit prior to

construction, NPS does not require the permit be issued before grant approval, just the consultation documents between the applicant and USACE indicating the permit is required for development. These permits are federally tracked, regulated, and enforced, so the permit must be in hand before development begins.

Documentation can be an email with maps and project specifics to the local USACE office asking for their guidance and their follow up response. Same thing for other environmental consultation with other federal agencies. The Fish and Wildlife Service (FWS) has an online platform to initiate Threatened and Endangered Species consultation called the IPaC, which can satisfy Section 7 of the Endangered Species Act (explained further below).

If awarded a grant, the applicant is responsible for conducting environmental assessments and obtaining all applicable permits and clearances. Construction funds will not be released until all applicable permits and clearances are in place. This is the responsibility of the applicant.

Project applicants should review the items listed below to assist in determining if the project may require permits and/or clearances.

Will the project:

- Affect any (a) federally listed endangered or threatened species or designated critical habitat or (b) species listed as wildlife of special concern in Colorado?
- Include introduction or exportation of any species not presently or historically occurring in the project location?
- Affect any recognized state natural area, prime or unique ecosystem, geologic feature, or other ecologically critical area?
- Involve habitat alteration or land use changes such as planting, burning, removal of native vegetation, clearing, grazing, water manipulation, or modification of public use?
- Involve any new or modified construction or development in floodplains or wetlands?
- Require ground or surface water through a contract of acquisition for long-term project viability?
- Include use of any chemical toxicants?
- Result in any discharge which will conflict with Federal or State air or water quality regulations?
- Affect any archaeological, historical or cultural site that will alter the aesthetics of the subject area?
- Impact any designated wild or scenic river, wilderness area, national trail, or other protective national or state designation (i.e., Unique Waters, Area of Critical Environmental Concern, National Conservation Area, etc.)?
- Have any substantive environmental impacts not addressed above, or result in cumulative impacts, which separately do not require assessment but together must be considered substantial?

References

- 1) Section 7, Endangered Species Act of 1973, as amended
- 2) Administration of Clean Air Act of 1970 (P.L. 91-604) and Federal Water Pollution Control Act (P.L. 92-500), Executive Order 11738; and Clean Water Act Amendments of 1977 (P.L. 95-217)

- 3) Wild and Scenic Rivers Act (P.L. 90-542)
- 4) Wilderness Act (P.L. 88-577)
- 5) National Trails Act (P.L. 90-543)
- 6) National Environmental Policy Act (NEPA), 1969; CEQ guidelines, Federal Register 43(230), 11-29-78, §§ 1507.3 and 1508.4; Federal Register 44(112), 6-8-79, pp. 33160-33162
- 7) Colorado Weed Management Act, §§ 35-5.5-101 through 119, C.R.S. (2000).
- 8) Eradication of Tamarisk on State Lands, Colorado Executive Order D 002 03.
- 9) Development and Implementation of Noxious Weed Management Programs, Colorado Executive Order D 006 99.
- 10) Colorado Nursery Act, §§ 26-1.0 through 26-7.2, C.R.S. (1999).
- 11) Colorado Seed Act, §§ 35-27-101 through 125, C.R.S. (1993 Supp).
- 12) Colorado Mosquito Control, Administrative Directive B-300.
- 13) Colorado Forest Management, Administrative Directive B-301.
- 14) Colorado Native Vegetation, Administrative Directive B-302.
- 15) Colorado Wildlife and Hunting, Administrative Directive C-275.
- 16) Colorado Rare Plants, Administrative Directive C-276.
- 17) Colorado Noxious Pests, Policy B-300.

IPac Resource List

The Information for Planning and Consultation (IPaC) report is a US Fish and Wildlife Service (FWS) online project planning tool to initiate Threatened and Endangered Species consultation which can satisfy Section 7 of the Endangered Species Act. The IPaC report will provide a list of any Threatened & Endangered species, critical habitat, migratory birds, or other natural resources that may be impacted by your project. We ask that you provide this with your application so that our wildlife staff can review the potential impacts to these resources and provide a determination to the NPS. Here are instructions on how to pull an IPaC Resource List:

- 1) Go to the IPaC website: <https://ecos.fws.gov/ipac/>
- 2) Click on Get Started
- 3) The easiest and most accurate way to pull the report is to upload shape files that define your project area. To do this, simply click on Upload Shape Files, choose your shape file folder, and hit OK.
- 4) Once you confirm the project area is correct, hit Continue.
- 5) Next, select 'Print Resource List' and 'I'm Printing this page for other purposes'. Save as a PDF, and you're done!

