

# CRS Report for Congress

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## Federal Land Management Agencies' Permanently Appropriated Accounts

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## **ABSTRACT**

This report briefly describes the permanently appropriated special funds and trust funds of the Bureau of Land Management, National Park Service, Fish and Wildlife Service and Forest Service. It provides an overview of concerns about these accounts, describes the meaning of permanent appropriations and special and trust funds, summarizes the types of sources and uses of such funds, and then lists the major and minor permanently appropriated funds for each of these agencies. This report will be revised only after changes to these accounts are enacted.

# Federal Land Management Agencies' Permanently Appropriated Accounts

## Summary

The four major land management agencies have numerous special funds and trust funds that are permanently appropriated, with the money available to be spent without further action by Congress. Because the accounts are not reviewed annually by Congress in the appropriations process, oversight of these programs is infrequent compared to other agency programs. Various groups have expressed concerns about these accounts in recent years, especially those administered by the Forest Service, alleging rewards for environmentally damaging behaviors; insufficient compensation for the tax exempt status of federal lands; and subsidies to special interests. Congress has begun to review and compare the accounts of the land management agencies.

The Bureau of Land Management has 21 permanently appropriated accounts, mostly funded from agency receipts, totaling \$115 million (9% of BLM funds) in FY 1998. Most are small, with only 3 exceeding \$5 million in FY1998 obligations; the largest had obligations of \$68 million in FY1998. Eight (\$44 million in FY1998) fund agency activities. The other 13 (\$71 million in FY 1998) compensate local governments for lost tax revenues from the tax-exempt public lands.

The National Park Service has 16 permanently appropriated accounts, mostly funded from agency receipts, totaling \$194 million (10% of Park Service funds) in FY1998. Most are small, with only 4 exceeding \$5 million in FY1998 obligations; the largest had obligations of \$137 million in FY1998. Two small accounts (less than \$1 million total) compensate local governments for tax-exempt federal park lands. The other 14 (\$193 million in FY1998) fund agency activities. Many NPS accounts are relatively new; 10 have been created since 1993.

The Fish and Wildlife Service has the fewest permanently appropriated funds, with only 10, but 5 exceeded \$5 million in FY1998 obligations. The 10 accounts had FY1998 obligations totaling \$655 million (48% of agency funds). The two largest (\$533 million in FY1998) are funded mostly with excise taxes and import duties, and provide grants to states allocated by formula. The next two largest (\$93 million in FY1998) are funded from excise taxes (supplemented with appropriations) and license fees, and also fund grant-type programs. One (\$20 million in FY1998), funded from receipts plus annual appropriations, compensates local governments for the tax-exempt federal wildlife refuges. The other five (\$10 million in FY1998) fund agency activities.

The Forest Service has 18 permanently appropriated accounts. Total FY 1998 obligations were \$772 million (22% of Forest Service funds). Most accounts are large, with 12 exceeding \$5 million in FY1998 obligations, and most are funded from agency receipts. Four (\$280 million in FY1998) compensate local governments for tax-exempt national forests and national grasslands. The other 14 (\$492 million in FY1998) fund agency activities.

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# Federal Land Management Agencies' Permanently Appropriated Accounts

Federal land management is a principal mission for four federal agencies: the Bureau of Land Management (BLM), the National Park Service (NPS), and the Fish and Wildlife Service (FWS) in the Department of the Interior, and the Forest Service (FS) in the Department of Agriculture. Together, these agencies administer about 626 million acres, about 95% of all federal lands.<sup>1</sup> In addition, the agencies have various programs that provide financial and technical assistance to state or local governments, other federal agencies, and/or private landowners.

The four agencies have substantial annual expenditures, totaling more than \$8 billion in FY1998 — \$1.3 billion for the BLM; \$1.9 billion for the NPS; \$1.4 billion for the FWS; and \$3.5 billion for the FS. Most of the funds come from annual appropriations, but each agency has numerous permanently appropriated trust or special funds that provide money without annual appropriations from Congress. Many permanent appropriations are quite modest, but a few exceed \$100 million in annual funding.

The permanently appropriated accounts are generally valued by the agencies and supported by many interest groups. However, in recent years, other groups have expressed concerns about the trust and special funds. Environmental groups, for example, have asserted that many FS accounts reward environmentally damaging behaviors; counties are concerned that the accounts are providing substantially less compensation for tax-exempt federal lands than they did a decade ago; and taxpayer groups have suggested that some accounts subsidize special interests.

This report summarizes the permanently appropriated trust funds and special funds of the four major federal land management agencies. It describes permanent appropriations and explains why they are significant, and then describes trust and special funds. The subsequent two sections present a general overview of the types of sources and uses of these permanently appropriated accounts. These are followed by brief descriptions of each agency's permanently appropriated accounts. The information is drawn largely from the agencies' annual budget justifications that are submitted to the Appropriations Committees, and from the statutes that created each permanent appropriation. The report concludes with a summary and comparison of the agencies' accounts.

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<sup>1</sup>For more information on these agencies, see CRS Report 98-991 ENR, *Federal Land Management Agencies: Background on Land and Resources Management*, and CRS Report RL30126, *Federal Land Ownership: Constitutional Authority; the History of Acquisition, Disposal, and Retention; and Current Acquisition and Disposal Authorities*.

## Permanent Appropriations <sup>2</sup>

The Constitution (Article I, §9) requires that no funds may be withdrawn from the Treasury unless appropriated by law, but there is no constitutional limit on the duration of an appropriation. While many programs receive their funds through appropriations bills enacted each year, others receive a permanent appropriation in the law that created them.<sup>3</sup>

Two terms — trust fund and special fund — commonly used in federal budget documents are often misunderstood, because the “Federal budget meaning of the word ‘trust’ differs significantly from the private sector usage.”<sup>4</sup> In a glossary of federal budget terms, the only distinction between trust funds and special funds is that trust funds are designated as trust funds in their authorizing legislation.<sup>5</sup> One of the few differences is that interest on the balance in a trust fund accrues (is added) to the trust fund, while the interest on a special fund accrues to the general fund of the Treasury. Confusion over the operation of federal trust and special funds is typically greatest where there is a disparity between the receipts supplying the account and the amount obligated annually; generally, the greater the disparity between receipts and obligations, the greater the confusion over “special” funding that is not immediately available for spending. In this report, the terms are used interchangeably, and either term may be used collectively to refer to both the trust funds and the special funds.

Some, but not all, trust and special funds, have been permanently appropriated in the authorizing legislation. Permanent appropriations can generally be identified in the authorization by the phrase “available without further appropriation” (or by similar language), and the funds in these accounts can be spent by the relevant agency without any additional action by Congress. The money in any trust or special fund created without such language generally can be spent only when Congress enacts an appropriation from that account.<sup>6</sup>

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<sup>2</sup>This report assumes that readers are familiar with general budget terms (*e.g.*, budget authority and obligations) and distinctions among key concepts (*e.g.*, authorizations and appropriations). Readers wishing to review such concepts or the overall budget process may wish to consult CRS Report 98-410 GOV, *Basic Federal Budgeting Terminology*.

<sup>3</sup>Not all “permanent” appropriations are actually permanent. Some are created for a limited (typically multiyear) period and terminate at the end of that period. “Permanent appropriation” refers to agency authority to spend without further action by Congress.

<sup>4</sup>Executive Office of the President, *Budget of the United States, Fiscal Year 2000: Analytical Perspectives — 15. Trust Funds and Federal Funds* (Washington, DC: U.S. Govt. Print. Off., 1999), p. 335.

<sup>5</sup>OMB Circular A-11, available at: [<http://www.whitehouse.gov/omb/circulars/a11/a11-99.pdf>]

<sup>6</sup>The General Accounting Office classifies permanent spending authority into five categories, of which permanent appropriations is only one. However, in its last inventory of permanent spending authority, GAO identified only one account included in this report as other than permanent appropriations. (The NPS’s Glacier Bay National Park resource protection fund was identified as spending authority from offsetting collections.) See U.S. General

(continued...)

