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March 22, 2016

Joel Lynch, NPS, State and Local Assistance Programs Division  
National Park Service  
1849 C Street, NW  
Washington, DC 20240

Dear Joel:

The National Association of State Outdoor Recreation Liaison Officers seeks to manage an effective and efficient Land and Water Conservation Fund program at the state level and to work in partnership with the National Park Service to provide outdoor recreation opportunities and steward the legacy of the program for all Americans.

At the conclusion of the NASORLO Annual Meeting in September 2015, President Moerschel appointed a committee to examine program constraints and possible solutions. The purpose of this exercise is to enter into an improved dialogue with NPS in order to move forward and resolve issues of mutual concern. Towards that end the Committee members (Steve DeBrabander, Michigan; John Beneke, Arkansas; Synthia Waymack, Virginia; Tom Morrissey, Colorado; Tim Hogsett, Texas; Lauren Imgrund, Pennsylvania with support and assistance from Doug Eiken, Executive Director; and Susan Moerschel, President, Delaware) met several times over the winter of 2015/16.

The following are suggested changes to the LWCF Manual and action items for discussion with the NPS. We would like to work collaboratively with NPS on these issues:

- 1) Administrative Costs: There is inconsistency and confusion among the states regarding the application of an indirect cost rate.  
**Action:** At the NASORLO Annual Meeting in Michigan, we request NPS provide a presentation overview of how states can develop an indirect cost rate and how it is applied in the LWCF program. This will also include a discussion by NASORLO members of the different models that seem to be in effect around the country.
- 2) Small Conversions: In order to improve the process for minor conversions and to allow sponsors to more appropriately resolve them, we propose the following changes to the language in Chapter 8, Section E:

"Small conversions are composed of small portions of Section 6(f)(3) protected areas that amount to no more than 10 percent of the 6(f) protected area **or five acres, whichever is less.** States should consult with NPS prior to developing the small conversion proposal.

Because small conversion proposals are less complex, NPS review and decision can be facilitated when:

- a. Minor or no environmental impacts would occur on resources being removed from Section 6(f)(3) protection, on the remaining Section 6(f)(3) area, and on the contiguous new replacement parkland by placing it under Section 6(f)(3) protection per the environmental screening form. This includes consideration of impacts to historic resources per the Section 106 process of the National Historic Preservation Act. The entire conversion proposal is categorically excluded from further environmental review under NEPA (see Chapter 4).
- b. The proposed conversion is not controversial.
- c. **The replacement property is contiguous to the original Section 6(f)(3) area." (recommend removing this requirement)**

**Rationale:** Allowing replacement land within the same jurisdiction (city or county), but not necessarily contiguous land, would better enable sponsors and state LWCF administrators to make wise choices on replacement property. Furthermore, "... or five acres, whichever is less", is arbitrary and ignores the larger issue of the 6(f) estate of outdoor recreation resources.

3) Temporary Non-conforming use: In order to improve program efficiency and adapt to the reality of construction schedules, and other factors, that result in temporary non-conforming uses, we propose the following changes to Chapter 8, Section I:

"All requests for temporary uses for purposes that do not conform to the public outdoor recreation requirement must be submitted to and reviewed by the State. The State, in turn, will submit a formal request to NPS describing the temporary non-conforming use proposal.

*Continued use beyond six months 2 years will not be considered temporary, but will result in a conversion of use and will require the State/project sponsor to provide replacement property pursuant to Section 6(f)(3) of the LWCF Act. " (Recommend changing from six months to two years)*

**Rationale:** This rule is overly restrictive given that the 6(f)(3) area is to be kept in outdoor recreation in perpetuity. For example, road and bridge widening or replacement projects often take in excess of six months to complete and require the temporary use of a portion of the 6(f)(3) area for staging equipment and materials. Park facility construction projects inside of 6(f) zones can also extend beyond 6 months. Once projects are complete, 6(f) areas are returned to better conditions or provide greater recreational functions than prior to project starts.

Changing the duration of Temporary Non-Conforming Uses from six months to two years would provide greater flexibility for larger projects and eliminate the need in most cases for the conversion process which is burdensome for state and regional LWCF administrators. More importantly it would eliminate the considerable expense associated with formal appraisals and land replacement.

An additional recommendation for this section is that the non-conforming use may extend beyond the 2 year period in some limited circumstances. However, the sponsor must demonstrate how the 6(f) area affected will be enhanced to conditions better than what existed at the start of the non-conforming use, and, results in increased recreational function.

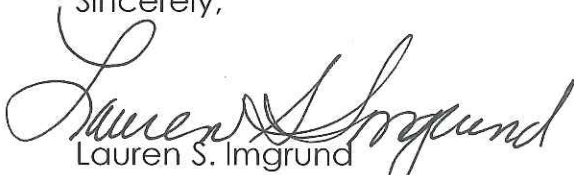
- 4) Funding Directed to Technology and Program Modernization: The objective of this request is to create a digital GIS spatial data that accurately maps the boundaries of all LWCF assisted properties throughout the country and articulates the contractual obligations of each state and its grantees to protect LWCF assisted projects for recreational purposes according to Section 6(f)(3). The final deliverable for the states would be:
- A polygon feature class delivered in geo-database format that is compatible with current Geographic Information Systems (GIS) and web-based mapping applications that accurately defines the extent, location, and ownership of all LWCF properties encumbered under Section 6(f)(3);

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- Digitized LWCF grant files in a format that is suitable for publication on the web.
- See attached sheet for more details on this request.

