

APPENDIX B: COLORADO'S LWCF OPEN PROJECT SELECTION PROCESS

Colorado's LWCF Grants Program

In Colorado, LWCF state matching grants are administered by Colorado Parks and Wildlife (CPW). Since 1965, over 1,025 grants totaling more than \$61 million have funded local government and state park outdoors investments statewide.

Currently the congressionally appropriated annual Colorado LWCF state matching grants are apportioned to trail-related projects sponsored by eligible local governments and programs administered by CPW. CPW initially works with local government parks and recreation leaders to utilize the state Trails Program grants process to allocate LWCF funds and then works with the CPW Trails in State Parks and Capital Program to allocate the remaining LWCF funds. This process is consistent with statewide surveys that continue to rank community and regional trail systems among Colorado's highest priority outdoor needs.^{1,2,3}

To review information of all local government and state park grants since the 1965 LWCF Program's inception, please contact CPW's trails program staff at trails@state.co.us for LWCF program information.

A special set of guidelines for LWCF-funded projects stems from the federal Land and Water Conservation Fund Act of 1965 (P.L. 88-578). The federal requirements involve additional processing of project information and project approvals through the Midwest Regional Office of the National Park Service. If a grant is funded by LWCF, the applicant should be prepared to complete the additional paperwork needed for NPS approval. State Parks cannot complete the Project Agreement until the NPS approval process is completed. Because of this additional step, grant applicants should plan on commencing project work up to a year AFTER the State Parks grant award. The guidelines for LWCF grants are outlined below:

Eligible Applicants for CPW's LWCF Trails Grants

While municipalities, counties, special districts and agencies recognized as political subdivisions of the State of Colorado are eligible for competitive grants offered through the Colorado State Parks Trails Program, only state and local governmental agencies are eligible to receive LWCF grant awards. All LWCF grants must be consistent with priorities identified in the 2019 SCORP in accordance with LWCF program regulations. Colorado's 2019 SCORP can be viewed on CPW's website, coloradoscorp.org. LWCF grants must be used either for acquisitions of land or water to be used for public recreational purposes or for construction or redevelopment of publicly accessible, outdoor recreational facilities including trails.

¹ 2003 SCORP, Chapters 2 and 3

² 2008 SCORP, Chapters 3 and 5

³ 2014 SCORP, 2013 Outdoor Recreation Participation Survey and the 2013 Local Government Survey

Colorado State Parks LWCF Projects

Parks and programs administered by Colorado Parks and Wildlife Division are also eligible for LWCF funding. Awards to the Parks and Wildlife Division are determined by Colorado Parks and Wildlife Leadership Team. Project selection is independent of the State Trails Program grant process that grants LWCF funds to local governments for trails projects. Parks and Wildlife Division grants must also be consistent with priorities identified in the SCORP. As with local governments, LWCF funding to CPW must be used for acquisitions of land or water property interests to be used for public recreational purposes; for construction or redevelopment of outdoor recreational facilities; or for planning that addresses needs, problems or issues identified in the Colorado's SCORP or that fund production of an upcoming SCORP.

Local Government LWCF Trail Projects

Local government LWCF grant funds are distributed as part of CPW's annual trail grant review and award process. Only local and state government grant applicants are eligible for LWCF grant awards. The maximum LWCF grant award through the annual trails grant application process is \$750,000. The trail grant application process falls under the purview of Colorado's State Recreational Trails Committee and the Parks and Wildlife Commission. For additional information on Colorado's Trails Program grants process, please refer to CPW's website at cpw.state.co.us/aboutus/Pages/trails.aspx.

The Colorado Recreational Trails Committee

The authorities and the roles of the Recreational Trails Committee (the Committee) are set forth in sections 33-11-105 through 33-11-107, Colorado Revised Statutes. The Committee consists of nine members appointed by the Parks and Wildlife Commission representing each of Colorado's seven congressional districts, with one additional member appointed from the state at large and one member that represents the Colorado's Great Outdoors Colorado (GOCO) Board. The Committee oversees the annual trail grant application reviews, scoring and ranking processes and formulates recommendations for grant funding strategies to the Parks and Wildlife Commission for their review, consideration and final approval.

Colorado's Recreational Trails Program

CPW's Trails Program was created with the adoption of Colorado's "Recreational Trails Act of 1971" codified in sections 33-11-101 through 33-11-112, Colorado Revised Statutes. CPW's Trail Grant Program provides funding for trail planning projects as well as small and large trail construction and maintenance projects. The Grant Program is a multi-agency partnership that includes CPW, Great Outdoors Colorado (GOCO), Colorado Lottery, Federal Highway's Recreation Trails Funds (RTP) and federal Land and Water Conservation Funds (LWCF).

(note: This program also has OHV and Snowmobile grants that are funded by registration dollars and RTP)

Colorado's Recreation Trails Grant Application and Review Process

All trail grant applications are sent out by e-mail, ground mail and are posted on CPW's Trails Program website each year. Trail grant opportunities are publicized annually through press releases, newsletters, the state website and e-mail information networks. Technical assistance for grant preparation is provided by CPW Trails Program staff to potential applicants upon request. The submission deadline for CPW's Recreational Trail Grant Applications is always the first business day in November of each year.

The Recreational Trail Grant Applications review and ranking processes follow a four-tiered recommendation and approval protocol. Prior to public distribution, all grant applications are reviewed by CPW regional field staff. At this stage local concerns with the application are addressed between the field staff and the applicant. Applications are then scored and evaluated by the three Grant Review and Ranking Subcommittees (i.e., Large Trail Maintenance or Construction, Small Trail Maintenance or Construction, and Trail Planning or Support grant application categories) which score and rank grant applications in order of their recommended funding priority. Subcommittee members include Recreational Trail Committee members, representatives from GOCO, CPW Trails Program staff, Colorado's State LWCF Liaison Officer, and outside peer reviewers.