In general, those trying to create special and trust funds ultimately are seeking greater fiscal security for their favored programs. Permanent appropriations may provide such stability, compared to the vagaries of the annual federal budget and appropriations processes. However, programs funded with permanent appropriations might be subject to less regular congressional oversight than those funded annually. The permanent appropriation that assures funding also typically eliminates the annual review of programs often conducted by the appropriations subcommittees. Review by the authorizing committees might also be reduced. Thus, it may be uncertain whether the programs are achieving the purposes for which they were created, whether funds are well or wisely spent, *etc.*

## Funding Sources

Most of the permanently appropriated trust and special funds of the federal land management agencies are funded with agency receipts. A few, including some of the largest ones, are funded from other sources, including excise taxes, license fees, import duties, donations, and the general fund of the Treasury. These sources are described below.

### Agency Receipts

All four of the federal land management agencies collect money from the sale, lease, or other use of the lands and resources under their jurisdiction, but the amounts of the receipts vary widely among agencies and over time. Most of the natural resource trust funds and special funds have been created to use receipts for specified purposes, such as to rehabilitate sites following an extractive use or to otherwise invest in federal land and resource management. Their creation attests to the belief that such use of receipts is warranted, and their persistence attests to the benefits they have produced over the years. However, critics argue that agency use of receipts creates “perverse incentives” — internal rewards for environmentally damaging activities to generate the funds needed to mitigate those environmental damages. For example, FS wildlife managers receive funding for projects from timber receipts (*via* the Knutson-Vandenberg Fund) if they support the timber sale in internal discussions, even though many of those projects are intended to mitigate damages to wildlife habitat from timber harvesting.<sup>7</sup>

The discretion over disposition of receipts varies among agencies and programs. Some dedicate 100% of certain receipts to specific purposes (*e.g.*, the recreational fee demonstration program). Others direct a portion of receipts to be used in specific ways (*e.g.*, 15% of recreation fees to pay the administrative costs of collecting the fees). Still others allow the agency to decide the amount deposited into the trust fund

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<sup>6</sup>(...continued)

Accounting Office, *Budget Issues: Inventory of Accounts with Spending Authority and Permanent Appropriations, 1996*, GAO/RCED-96-79 (Washington, DC: May 1996). For current definitions of federal budget terminology, see OMB Circular A-11.

<sup>7</sup>See Randal O’Toole, *Reforming the Forest Service* (Washington, DC: Island Press, 1988).



or special fund (*e.g.*, the FS's Knutson-Vandenberg Fund). Direction on disposing receipts is a distinctive characteristic of each account and is a significant factor in determining how controversial the account is.

Most NPS receipts result from recreation uses, since the agency's mission is to provide recreation while preserving the lands and resources it manages. FY1998 NPS receipts were \$203 million. FWS receipts result from a wide array of activities — timber sales, grazing leases, recreation uses, *etc.* — but are relatively modest, because the agency's mission is to administer the lands and resources primarily to benefit fish and wildlife. The FWS does not report receipts in its annual budget justifications (as do the other three agencies), but FY1996 receipts from lands and resources totaled \$168 million.<sup>8</sup>

The BLM and FS have similar missions — to produce sustained yields of multiple uses (recreation, grazing, timber, water, and wildlife). Timber sales have accounted for the vast majority of receipts for these two agencies, totaling more than half of BLM receipts and about 90% of FS receipts. Because timber sale levels have declined over the past decade, agency receipts have declined. FY1998 BLM receipts were \$147 million (down from the FY1989 peak of \$313 million), while FY1998 FS receipts were \$689 million (down from their FY1989 peak of \$1.548 billion).

Mineral leasing on federal lands also generates receipts, but none of the four land management agencies collects leasing receipts. The Minerals Management Service (MMS) of the Department of the Interior handles financial administration of mineral leases on all federal lands. (MMS does not manage lands, and thus was excluded from this report). MMS reported FY1998 collections from onshore leases at \$1.2 billion.<sup>9</sup> MMS does not distinguish among the administering agencies in its statistical reports on federal onshore lease collections, although internal records from the mid-1990s show that the bulk of collections are from lands administered by the BLM.<sup>10</sup>

## **Excise Taxes and Licensing Fees**

Federal excise taxes are a funding source for two major FWS programs — Federal Aid in Sport Fish Restoration (Wallop-Breaux) and Federal Aid in Wildlife Restoration (Pittman-Robertson). Licensing fees fund one major FWS program — the Migratory Bird Conservation Fund (the Duck Stamp program), and two minor FS programs — Woodsy Owl and Smokey the Bear. It is not required that programs funded by excise taxes or license fees be permanently appropriated. However, all five accounts of the federal land management agencies funded by excise taxes or license fees have been permanently appropriated in their authorizing legislation.

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<sup>8</sup>U.S. Dept. of the Interior, Fish and Wildlife Service, *Report of Receipts for FY 1996 thru Sept. 1997*, ARS9\_97. Unpublished report, from Kathleen Graham, Budget Office, Fish and Wildlife Service, U.S. Dept. of the Interior, Washington, DC, on Dec. 4, 1997.

<sup>9</sup>U.S. Dept. of the Interior, Minerals Management Service, *Royalty Management Program, State Mineral Summaries, Fiscal Year 1998* (Denver, CO: 1999).

<sup>10</sup>Personal communication with Steve Rawlings, Resource Information Branch, Minerals Management Service, U.S. Dept. of the Interior, Denver, CO, in March 1995.

Excise taxes are taxes charged on specific items or groups of items. Sometimes, the receipts from federal excise taxes accumulate in special funds, which can then be used for various purposes. The FWS Federal Aid programs are funded with excise taxes. The excise tax receipts of both programs are permanently appropriated under laws that predate the strictures of subsequent budget reforms. In both programs, the taxes are paid substantially, if not entirely, by the people who are likely to benefit from the subsequent expenditures. Under the Wallop-Breaux program, the taxed items are sales of sport fishing tackle and equipment, electric trolling motors and fishfinders, and part of the gasoline taxes on users of motorboats and small engines, with the funds used for programs to benefit sport fishing. For Pittman-Robertson, the taxed items include the sales of guns (including handguns), ammunition, and archery equipment, with the funds used for wildlife programs.

Under licensing fee programs, users pay for some particular privilege or right. The resulting receipts may be placed in a fund to benefit either an outside user group or to support the continued existence of an agency program. For duck stamps, the program beneficiaries (waterfowl hunters and refuge visitors) purchase the licenses that fund the program. Waterfowl hunters over 16 years old must buy a duck stamp which must be displayed on their hunting licenses, while nonhunters purchase the stamps for various reasons: to gain admission to fee areas in the National Wildlife Refuge System; to provide support for the FWS land acquisition program which it funds; and to collect the stamps which they value.

In the two FS programs, licensees receive the privilege of using the agency icons: “Woodsey Owl” and “Smokey the Bear.” The former character is intended to promote wise use of the environment and maintenance of environmental quality. The latter character is used in the publicity and education campaign to prevent forest fires. The license fees are permanently appropriated, and are used to further these values. Private enterprises purchase licences to use the characters in their own publications, but the license purchasers gain no direct benefit from the license fees they pay.

## **Import Duties**

One account is funded entirely by tariffs, while import duties contribute to two others. The FS’s Reforestation Trust Fund receives tariff collections on imported wood products, up to \$30 million annually. The history of the authorizing legislation does not identify why wood import tariffs were chosen to fund this account. Tariffs on imported fishing products are added to excise taxes for the FWS’s Federal Aid in Sport Fish Restoration, while tariffs on hunting products are transferred to the FWS’s Migratory Bird Conservation Fund.