As next steps in this process, we request a meeting with you and appropriate staff to review these recommendations and to develop a timeline for addressing these issues. The NASORLO Board will be meeting in DC the first week of April perhaps we could meet with you then and at the Annual Meeting in September.

Sincerely,



Lauren S. Imgrund

Vice-president NASORLO

Chair of Committee on Improving the Efficiency and Effectiveness of the LWCF Program for State and Local Governments

cc: Steve DeBrabander, Michigan; John Beneke, Arkansas; Synthia Waymack, Virginia; Tom Morrissey, Colorado; Tim Hogsett, Texas; Doug Eiken, Executive Director; and Susan Moerschel, President, Delaware

### **Technology and Program Modernization (item #4 on memo)**

The protection provisions of the federal Land and Water Conservation Fund Act (LWCF) ensures that parks and conservation sites assisted with LWCF funds will provide benefits in perpetuity - a conservation and recreation legacy of the Stateside LWCF Program. Those investments have far reaching positive impacts nationwide, today and for generations to come. A national LWCF Atlas created by National Association of State Outdoor Recreation Liaison Officers (NASORLO) and our partners was needed to digitally reference every LWCF land acquisition and outdoor recreation facility - approximately 39,500 total project locations protected under Section 6(f)(3) of LWCF Act. In 2013, NASORLO embarked on the Atlas project. The project started as a partnership between NASORLO, the GreenInfo Network and the USGS to develop a retrievable set of information on all LWCF protected areas in the nation and all state funded LWCF sites. Nearly half the states now have their LWCF project locations (not always inclusive of project boundaries) incorporated into the Atlas pilot project.

#### **Objective**

The Atlas Project highlighted the need to modernize all state LWCF records and maps into digitized formats. Currently, many LWCF 6(f) property boundaries are tracked with paper maps of varying quality and sophistication. These paper maps were historically prepared by LWCF grantees and are attached to each grant file. Grant files are typically organized chronologically in filing cabinets in state agency offices. This paper-based data management approach no longer serves the needs of the national LWCF Stateside grant program or the recreating public. As an example, many large scale transportation projects that involve 6(f) properties are currently handled on a case by case basis requiring significant state agency staff time of both the LWCF caretaker and transportation agency employees to identify, interpret, and share the extent and location of 6(f) boundaries. In addition, the recreating public has no reliable digital reference to easily identify LWCF project locations.

The Atlas project served to locate a portion of LWCF protected parcels in the United States. The compilation of all Section 6(f) boundary maps into a spatially-enabled, digital database (a GIS layer) will promote efficient retrieval and updating of project information for state agencies and the public. As an example, Section 6(f) GIS map layers will greatly assist with state long-term planning efforts yielding improved efficiencies for transportation agencies by routing future road networks around 6(f) properties to the extent possible, thereby avoiding the cumbersome conversion processes altogether.

Digitized LWCF files and maps will enhance a better public understanding of the LWCF State-side program, would provide greater transparency in how state-side funds have been spent and greater awareness of where the properties supported with LWCF funds are across the nation. Digitized files and maps can easily be posted to web services and accessed through the web.

In certain cases, LWCF grantees have lost track of their obligations under their LWCF contracts, publishing the contracts in digital formats on the web would be a simple and elegant method to bring greater awareness to those obligations.

The objective of this request is to create a digital GIS layer that accurately maps the boundaries of all LWCF assisted properties throughout the country and articulates the contractual obligations of each state and its grantees to protect LWCF assisted projects for recreational purposes according to Section 6(f)(3) of the Land and Water Conservation Fund Act of 1964 (LWCF Act). The final deliverable for the states would be:

- A polygon feature class delivered in geo-database format that is compatible with current Geographic Information Systems (GIS) and web-based mapping applications that accurately defines the extent, location, and ownership of all LWCF properties encumbered under Section 6(f)(3);
- Digitized LWCF grant files in a format that is suitable for publication on the web.

#### **Project benefits**

- Greater transparency in the form and manner in which LWCF investments have been made across the nation;
- Assist LWCF grantees in promoting local awareness of Section 6(f) protections and responsibilities;
- Enhanced efficiencies for NPS, state agencies and the public to identify, track and monitor the status LWCF Section 6(f) protected properties;
- Allows health agencies to identify areas where active lifestyle practices can be prescribed and pursued;
- Identify areas where the public is underserved by park or outdoor recreational opportunities;
- Assist federal, state and local agencies in planning and future construction activities in identifying protected Section 6(f) properties; and,
- Assist in promoting tourism and Stay-cation opportunities