If you do not have shape files, you can type in the name of your park or city/town, and zoom into your project area. Once you have found it, you can use the Sketch or Line tool to draw around your project area. Once you have drawn around your entire project area, hit 'Finished Drawing'. Next, confirm the area is correct, hit Continue, Print Resource List, and save as a PDF.

If you have Natural Resource Staff that can review this and comment on the presence of the listed species, that is helpful to include. Otherwise, CPW staff will review the report.

If you need assistance with pulling this report, please contact the LWCF Grant Administrator, Megan Sims, and she will be happy to assist you.

Civil Rights

All LWCF projects must comply with the federal civil rights requirement. Facilities must be designed to reasonably meet the needs of persons with disabilities. In so doing, the participant must comply with all applicable provisions of the Americans with Disabilities Act.

For details on enforcement of related civil rights requirements, refer to:

- a. Title VI of the Civil Rights Act of 1964 at 43 CFR 17, Subpart A
- b. Section 504 of the Rehabilitation Act of 1973 at 43 CFR 17, Subpart B
- c. Non-Discrimination on the Basis of Age at 43 CFR 17, Subpart C
- d. ADA Title II at 28 CFR 35
- e. ADA Accessibility Guidelines at 28 CFR 36
- f. Title IX of the Education Amendments of 1972 at 43 CFR 41
- g. Limited English Proficiency (E.O. 13166) at 28 CFR 42.104(b)(2)

C. Additional LWCF Grant Requirements

In addition to the general requirements and compliance requirements outlined above, an extensive set of additional LWCF Program Requirements must also be satisfied, as outlined below.

Control and Tenure

For lands included in a project proposal, the project sponsor must have title or adequate control and tenure of the project area in order to provide reasonable assurance that a conversion under Section 6(f)(3) of the LWCF Act will not occur without NPS approval. For additional information, see *Conversion of Use* section pages on this website, cpw.state.co.us/Documents/Trails/LWCF/LWCFChangeofUseProcess.pdf#search=lwcf.

Control and Tenure guidelines:

In most cases, control and tenure involves fee title ownership that provides permanent public recreation use. Leases or easements with 25 years or more remaining on the agreement may also be considered.

- Copies of the property titles, leases, easements or other appropriate documents must be submitted by the project sponsor to CPW. CPW is required to keep these documents on file and available for NPS inspection.
- Leases or easements must allow public outdoor recreation on the land. If the agreement does not allow public recreation, it will not be approved by NPS. Additionally, please be sure the agreement does not conflict with the LWCF perpetual public outdoor recreation terms.
- Properties subject to outstanding interests, such as mineral rights that, if exercised, may not be compatible with the continued viable use of the area for outdoor recreation, may be agreed to under certain specific conditions. NPS will make decisions on a case by case basis, and may agree to such a future conversion only if:
- The State of Colorado through CPW and the project sponsor must certify that the possibility that the outstanding rights being exercised is remote; and
- It is understood that the lands will be replaced on a 1 to 1 basis under Section 6(f)(3) provisions of the LWCF Act if such rights are exercised.

Other outstanding rights and interests which, if exercised, will not adversely affect the recreation utility or viability of the area can be excepted from Section 6(f)(3) purview upon recommendation of the Parks and Wildlife Division and concurrence by NPS.

Section 6(f)(3) Boundary Map

The purpose of a Section 6(f)(3) Boundary Map is to define the area being improved, developed or acquired with LWCF grant money. This area will be given the protection of Section 6(f)(3) of the LWCF Act, which states that property acquired or developed with LWCF money shall not be converted to uses other than public outdoor recreation in perpetuity.

A Section 6(f)(3) Boundary Map also ensures that the area defined by the boundary line is a self-sustaining recreation unit. The defined area must be capable of being self-sustaining without reliance upon adjoining or additional areas not identified in the scope of the project. Typically, this area will be the park, open space, or recreation area being developed or added to. Exceptions may be made only in the case of larger parks where logical management units exist therein. In no case will the areas covered by Section 6(f)(3) be less than that acquired or developed with LWCF assistance or matching funds.