Grant scoring criteria are developed by CPW's trails program staff and approved by the Recreational Trails Committee. The criteria are included with each grant application distributed. The criteria serve as Colorado's Open Selection Process for the distribution of LWCF grant funds.

The ranked applications are then passed from the subcommittees to the Recreational Trails Committee which evaluates the applications in ranked order and recommends funding strategies to the Commission. The Commission provides the final funding approval to the projects receiving grant allocations.

This three-tier process invites public review and comment at four separate stages; upon submission and posting of the application by CPW, before the subcommittees, before the Recreational Trails Committee and before the Commission.

Local government applicants that are awarded LWCF grant funds must have adequate control and tenure for the property to be improved with grant funds in order to provide reasonable assurances that a conversion under 6(f)(3) of the LWCF Act will not occur without NPS approval. In most cases, such control and tenure involve either fee title ownership or easements that provide for permanent recreation use. In some cases, long term leases or Rights of Way agreements may be deemed adequate by the NPS. See Part C in this document, Additional LWCF Grant Requirements, for additional information on Control and Tenure guidelines.

LWCF Grant Requirements

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.
- Any environmental analysis must be complete within 90 days after receipt of the grant award letter. Otherwise, the award may be forfeited.
- Property acquired or developed with LWCF assistance must be retained and used for outdoor recreation providing public access to the greatest extent feasible. Changes of use require 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 <http://cpw.state.co.us/aboutus/Pages/SCORP.aspx>).
- 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 being completed on federal land, and/or by a federal agency, and/or utilizing federal funds must be in compliance with the National Environmental Policy Act (NEPA). Because it is often difficult to provide documents supporting NEPA compliance by the application deadline, the documents may be submitted to CPW's Trails Program within 90 days following the grant award. If the NEPA documents are not submitted with the original application or are not received by the 90-day deadline, the project may be removed from funding consideration. These requirements are identical to those that apply to all CPW State Trails Program grants.

Permitting Requirements

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

- Applicants are encouraged 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.
- 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.

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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 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 on 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.

Physically Challenged

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, (Public Law 101-336, 42 U.S.C. 12101-12213).

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/LW-CFChangeofUseProcess.pdf#search=lwcf.

Control and Tenure guidelines:

- In most cases, control and tenure involves either fee title ownership or easements that provide for permanent public recreation use. In some cases, long term leases or Rights of Way agreements may be deemed adequate by the NPS.
- Copies of the property titles, leases, easements or other appropriate documents must be submitted by the project sponsor to State Parks. The Parks and Wildlife Division is required to keep these documents on file and available for NPS inspection.
- Colorado Department of Transportation (CDOT) easements and Right of Way or construction permits cannot contain language that can cancel, withdraw or revoke the permit at any time for any reasons due to highway issues. There must be wording that states if a highway issue arises, it will have priority but the LWCF project re-alignment/replacement will be mitigated in consultation with all involved parties.
- 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 with LWCF assistance.

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.

What to Include in the Map (use attachments if necessary):

- Project Title and Project Number
- Date of map preparation
- Signature block (blank) for approval by designat-

ed LWCF State Liaison Officer

- North arrow
- Scale in feet
- Approximate total acreage within the 6(f)(3) boundary
- Section(s), Township and Range of the project area
- Area(s) under lease and term remaining on the leases
- All known outstanding rights and interests in the area held by others. Known easements, deed/lease restrictions, reversionary interests, etc. are to be included.
- The project area in sufficient detail so as to be legally sufficient to identify the Section 6(f)(3) property location. A formal survey is not required. Acceptable methods include: (1) Deed references; (2) Adjoining ownerships; (3) Adjoining easements of record; (4) Adjoining water boundaries or other natural landmarks; (5) Metes and bounds; and (6) Government survey.
- 6(f)(3) boundary lines must be specifically identified and drawn in a manner which will assure their clarity should the map be photocopied. As such, the boundaries must be colored red, with additional thickness to distinguish them from other boundary lines in the map.
- The finished map should be submitted in a format no larger than 11" x 17".

Environmental Review

The project sponsor is required to fill out the LWCF Proposal Description and Environmental Screening Form (PD/ESF) 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 this Proposal Description and Environmental Screening Form (PD/ESF) is to provide descriptive and environmental information about a variety of Land and Water Conservation Fund (LWCF) state assistance proposals submitted for National Park Service (NPS) review and decision.

The ESF portion is designed for States and/or project sponsors to use while the LWCF proposal is under development. Upon completion, the ESF 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 ESF should also be used to document any previously conducted yet still viable environmental analysis if used for this federal proposal. The completed PD/ESF must be submitted as part of the State's LWCF proposal to NPS.

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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 CPW approves a LWCF funded grant, its staff will request the State Historic Preservation Officer (SHPO) to review the project for compliance with the National Historic Preservation Act requirements. 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 been adequately surveyed. Such surveys must be arranged and financed by the grant applicant.

It is strongly recommended that the project sponsor conduct a cultural resources inventory prior to applying for Land and Water Conservation Funds.

The National Park Service will initiate the Tribal Consultation for the awarded project after SHPO has determined there are no adverse effects to the project site. 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

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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's Trails Program will make available LWCF logos to project sponsors. The Trails Program 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.



Golden Gate Canyon State Park