## **Donations**

In general, the federal land management agencies can accept donations from individuals and organizations for the agencies to carry out specific projects or research. The NPS and the FWS each have a permanently appropriated account for collecting donations. The BLM has two modest permanently appropriated accounts for such purposes, with any donations in excess of the project costs returned to the

donor. In contrast, the FS has one very small special fund for research donations, but the fund requires (and has always received) appropriations from Congress annually.

In addition, contributions for specific sites or projects may be made through the three foundations that support the NPS, FWS, and FS. The BLM has no comparable supporting foundation. The National Park Foundation, National Fish and Wildlife Foundation, and National Forest Foundation exist to assist the relevant agencies by matching federal funds with nonfederal contributions to leverage various activities, thus essentially expanding agency appropriations. All were created by acts of Congress — the National Park Foundation in 1967 (P.L. 90-209), the National Fish and Wildlife Foundation in 1984 (P.L. 98-244), and the National Forest Foundation in 1990 (Title IV of P.L. 101-593). These foundations provide an alternative means for donors to support the agencies directly.

## **General Fund of the Treasury**

Two permanently appropriated accounts currently are funded from the general fund of the Treasury. The BLM and FS receipt-sharing accounts are funded from receipts from money-generating activities (mostly timber sales). These programs were supplanted for 10 years for the areas of Washington, Oregon, and California where timber sales were substantially reduced because of efforts to preserve spotted owl habitat and other values. The new programs were created in 1993 and were initially funded from agency receipts. Concerns about the adequacy of receipts led to a 1994 amendment directing the payments to be made “out of any money in the Treasury not otherwise appropriated ...” Thus, these two accounts are funded from the general fund of the Treasury, rather than from any specific source.

## **Uses of the Funds**

Most of the permanently appropriated natural resource trust funds and special funds were established to fund certain agency activities or to compensate state or local governments for the tax-exempt status of federal lands. Some also provide funding for specific state or local agency programs; traditionally, such funds were allocated by formula, but competitive grants are becoming more common.

## **Agency Activities**

Several permanently appropriated accounts were established to fund specific activities for the agencies, although the various accounts display a wide array of possible uses of the funds. Sometimes, these activities are related to the activities that generate the receipts, such as to reforest areas following timber sales or to recover the cost of collecting the receipts. Other activities for which such funds are commonly used are to restore degraded lands, resources, or facilities, or to otherwise invest in the federal lands and resources.

Some accounts authorize relatively narrowly defined purposes for which the funds can be used. The Migratory Bird Conservation Fund, for example, can be used only to acquire land for the National Wildlife Refuge System, and the recreation-fee

collection accounts can be used only to recoup administrative costs of collecting those fees. Other accounts have a broader range of purposes. For example, the FS's Knutson-Vandenberg Fund can be used to reforest sale areas, to improve timber stands, or to mitigate damages or enhance nontimber resource values within timber sale areas. Funding allocation among multiple purposes can be specified, such as 80% of the recreation demonstration fees being available at the site where they are collected and the BLM's payments to Nevada from land sale receipts (5% to the state; 10% to Clark County; and 85% to federal land acquisition). However, allocations of many funds among multiple purposes are at the discretion of the agencies. The purposes and allocations among multiple purposes are distinctive characteristics of each account.

## **State and Local Compensation**

Many of the permanently appropriated accounts were created to compensate state or local governments for the tax-exempt status of federal lands.<sup>11</sup> The accounts generally are funded as a share of agency receipts (ranging up to 90%), at least partly because many of the accounts were created before the federal income tax system was created, before the federal government had other receipts to use for state benefits. Some programs encompass a broad land base (*e.g.*, all national forests) while other have a much narrower base (*e.g.*, the national forests in three counties in northern Minnesota). In addition, some programs specify the allowed uses of the funds, while others are not restricted. FS payments to states, for example, can only be used on roads and schools, while BLM sharing of grazing receipts can be used for any local governmental purpose.

## **State Grant Programs With Formula Allocations**

States, territories, and tribal governments receive certain payments from federal agencies based on a formula. The programs provide federal money to accomplish some shared purpose. The area of the state (territory, reservation, *etc.*) and the size of some population (whether the whole state or some group of people within it) are common parameters used in calculating payments. In the two natural resource special funds with formula allocations (Wallop-Breaux and Pittman-Robertson), there is also a maximum and a minimum that a state, territorial, or tribal government may receive. There may be a matching requirement for some programs. In contrast to many other federal programs, including state and local compensation programs, the combination of a formula fixed in law and a permanent appropriation gives the states substantial predictability of federal funding. This makes state governments especially supportive of this type of funding.

## **Competitive Programs Without Fixed Formulas**

The payments from some permanently appropriated accounts are not prescribed by formula. Rather, the funds are allocated in some other manner, often with projects

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<sup>11</sup>The broadest compensation program, Payments in Lieu of Taxes (PILT), requires annual appropriations, but is linked to many of these permanent payment programs. This is described in CRS Report 98-574 ENR, *PILT (Payments in Lieu of Taxes): Somewhat Simplified*.

competing for the funds. For example, the Migratory Bird Conservation Fund is permanently appropriated and can be used only for acquiring migratory bird habitat. The specific projects on which the money is spent are determined by a federally appointed panel, and the selections must have approval from either the Governor of the state or the state fish and game agency. Under the Recreation Fee Demonstration program, 80% of the collected funds must remain at the unit that collected them. However, the agencies are permitted to use the other 20% of the funds for other purposes, such as for units that cannot efficiently or economically collect the fees directly. In this sense, the habitat acquisitions, recreation projects, or other activities must compete to obtain some portion of the program's funds.

## **Federal Land Management Agencies: Trust Funds and Special Funds**

This section describes the permanently appropriated trust funds and special funds of each of the four federal land management agencies. The description of each fund with at least \$5 million in FY1998 obligations includes the enabling legislation, the FY1998 obligations, and the source and uses of the fund. Also, for each agency, there is an "other accounts" entry to identify accounts with less than \$5 million in FY1998 obligations. Some of these other accounts had \$0 in FY1998 obligations, perhaps because the fund is relatively new (*i.e.*, receipts have not yet accumulated), or because it is used only intermittently (*i.e.*, receipts do not occur every year). It should be recognized that the accounts are grouped as above or below \$5 million based on FY1998 obligations, and some might have been classified differently if based on budget authority or on another fiscal year.

### **Bureau of Land Management**

The BLM has 21 permanently appropriated trust funds and special funds, but only 3 had FY1998 obligations exceeding \$5 million. Nearly all are funded from agency receipts. Total FY1998 obligations from the 21 accounts were \$115 million, accounting for 9% of BLM funding. Of the 21 accounts, 13 (with \$71 million in FY1998 obligations) are compensation programs and the other 8 (with \$44 million in FY1998 obligations) fund BLM activities.

**Payments to Counties, O&C and CBWR lands.** The Oregon and California (O&C) and Coos Bay Wagon Road (CBWR) grant lands are lands granted to private firms, then returned to federal ownership. The federal government makes payments to the counties where these lands are located — counties in western Oregon and Coos and Douglas Counties in Oregon, respectively — to compensate those counties because the land is exempt from local taxation. Under the Act of August 28, 1937 (ch. 876; 43 U.S.C. §1181f), the payments are 50% of receipts (most of the receipts are from timber sales).<sup>12</sup> Under the Act of May 24, 1939 (ch. 144; 43 U.S.C. §1181f-

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<sup>12</sup>The Act authorizes another 25% to be paid to the O&C counties, initially to repay back taxes due on the land and subsequently after "reimbursable charges against the Oregon and (continued...)

1), CBWR payments are up to 75% of receipts, but cannot exceed the taxes that would be paid by a private landowner.