It is important to not include within 6(f)(3) boundaries facilities or grounds not dedicated to outdoor recreation, such as non-recreation office buildings, firehouses, helipads, cell towers, etc., as these things, if included, would also be encumbered in perpetuity by the Section 6(f)(3) conditions.

The project sponsor is not required to submit the Section 6(f)(3) boundary map with the original project grant application, but it will be necessary to furnish one for NPS approval of the project. NPS approval of the 6(f)(3) map is required before the State of Colorado can complete the grant agreement with the project applicant.

We ask for applicants to submit shape files of the area they intend to encumber as part of the Section 6(f)(3) boundary map. CPW staff will use the files to develop a draft 6(f)(3) map for NPS review.

What is included on the boundary map:

- Project Title and Project Number
- Approximate total acreage within the 6(f)(3) boundary
- Longitude and Latitude of project site
- Area(s) under lease and term remaining on the leases
- All known outstanding rights and interests in the area held by others must be noted on the map. Known easements, deed/lease restrictions, reversionary interests, etc. are to be included.
- Proposed development must be shown on the map

An example of a 6(f)(3) boundary map is included on the following page as a reference.



Montebello Open Space Park



LWCF 6(f)(3) Grant Boundary

Official Name	Montebello Open Space Park		
AKA Name	<i>(no alternative name)</i>		
Past Name	<i>(name unchanged)</i>		
Grant ID	08-1135	Control Type	Assumed Fee Title
Acres	4.5	Effective Date	12/31/2018
PropID	<i>pending</i>	Termination Date	N/A: Perpetual

Comment: Development of 4.5 acres of land with prairie habitat, outdoor classroom, natural surface walkways, rock climbing wall, nature play areas, and trailhead.

Image was captured via drone in July 2018. The northeast corner of the park (corner closest to the intersection of 46th Ave and Albrooke Dr) has been slightly cut off. Coordinates for trailhead are 39.781°N, 104.844°W.

Signature	
Print	Date

Colorado Alternate State Liaison Officer

Signature	
Print	Date

Project Sponsor

Signature	
Print	Date

NPS Program Officer

Spatial Source: Drone Imagery (City & County of Denver) | 07/20/2018 | P:\Statewide Programs\LWCF\Maps\Montebello - Boundary Map.mxd

Environmental Review

The project sponsor is required to fill out the Application & Revision (A&R) Form at the time of the application submission. NPS approval of this additional review is required before the State of Colorado can complete the grant agreement with the project applicant.

The purpose of the Application & Revision (A&R) Form is to describe the project proposal and provide information on potential environmental impacts.

The Environmental Resources Survey is designed for States and/or project sponsors to use while the LWCF proposal is under development. Upon completion, it will indicate the resources that could be impacted by the proposal enabling States and/or project sponsors to more accurately follow an appropriate pathway for NEPA analysis: 1) a recommendation for a Categorical Exclusion (CE), 2) production of an Environmental Assessment (EA), or 3) production of an Environmental Impact Statement (EIS). The Environmental Resources Survey should also be used to document any previously conducted yet still viable environmental analysis if used for this federal proposal. The completed A&R Form must be submitted as part of the applicant's LWCF proposal to CPW.

If the project will not incur significant impacts to the environment it may be classified as a Categorical Exclusion and an informal analysis with the following components must be completed by the project applicant. This analysis is designed to demonstrate that significant impacts to the environment will not occur, thereby eliminating the need for the preparation of a formal EIS.

LWCF Environmental Analysis components:

- Environmental Impact Summary. A determination that this project will result in minimal adverse environmental impacts and is not a major federal action which would significantly affect the quality of the environment.
- Determinations if the project will have any of the following impacts. Questions answered affirmatively require an explanation as to why it will not significantly impair the environment. Typically, these explanations will state that any impacts are temporary and will not result in permanent significant impacts.
 - Change existing features of any body of water such as lakes, bays, rivers, or substantial alteration of ground contours?
 - Change river, lake, stream, or ground water quality or quantity, or alter existing drainage patterns?
 - Change scenic view sheds or vistas from existing residential areas of public lands or roads?
 - Change the land use pattern, scale, or character of the general area surrounding the project?
 - Significantly affect plant or animal life?
 - Significantly increase amounts of solid waste or litter?
 - Will any heavy metals be used in production? If so, has a disposal site been located?
 - Change emissions or prevalence of dust, ash, smoke, fumes, or odors in the vicinity?