However, because of declining timber sales (due to protection of spotted owl habitat and other values), Congress enacted §13983 of the 1993 Omnibus Budget Reconciliation Act (P.L. 103-66) to authorize a 10-year program of payments to the counties based on historic receipts. (This formula supercedes the O&C and CBWR payments for the 10-year period.) Specifically, payments began in FY1994 at 85% of the FY1986-FY1990 average payments, and decline by 3 percentage points per year to 58% in FY2003. (Payments from FY1999-FY2003 can be based on the receipt-sharing formula, if the resulting payments would be higher.) Initially, these payments were made from receipts, but the program was amended in 1994 (P.L. 103-443) to direct the payments from the Treasury. In FY1998, the total obligation from the two accounts was \$68.0 million, with \$67.5 million from O&C lands and \$0.5 million from CBWR lands.

**Timber Sales Pipeline Restoration Fund.** This program was established to fund some timber sale preparation, because many sales (both ready for sale and in preparation) were halted under court injunctions and the President's Forest Plan for the Pacific Northwest related to spotted owl protection. It was authorized by §327 of the Omnibus Consolidated Rescissions and Appropriations Act, 1996 (P.L. 104-134). The funds are derived from the federal share (the 50% that is not shared with the counties) of receipts from certain canceled-but-reinstituted O&C timber sales<sup>13</sup> or sales prepared from the fund. Three quarters of the money is to be used to prepare timber sales (other than salvage), and the other quarter is to be used on recreation projects. When the Secretary of the Interior finds that the allowable sales level for the O&C lands has been reached, he may end payments to this fund and transfer any remaining money to the general fund of the Treasury as miscellaneous receipts. In FY1998, the obligations were \$31.8 million.

**Forest Ecosystems Health and Recovery Fund.** This fund was created by an unnumbered section of the 1993 Department of the Interior and Related Agencies Appropriations Act (P.L. 102-381). Funds are derived from the federal share (the 50% that is not shared with the O&C counties) of money received from the sale of salvage timber from any BLM lands. The money can be used to plan, prepare, administer, monitor, and reforest salvage timber sales. The use of the fund was expanded by an unnumbered section of the Department of the Interior and Related Agencies Appropriations Act, 1998 (P.L. 105-83) to authorize the funds also to be

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<sup>12</sup>(...continued)

California land-grant fund ....” In practice, the reimbursable charges include the annual appropriations for O&C management, which consistently exceed 25% of receipts, and thus none of this additional 25% has been paid to the counties since the back taxes were paid nearly 50 years ago.

<sup>13</sup>These timber sales were originally offered and sold under §318 of the Interior Appropriations Act, 1990 (P.L. 101-381), but were halted in 1992 after the marbled murrelet was listed as a threatened species under the Endangered Species Act. BLM was directed to release the sales in §2001(k) of the 1995 Emergency Supplemental Appropriations and Rescissions Act (P.L. 104-19). (Section 2001 is also known as the salvage rider.)

used to address forest health problems as well as other ecosystem health and recovery activities, such as releasing trees from competing vegetation and controlling tree density.<sup>14</sup> In FY1998, the obligations were \$5.9 million.

**Other Permanent Appropriations.** The BLM has 18 other permanently appropriated funds, including 7 for agency operations and 11 for local compensation. Payments for local compensation are made annually, unless otherwise noted. The funds are listed below in descending order of FY1998 obligations, and alphabetically for those with \$0 obligations in FY1998.

- **Recreational Fee Demonstration Sites** (\$3.5 million in FY1998). This fund is described more fully below, under the National Park Service (the Recreational Fee Demonstration Program). The BLM fund consists of fees from certain BLM recreation sites. While 80% of the money must be used at the site where it was collected, and 20% may be used for BLM's general recreation program, in practice, the BLM returns 100% of the money to the collection sites.
- **Expenses, Road Maintenance Deposits** (\$1.6 million in FY1998). Section 502(c) of the Federal Land Policy and Management Act of 1976 (FLPMA, P.L. 94-579; 43 U.S.C. §1762) provides for collecting money from users of roads, trails, land, and other BLM facilities. Money collected from road users is permanently appropriated for road maintenance and reconstruction. Most of the collections come from the O&C lands and are available primarily for those lands. Collections in excess of needs are refunded or transferred to miscellaneous receipts.
- **Payments to States, Grazing Within Grazing Districts** (\$1.5 million in FY 1998). The Taylor Grazing Act (Act of June 28, 1934, ch. 865; 43 U.S.C. §315i) created an account to pay 12½% of grazing fee receipts from public lands inside grazing districts to the states in which the grazing districts are located. When payment is not feasible on a percentage basis, states are paid specific amounts from grazing fee and mineral receipts from miscellaneous lands within grazing districts. These lands are administered under cooperative agreements specifying that BLM distribute the receipts. Payments may be used by the state for the benefit of the counties containing the grazing lands.
- **Payments to States, Grazing Outside Grazing Districts** (\$0.9 million in FY 1998). The Taylor Grazing Act (Act of June 28, 1934, ch. 865; 43 U.S.C. §315i) also created an account to pay 50% of grazing fee receipts from public lands outside of grazing districts to the states in which the grazing lands are located. Again, payments may be used by the state for the benefit of the counties containing the grazing lands.
- **Resource Development Protection and Management, Taylor Grazing Act** (\$0.8 million in FY1998). The Taylor Grazing Act (Act of June 28, 1934, ch. 865; 43 U.S.C. §315h) also authorizes the Secretary of the Interior to accept

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<sup>14</sup>There is some question as to whether this extension of spending authority altered the program permanently or just for FY1998.

contributions for administering, protecting, and improving grazing lands, and deposits for cooperative work on grazing lands. Receipts are deposited into a special fund and permanently appropriated until expended, and may be spent on the specified rangeland activities, with refunds of deposits “in excess of their [cooperators’] share of the cost” for cooperative efforts.

- Payments to States, Proceeds of Sales (\$0.5 million in FY1998). Numerous laws, beginning with the Act of March 6, 1820, and aggregated into a single program by an unnumbered section of the Interior Appropriations Act, 1952 (ch. 375, 65 Stat. 252; uncodified), are the basis for this program. States are paid 5% of the net receipts (4% of the gross) from selling public land and products, to compensate for tax-exempt federal lands. The payments may be used for education and public roads and improvements.
- Payments to Counties, National Grasslands (\$0.4 million in FY1998). This fund is more fully described below, under the Forest Service (Payments to Counties, National Grassland Fund). In essence, BLM pays 25% of the net receipts from land uses, such as from grazing and mineral leasing, paid to the counties in which the lands are located, and available for schools and roads.
- Recreation Fee Collections (\$0.3 million in FY1998). This fund is described more fully below, under the National Park Service (Fee Collection Support). In essence, the BLM is allowed to retain up to 15% of recreation receipts to offset the costs of collecting the fees.
- Operations and Maintenance of Quarters (\$0.3 million in FY1998). This fund is described more fully below, under the National Park Service (Operations and Maintenance of Quarters). It is comprised of rents and other charges the BLM collects from employees who occupy agency housing, and is used to maintain and repair these quarters.
- Public Survey (\$0.3 million in FY1998). Land survey laws, beginning with the Act of August 20, 1894, ch. 302 (43 U.S.C. §760) authorized payments to the Secretary of the Interior for public surveys of townships. These payments are permanently appropriated to the Secretary, to be used for the surveys, with any excess money refunded to the contributor.
- Payments to Nevada from Receipts on Land Sales (\$77,000 in FY1998). The “Burton-Santini Act” (P.L. 96-586; uncodified) and the Southern Nevada Public Land Management Act (P.L. 105-263) established permanent appropriations from certain land sales in Clark County, NV. The earlier law provides for money from the sale to be given to Nevada for education (5%) and to Clark County to acquire and develop recreation lands and facilities (10%), with the rest used to acquire environmentally sensitive lands and interests in lands in the Lake Tahoe Basin. Money from land sales under the later law is allocated to the state for education (5%), to the Southern Nevada Water Authority for water treatment and facilities infrastructure (10%), and to a special fund to be used for various purposes, primarily in Clark County (85%).



- Payments to Oklahoma (\$3,000 in FY1998). The Act of June 12, 1926 (ch. 572; uncodified) established an account to pay Oklahoma 37½% of the oil and gas royalties from the south half of Red River in lieu of state and local taxes on certain Tribal lands (Kiowa, Comanche, and Apache). These biannual payments may be used for schools or roads.
- Calista Property Account (\$0 in FY1998). This account was established by §8126 of the Department of Defense Appropriations Act, 1992 (P.L. 102-172) to fund land exchanges between the Secretary of the Interior and the Calista Corporation in fulfillment of Native claims under ANSCA. Agencies may use the account to sell property to the Calista Corporation.
- Cook Inlet Region, Inc. Property Account (\$0 in FY1998). The Alaska Native Claims Settlement Act (ANSCA; P.L. 92-203) and §12(b) of the Alaska Native Claims Act (P.L. 94-204) provide for conveyances of federal land in Alaska to the Cook Inlet Region, Inc. (CIRI), a Native Corporation established to handle money and lands granted to Alaska Natives. The later law created the CIRI Surplus Property Account for bidding on federal surplus property, and paying for the conveyance of property. Section 9102 of the Department of Defense Appropriations Act, 1990 (P.L. 101-165) authorized using the account for all purposes involving any public sale of government property, and provided permanent funding for the account.
- Haida Property Account (\$0 in FY1998). This account was established by §15 of the Alaska Land Status Technical Corrections Act (P.L. 102-415) to make payments to the Haida Corporation in fulfillment of Native claims in land settlements under ANSCA. The account may be used for bidding on and for purchasing federal surplus property at public sales.
- Payments to Alaska, National Petroleum Reserve (\$0 in FY1998). An unnumbered section of the Department of the Interior and Related Agencies Appropriations Act, 1981 (P.L. 96-514) established an appropriation to pay Alaska 50% of the receipts from sales, rentals, bonuses, and royalties related to oil and gas leasing in the National Petroleum Reserve in Alaska. Payments are made biannually, and may be spent on public facilities and services with priority to the subdivisions most directly affected by the leasing.
- Trustee Funds, Alaska Townsites (\$0 in FY1998). Although now repealed, §11 of the Act of March 3, 1891, provided for the sale of town lots to non-Native Alaskans. Currently, only lots occupied prior to the enactment of FLPMA may be deeded to the occupants. Purchasers (except Alaska Natives) pay for the survey and deed transfers plus \$25. The money is put in a trust fund, and is permanently appropriated for the same.
- Utah School Lands Exchange (\$0 in FY1998). The Utah Schools and Lands Improvement Act (P.L. 103-93) and the Utah Schools and Lands Exchange Act (P.L. 105-335) authorized an exchange of lands and mineral interests between the Department of the Interior and Utah. The later law also provided for a one-time appropriation of \$50 million to Utah, from funds not otherwise appropriated by the Treasury, upon completion of all land conveyances.

## National Park Service

The NPS has 16 permanently appropriated trust funds or special funds, but only 4 had FY1998 obligations exceeding \$5 million. (This may be due in part to the relatively recent authorization of these programs, 10 of which have been established since 1993.) All accounts are funded from receipts, and FY1998 obligations were \$194 million (10% of NPS funding). Of these, 2 accounts (with less than \$1 million total funding) were compensation programs. The other 14 (with \$193 million in FY1998 funding) supported agency activities.

**Recreation Fee Demonstration Program.** This program was established in §315 of the Omnibus Consolidated Rescissions and Appropriations Act, 1996 (P.L. 104-134; this section is codified at 16 U.S.C. §460l-6a). It amended the Land and Water Conservation Fund Act to authorize the NPS and other land management agencies to create a demonstration program to test the feasibility of collecting user fees to recover the cost of operating and maintaining recreation sites and habitat enhancement projects on federal lands. Parks and other units are allowed to collect new or increased admission and user fees and the agency is allowed to retain all recreation fee revenue generated at the demonstration sites; 80% of the money must be used at the unit where it was collected, including to cover the cost of collecting fees at the site, and 20% is available to the agencies for general recreation purposes. Currently, the authority to collect fees is available through FY2001, and expenditures are authorized through FY2004. For FY1998, the NPS obligations were \$136.8 million.

**Concessions Improvement Accounts.**<sup>15</sup> This account was created in the Concessions Policy Act of 1965 (P.L. 89-249; 16 U.S.C. §20) to authorize the traditional NPS practice of requiring maintenance and improvement activities by concessioners in their contracts (which some believe was authorized in the NPS Organic Act of 1916 [ch. 408; 16 U.S.C. §§1-4]). The account contains money derived from NPS agreements that require private concessioners, who provide visitor services within the parks, to put either a portion of gross receipts or a fixed sum into a separate bank account. With park approval, a concessioner may spend the funds for facilities that directly support the concession's visitor services but would not be funded through the appropriations process. In FY1998, the obligations were \$26.3 million.

**Operation and Maintenance of Quarters.** This program was authorized in 1964 (P.L. 88-459) but was not permanently appropriated until 1984, in §320 of Title I of the Continuing Appropriations, 1985 (P.L. 98-473; 5 U.S.C. §5911). The federal agencies collect rent from employees who use government-owned housing and quarters. For the NPS, the funds are used to operate and maintain the agency's

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<sup>15</sup>This account is included as a permanent appropriation, because it is categorized as such in the *Budget of the United States Government, Fiscal Year 2000—Appendix*. However, the NPS regards it not as receipts and appropriations, but as private funds belonging to the concessioners. See U.S. Dept. of the Interior, Office of the Solicitor, *National Park Service (NPS) Concession Contract Special Account Provisions*, by Edward B. Cohen, Deputy Solicitor, Memorandum to the Inspector General (Washington, DC: Dec. 26, 1996).

housing throughout the National Park System. In FY1998, the obligations were \$14.8 million.

**Donations, National Park Service.** In accordance with §1 of the Act of June 5, 1920 (ch. 235; 16 U.S.C. §6), this fund is comprised of donations received by the Secretary of the Interior that are used for the National Park System. In FY1998, the obligations were \$13.9 million.

**Other Permanent Appropriations.** The NPS has 12 additional permanently appropriated accounts, primarily to fund specific agency activities. These accounts are listed in descending order of FY1998 obligations, and alphabetically for those with \$0 obligations in FY1998.

- Fee Collection Support (\$1.1 million in FY1998). Section 10002(b) of the 1993 Omnibus Budget Reconciliation Act (P.L. 103-66) amended the Land and Water Conservation Fund Act (P.L. 88-578; 16 U.S.C. §460l-6a(i)(1)(B)) to authorize the federal land management agencies to retain a portion of recreation fees to cover the costs of fee collection. It created an NPS fund with a portion of the recreation fees collected from parks that are not in the Fee Demonstration Program. The amount of fees withheld is to be the lesser of the cost of collecting the fees or 15% of all fees collected at non-demonstration sites. The money is used to cover the costs of fee collection.
- Educational Expenses, Children of Employees, Yellowstone National Park (\$0.8 million in FY1998). Section 1 of the Act of June 4, 1948 (ch. 417; 16 U.S.C. §40a) created an account containing “a sufficient portion” of the fees collected from visitors to Yellowstone National Park. The money is used to educate dependents of Park employees living at or near the Park on federal property not subject to state and local taxes or payments in lieu of taxes.
- Glacier Bay National Park Resource Protection (\$0.4 million in FY1998). Section 703 of Division I of the Omnibus Parks and Public Lands Management Act of 1996 (P.L. 104-333; 16 U.S.C. §1a-2(g)) established an account consisting of 60% of the fees paid by boat operators or other permit holders entering Glacier Bay National Park. The money may be used to protect park resources from harm by the permittees.
- Delaware Water Gap National Recreational Area, Route 209 Operations (\$0.1 million in FY1998). Chapter VII of the 1983 Supplemental Appropriations Act (P.L. 98-63) restricted commercial traffic on U.S. Route 209 through the Delaware Water Gap National Recreation Area, and established an account from fees collected from commercial vehicles allowed in the area. The fund was reauthorized in §702 of the Omnibus Parks and Public Lands Management Act of 1996 (P.L. 104-333). The funds may be used to manage, operate, and maintain Route 209 within the Recreation Area.
- Preservation, Birthplace of Abraham Lincoln, National Park Service (\$8,000 in FY1998). In accordance with §2 of the Act of July 17, 1916 (ch. 247; 16 U.S.C. §§211, 212), this fund consists of an endowment given to the United

States by the Lincoln Farm Association. The interest on the fund is used to preserve Kentucky's Abraham Lincoln Birthplace National Historic Site.