- Change existing noise or vibration levels in the vicinity, including during the construction phase of project, if applicable?
 - Use filled land or land with a slope of 15 percent or more?
 - Affect vehicular and pedestrian circulation patterns?
 - Affect the use of a recreational area or an area of significant aesthetic value?
 - Significantly affect an historical or archaeological site or its setting?
 - Encourage development of presently undeveloped areas or intensify development of already developed areas?
 - Involve the removal, construction, or demolition of 500 or more dwelling units?
 - Significantly affect public services and/or public facilities?
 - Have other significant ecological impacts?
- Alternatives Examined. A brief narrative explaining that No Action was considered, and/or if alternatives with more limited or intensive development were considered.

State Historic Preservation Office and Tribal Consultations

The National Park Service has the responsibility to institute procedures to assure that LWCF assisted projects are carried out in a manner consistent with national goals relative to the preservation and enhancement of non-federally owned sites, structures and objects of historical, architectural, or archeological significance. Section 106 of the National Historic Preservation Act of 1966 requires NPS to determine whether LWCF assisted projects affect properties listed in or eligible for listing in the National Register of Historic Places. NPS is also required to assure that if a property listed in or eligible for listing in the National Register is to be affected as a result of a LWCF assisted project, steps are taken to ensure documentation of the property.

States have been given by NPS the responsibility to comply with these requirements. Once your LWCF project has been approved for funding, a Section 106 Review must be requested through the State Historical Preservation Office (SHPO) to determine whether your project will affect cultural, historical or archaeological resources. Colorado Parks and Wildlife must submit, at a minimum, the following to SHPO. Please ensure that you have the following information on hand for the Section 106 Review request:

Basic Information:

1. Contact Name, Address, Phone Number and E-mail
2. Project Name
3. Landowner
4. Project Address/Location
 - a. Vicinity Map
 - b. 6f Property Map
5. Current pictures of the project area

6. Results of File Search

7. Copies of any previous cultural surveys completed on the property

Project Undertaking: Include a detailed description of the project, a localized project map, and photos of the area. (Current, historic, and aerial photos are helpful).

APE: Identify the Area of Potential Effects (APE) on the USGS map and localized map. The APE is the geographic area within which an undertaking may cause changes in the character or use of the property. Explain how the APE was developed and how it encompasses potential direct and indirect effects.

Ground Disturbance: Excavation, trenching, grading, tree removal, hydro axing, utility installation, new construction, access roads, borrow areas, staging/storage areas, etc.

If the project involves any ground disturbing activities, describe:

1. Length, width and depth of proposed ground disturbance
2. Previous and current land use, condition, and disturbances

Submit project information to:

Megan Sims

LWCF Grant Administrator

Colorado Parks and Wildlife

megan.sims@state.co.us

CPW will forward the review to SHPO. CPW may receive project clearance from the SHPO, or it may receive recommendations such as the undertaking of a professional survey of all or part of the project area which may be impacted by the project if the area has not been previously surveyed. Such surveys must be arranged and financed by the grant applicant.

Once CPW selects a project for an LWCF award, the National Park Service will initiate the Tribal Consultations. Any Tribes with interests (past and present) in your project area will be notified of the project and given an opportunity to comment. A project narrative, maps, and known cultural information will be sent. The Tribes are given 30 days to respond to the proposed project.

The LWCF Sign

Although the use of temporary signs during project development is optional, permanent signs displaying the LWCF symbol are required once the project is completed.



The sign represents public acknowledgment of LWCF and recognition of the federal-state-local partnership that creates and maintains quality outdoor recreation areas. While the symbol format may not be altered, such considerations as method of sign construction, size and placement are matters for determination by the project sponsor. CPW encourages project sponsors to include the LWCF symbol in other informational signs at the project site, especially those that acknowledge other project participants. Similarly, NPS encourages its use at entrances to outdoor recreation sites, at other appropriate on-site locations, and in folders and park literature.

CPW will make available LWCF logos to project sponsors and can also supply electronic copies of the logos, or printed signs available upon request by project sponsors.

The acknowledgment of LWCF assistance will be checked during subsequent post-project completion inspections.