- Payment for Tax Losses on Land Acquired for Grand Teton National Park (\$7,000 in FY1998). Section 5 of the Act of September 14, 1950 (ch. 950; 16 U.S.C. §406d-3) established an account with money collected from visitors to the Grand Teton National Park and the Yellowstone National Park. No more than 25% of the fees collected may be used to compensate Wyoming, in accordance with a schedule of payments, for tax losses due to federal land acquisitions.
- Deed-Restricted Parks Fee Program (\$0 in FY1998). In 1998, the Land and Water Conservation Fund Act was amended in P.L. 105-327 (16 U.S.C. §460l-6a(i)(1)(C)) to establish an account consisting of recreation fees collected from park units where deed restrictions prohibit the collection of entrance fees. The account applies to the Great Smoky Mountains National Park, Lincoln Home National Historic Site, and Abraham Lincoln Birthplace National Historic Site. The money may be used at the collecting site for a variety of operating purposes, including interpretation, protection of resources, and repair and maintenance.
- National Maritime Heritage Grants (\$0 in FY1998). The National Maritime Heritage Act (P.L. 103-451; 16 U.S.C. §5401) created this fund with 25% of the money obtained from selling obsolete vessels in the National Defense Reserve Fleet. The money may be used for maritime heritage education and preservation activities, matching grants under the National Maritime Heritage Grants Program, and related administrative expenses. The authority to sell obsolete vessels expires at the end of FY2001.
- National Park Passport Program (\$0 in FY1998). Title VI of the National Parks Omnibus Management Act of 1998 (P.L. 105-391; 16 U.S.C. §§5991-5995) created this account to receive proceeds from the sale of National Parks Passports. The passports can be used for admission to all park units. Up to 10% of the money may be used for administering and promoting the passport program, and the remainder may be used for priority visitor service or resource management projects in the National Park System.
- Park Buildings Lease and Maintenance Fund (\$0 in FY1998). Section 802 of the National Parks Omnibus Management Act of 1998 (P.L. 105-391; 16 U.S.C. §1a-2(k)) created a special fund consisting of the rent money derived from leases on NPS buildings and other property. The money may be used for infrastructure in the National Park System.
- Park Concessions Franchise Fees (\$0 in FY1998). Section 407 of the National Parks Omnibus Management Act (P.L. 105-391; 16 U.S.C. §5956) created an account to receive franchise fees and other money paid to the NPS pursuant to concessions contracts. The collecting site retains 80% of the money for visitor services and high priority resource management activities, and the NPS can use 20% for general National Park System purposes.

- Transportation Systems Fund (\$0 in FY1998). Section 501 of the National Parks Omnibus Management Act of 1998 (P.L. 105-391; 16 U.S.C. §5981) established this account with fees charged for public use of transportation services within Park System units. The money may be used by the collecting site for costs associated with its transportation systems.

## **Fish and Wildlife Service<sup>16</sup>**

The FWS has only 10 permanently appropriated trust funds or special funds, but half of those exceeded \$5 million in FY1998 obligations. Total FY1998 funding from these 10 accounts was \$655 million, 48% of total FWS funding in FY1998. The two largest accounts (\$533 million) are funded mostly from excise taxes, and fund state grants with fixed formulas. The next two largest (\$92 million) are funded from excise taxes (supplemented with annual appropriations) and license fees, and also fund grant programs, although competition is a factor in their allocation. One (\$20 million) is funded from receipts, supplemented annually with appropriations, to compensate local governments. The remaining five (\$10 million) fund agency activities.

**Federal Aid in Sport Fish Restoration (Wallop-Breaux).** In 1950, Congress passed the Federal Aid in Sport Fish Restoration Act (ch. 658; 16 U.S.C. §777 and 26 U.S.C. §9504(a)). In 1984, it became part of a larger Aquatic Resources Trust Fund established in the “Wallop-Breaux” Act (Part 1 — Boating Safety and Sport Fish Restoration, of Subtitle B, Title X, Division A of the Deficit Reduction Act of 1984, P.L. 98-369). The Wallop-Breaux Fund within the Aquatic Resources Trust Fund includes a 10% excise tax on fishing rods, reels, creels, and artificial lures; a 3% tax on electric outboard motors and on sonar fish finders; and an import duty on fishing tackle and recreational boats. It is also funded by part of a \$0.05/gal tax on motor-boat fuels, and interest on unspent funds is paid into the account. The obligations in FY1998 totaled \$323.0 million (plus \$10.2 million transferred to the North American Wetlands Conservation Fund).

The states and territories receive grants for substantial projects to benefit sport fish habitat, research, inventories, education, stocking of sport fish into suitable habitat, etc. Once the FWS approves projects as meeting the law’s criteria, the FWS dispenses the funds and determines *via* audits if the funds are spent according to regulation. The states and territories receive up to 75% of the cost of restoration projects, including acquiring and developing land and water areas. Before Wallop-Breaux funds are apportioned to states from the Aquatic Resources Trust Fund, amounts from the overarching trust fund are allocated for the Coastal Wetlands Program (run by the Army Corps of Engineers), and for boating safety (run by the Coast Guard). The amount appropriated to the Coastal Wetlands Program varies, depending on the funds it receives from other accounts. Other deductions include up to 6% for the FWS to administer the program. To promote savings, Wallop-Breaux and Pittman-Robertson are administered by the same FWS staff.

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<sup>16</sup>For more detailed information, see CRS Report 86-722 ENR, *A Guide to Trust Funds, Special Accounts, and Foundations in the Fish and Wildlife Service Budget*.

**Federal Aid in Wildlife Restoration (Pittman-Robertson).** In 1937, the Federal Aid in Wildlife Restoration Act (ch. 899; 16 U.S.C. §669 and 26 U.S.C. §4161(b) and §4181) provided for an excise tax on ammunition and certain guns (11%), handguns (10%), bows (11%), and arrows (12.4%). States and territories can receive up to 75% of the cost of FWS-approved wildlife restoration projects, including acquisition and development of land and water areas. Funding is also provided for wildlife research and hunter education programs in each state. States and territories have some flexibility in determining projects to be funded. The FWS administrative costs are limited to 8% of funds, and Pittman-Robertson and Wallop-Breaux are administered by the same FWS staff to promote savings. The FY1998 obligations were \$209.9 million (plus \$24.5 million for the North American Wet-lands Conservation Fund).

**North American Wetlands Conservation Fund.** The North American Wetlands Conservation Act (P.L. 101-233; 16 U.S.C. §4401, *et seq.*) created this fund in 1989. This program receives money partly from annual appropriations (\$11.9 million in FY1998) and partly from two permanent appropriations: interest on funds from excise taxes on hunting equipment under Pittman-Robertson (\$24.5 million in FY 1998), and transfers from Wallop-Breaux (\$10.2 million in FY1998). The purpose of the program is to conserve wetland ecosystems through voluntary partnerships with a required cost-sharing. Total FY1998 obligations were \$46.6 million.

**Migratory Bird Conservation Fund.** The major portions of the legislation authorizing this account were enacted in 1929 (ch. 257; 16 U.S.C. §715) and 1934 (ch. 71; 16 U.S.C. §718). Deposits include receipts from the sale of duck stamps (\$15 for a 1-year stamp, required for adult hunters of migratory waterfowl), from payments for rights of way, from entrance fees for certain parts of the National Wildlife Refuge System (NWRS), and a transfer of import duties on arms and ammunition. The fund is permanently appropriated to the extent of receipts, and is used for acquisition of habitat “for use as an inviolate sanctuary, or for any other management purpose”<sup>17</sup> for *migratory birds*, as defined in 16 U.S.C. §715j. This section of the code refers to definitions in bilateral treaties with Canada, Mexico, Russia, and Japan.<sup>18</sup> States are heavily involved in selecting parcels to be acquired, but final selection is done by the Migratory Bird Conservation Commission from properties nominated by the Secretary of the Interior. In FY1998, the obligations were \$45.8 million.

**Refuge Revenue Sharing Fund.** The Refuge Revenue Sharing Act (P.L. 95-469; 16 U.S.C. §715s) was enacted in 1978 to compensate counties for the loss of revenue due to the tax-exempt status of NWRS lands. Net receipts from the sale of

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<sup>17</sup>16 U.S.C. §715d(2).

<sup>18</sup>The breadth of definitions in all four treaties makes it clear that they include many nongame birds. Taken together, it is difficult to determine which (if any) native birds are excluded. Thus, habitat suitable for birds not normally hunted (but migratory under the treaties’ definitions) can be purchased with these funds, even though migratory waterfowl hunters are the primary source of the funds. In practice, the FWS has focused on purchasing habitat important to game birds at some phase of their life cycles.

certain products (gravel, timber, rights of way, grazing permits, energy development, *etc.*) were permanently appropriated and were to be paid to counties on the basis of a complex formula — generally the highest of \$0.75 per acre,  $\frac{3}{4}$  of 1% of fair market value of the land or 25% of net receipts.<sup>19</sup> The formula did not link the total amount to be paid by the federal government to the amount collected; when it became clear that receipts were not sufficient to cover the payments, Congress authorized annual appropriations to make up the difference. Net receipts (from FY1997) provided \$8.5 million of FY1998 budget authority, and appropriations provided another \$10.8 million. The payments may be used for any governmental purpose. Total FY1998 obligations were \$20.2 million. (Obligations exceeded budget authority in FY1998 by \$1.1 million.)

**Other Permanent Appropriations.** The FWS has five other permanently appropriated special funds, all for agency operations.

- **Contributed Funds** (\$4.5 million in FY1998). The FWS is authorized under various statutes to accept donations of real and personal property or services or facilities from individuals, private organizations, and other governments to further the purposes of the Fish and Wildlife Coordination Act (ch. 55; 16 U.S.C. §661-668), the Fish and Wildlife Act of 1956 (ch. 1036; 16 U.S.C. §§742b-742i), and the Land and Water Conservation Fund Act (P.L. 88-578; 16 U.S.C. §§460l-4 to 460l-11).
- **Recreation Fee Demonstration Program** (\$3.1 million in FY1998). This program is more fully described above, under National Park Service (Recreation Fee Demonstration Program). In general, it allows participating sites (as determined by refuge managers) to retain 80% of entrance and user fees to improve visitor experiences, protect resources, collect the fees, enforce laws relating to public use, *etc.* In practice, the authority to use up to 20% of the receipts at other refuges has been delegated to the regional offices, and few have chosen to shift any funds.
- **Operation and Maintenance of Quarters Fund** (\$2.2 million in FY1998). This program is more fully described under National Park Service (Operation and Maintenance of Quarters). The fund essentially collects rents and charges from occupancy of FWS quarters and is used to maintain the rented sites.
- **Proceeds from Sales Fund** (\$94,000 in FY1998). This fund (16 U.S.C. §460) uses the receipts from sales on Corps of Engineers land managed by FWS to cover the expenses of managing those sales and carrying out development, conservation, and maintenance of these lands.
- **The Lahontan Valley and Pyramid Lake Fish and Wildlife Fund** (\$0 in FY1998). This fund was established in the Truckee-Carson Pyramid Lake Water Rights Settlement Act (P.L. 101-618, as amended). It uses the receipts associated with a water rights settlement in Nevada to support restoration and

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<sup>19</sup>For a more thorough explanation, see CRS Report 90-192 ENR, *Fish and Wildlife Service: Compensation to Local Governments*.

enhancement of wetlands and fisheries in the area. Proceeds from the sale of certain lands in the area are also deposited in the fund.

## **Forest Service<sup>20</sup>**

The FS has 18 permanently appropriated trust funds and special funds, of which 12 had FY1998 obligations exceeding \$5 million. Agency receipts fund 15 of these accounts, while import tariffs fund one, license fees fund another, and the general fund of the Treasury funds a third. Total FY1998 obligations for the 18 accounts were \$772 million, 22% of total FS obligations. Four accounts (\$280 million) are compensation funds, while the other 14 (\$492 million) fund agency activities. In addition, a substantial fraction (27% in FY1997) of five of the largest funds have been used for agency overhead expenses.<sup>21</sup>

**Knutson-Vandenberg (K-V) Fund.** The K-V Fund was established by the Act of June 6, 1930 (ch. 416; 16 U.S.C. §576). It collects deposits from timber purchasers. The agency determines the amount (the portion of timber sale receipts) necessary for each sale (which can be up to 100% of receipts from the sale). The Fund was established to reforest timber sale sites and to improve the timber stands. These authorized purposes were expanded in the National Forest Management Act of 1976 (NFMA; P.L. 94-588) to allow activities to mitigate and enhance nontimber resource values on sale sites. The FS determines the funds used for each authorized activity. Since 1980, 51% of the funds have been used for reforestation, 16% for timber stand improvement, and 33% for mitigation and enhancement, but the FY2000 budget request did not distinguish funding among these activities. FY1998 obligations were \$189.6 million.

**Timber Salvage Sales.** The Salvage Sale Fund was established in 1976 by §14(h) of NFMA (16 U.S.C. §472a(h)). The fund receives timber sale receipts from sales (or portions of sales) designated as salvage by the agency. It was established with “seed money” appropriations of \$3 million each in FY1977 and in FY1979, and was supplemented with appropriations of \$37 million in FY1988. The Fund was established as a self-sustaining revolving fund to recover the costs to prepare and administer salvage timber sales (including related road costs). The *Forest Service Manual* (§2435 — Salvage Sales) requires an estimate of the agency’s “preparation, administration, support, and indirect general administration costs” for each salvage sale, but the FS does not have an accounting system for tracking individual salvage sale costs. The *Manual* also permits each national forest to retain 50% more than the estimated salvage sale costs. FY1998 obligations from the Salvage Sale Fund were \$150.6 million.

**Payments to States, Northern Spotted Owl.** This permanent appropriation exactly parallels the BLM’s temporary spotted owl payment program (Payments to

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<sup>20</sup>For more detailed information, see CRS Report 97-14 ENR, *The Forest Service Budget: Trust Funds and Special Accounts*.

<sup>21</sup>U.S. General Accounting Office, *Forest Service: Better Procedures Needed to Address Indirect Expenditures*, GAO/RCED-98-258 (Washington, DC: Aug. 1998).



Counties, O&C and CBWR lands).<sup>22</sup> It was created in 1993 as a 10-year substitute for the standard FS 25% payments for the 17 national forests where timber sales were reduced to preserve spotted owl habitat and other values. The payments are a portion of average FY1986-FY1990 payments, although the counties can choose standard 25% payments, if that would result in higher payments (16 U.S.C. §500). Initially, the payments were made from FS receipts, but the program was amended in 1994 to make these payments from the general fund of the Treasury. As with the FS 25% payments, these payments are made to the states for use on roads and schools in the counties where the national forests are located. The FY1998 payments were \$124.8 million.

**Payments to States, National Forest Fund.** This fund (also called FS receipt-sharing and 25% payments) was established in the Act of May 23, 1908 (ch. 192; 16 U.S.C. §500). The FS returns 25% of its receipts to the states for use on road and school programs in the counties where the national forests are located. The program was amended in 1976 (NFMA, §16) to include as “receipts” subject to sharing both K-V deposits and the value of roads built by timber purchasers.<sup>23</sup> Deposits to the Salvage Sale Fund were initially excluded from receipt-sharing, since the salvage fund was only to be direct cost recovery. However, Salvage Fund deposits have been included as receipts subject to 25% payments under provisions in the annual Interior Appropriations Acts since FY1988, and included permanently in the FY1993 Act. The states determine the portion allocated to each road and school program, but the allocation to each county is based on the area of national forest land in each county. FY1998 receipt-sharing payments were \$118.2 million.

**National Forest Roads and Trails.** This account (also called the 10% Fund) was created by the Act of March 4, 1913 (ch. 145; 16 U.S.C. §501). Deposits to the Fund are 10% of the receipts from the national forests (but *not* including deposits to the K-V Fund and the Salvage Sale Fund or the value of purchaser-built roads). The fund was created to supplement annual appropriations for road and trail construction. From FY1982-FY1995, a provision in each annual Interior Appropriations Act transferred this permanent appropriation to the general fund of the Treasury, to offset annual appropriations for building roads and trails. That provision was not retained in the Omnibus Consolidated Rescissions and Appropriations Act, 1996 (P.L. 104-134) or thereafter, making the Fund again available to the FS for building roads and

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<sup>22</sup>For the BLM, the spotted owl payment program was a substitute for 100% of the O&C and CBWR county payments, and thus was described within that payment program. For the FS, the spotted owl payment program was a substitute for only 17 of the 120 national forests, with the standard 25% payments remaining in effect for the other 113 forests. Thus, the two FS programs are described separately.

<sup>23</sup>The counties argued successfully that the reforestation and road expenses were discretionary agency decisions, and that deducting these costs from timber receipts reduced the money to which the counties were entitled. Initially, the road value was “purchaser road credits,” but the purchaser credit program was terminated by §329 of the FY1999 Interior and Related Agencies Appropriations Act in the Omnibus Consolidated and Emergency Supplemental Appropriations, 1999 (P.L. 105-277). Road costs are now borne by timber purchasers (and presumably reflected in lower bids for timber), but the estimated costs are still counted as receipts for the 25% payments.

trails at its discretion. In §332 of the FY1999 Interior Appropriations Act (in P.L. 105-277), the authorized uses of the fund were expanded to also allow the agency “to carry out and administer projects to improve forest health conditions ... [and to] emphasize reducing risks to human safety and public health and property and enhancing ecological functions, long-term forest productivity, and biological integrity.” The FY1998 obligations for all authorized purposes was \$50.1 million.

**Other Cooperative Work.** This fund was established pursuant to the Act of June 30, 1914 (ch. 131; 16 U.S.C. §498), and expanded substantially in the National Forest Roads and Trails Act (P.L. 88-657; 16 U.S.C. §537).<sup>24</sup> This trust fund collects deposits from “cooperators” for protecting and improving resources, mainly from commercial users (especially timber purchasers) to fund a “commensurate share” of road maintenance costs. (Modest amounts are also collected from cooperators for timber scaling services, fire protection, and other purposes.) The amount of deposits are specified in each cooperator agreement (*e.g.*, timber sale contract), and the timing and location of expenditures is at the discretion of the agency. FY1998 obligations were \$42.2 million.

**Reforestation Trust Fund.**<sup>25</sup> This fund was created in §303 of the Recreational Boating Safety and Facilities Improvement Act of 1980 (P.L. 96-451; 16 U.S.C. §1606a). Deposits to this account come from tariffs on imported solid wood products (*e.g.*, lumber and plywood), up to \$30 million annually. The account was created to eliminate the backlog of reforestation and stand improvement work identified under §3(d) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (RPA; P.L. 93-378). Funds remaining at the end of FY1984 were to be transferred to the states for reforesting nonfederal lands, but the fund’s termination and funds transfer to the states were repealed, effectively extending the account indefinitely.<sup>26</sup> The FS determines the location and timing of expenditures from this account. FY1998 obligations were \$30.0 million.

**Brush Disposal.** This account was authorized by the Act of August 11, 1916 (ch. 313; 16 U.S.C. §490). It receives deposits from timber purchasers; on each timber sale, the FS identifies the required deposits (in addition to payments for the timber). The fund is used on timber sale sites to dispose of tree tops, limbs, and other debris from timber cutting, to reduce fire and insect hazards, assist reforestation, *etc.* The FS determines the expenditures on each site. The FY1998 obligations for brush disposal were \$23.3 million.

**Recreation Fee Demonstration Program.** This account is described above, under the National Park Service (Recreation Fee Demonstration Program). It allows

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<sup>24</sup>This Act did *not* create the National Forest Roads and Trails Fund, described above.

<sup>25</sup>For more information, see CRS Report 84-970 ENR, *The Reforestation Trust Fund: History, Uses, and Opportunities*.

<sup>26</sup>The termination was repealed by §422 of P.L. 97-424, the Surface Transportation Assistance Act of 1982. The fund transfer was repealed by an unnumbered provision under the heading “National Forest System” in the Interior Appropriations Act in P.L. 99-190, Further Continuing Appropriations, 1985.

the agency to retain all recreation fees at selected demonstration sites, with 80% of the funds remaining at those sites and up to 20% available for other FS sites. The money is to be used to maintain, repair, and reconstruct recreation facilities. The FS obligations for FY1998 were \$18.0 million.

**Operation and Maintenance of Quarters.** This account is described above, under the National Park Service (Operation and Maintenance of Quarters). It allows the agency to collect rent from employees who use government-owned housing, to maintain and repair the structures. FY1998 obligations were \$8.2 million.

**Timber Roads, Purchaser Elect.** This account (also called the purchaser election program and opted road program) was established in §14(i) of NFMA (16 U.S.C. §472a(i)). It is funded with receipts from timber sales where qualified timber purchasers elect to have the FS build the roads required in the timber sale contract. Two conditions limit this option for a purchaser: (1) the estimated road cost must exceed \$50,000; and (2) the purchaser must qualify as a small business operator (have fewer than 500 employees). The FS determines the deposits to the account by estimating the cost to build the required roads.<sup>27</sup> In FY1998, the obligations were \$6.5 million.

**Payments to Counties, National Grassland Fund.** This fund was created in 1937 by the Bankhead-Jones Farm Tenant Act (ch. 517; 7 U.S.C. §1012). The Act authorized the acquisition of lands for conservation purposes; these acquisitions are now largely the national grasslands. The payment account is akin to FS 25% receipt-sharing, but requires payments of 25% of *net* (rather than gross) receipts directly to the counties (rather than through the states) for roads and schools in the counties where the national grasslands are located. The allocation is based on the national grassland acreage in each county. The FY1998 payments were \$6.1 million.

**Other Permanent Appropriations.** The FS has six other permanently-appropriated accounts identified in its annual budget request. They are listed in descending order of their FY1998 obligations.

- Recreation Fee Collection Costs (\$1.8 million in FY1998). This account is described above, under National Park Service (Fee Collection Support). It allows the FS to retain up to 15% of recreation fees to cover administrative costs of collecting the fees.
- Payments to Minnesota (\$1.3 million in FY1998). Enacted in 1948 (ch. 593), this program pays three northern Minnesota counties <sup>3</sup>/<sub>4</sub> of 1% of the appraised value of the land, without restrictions on using the funds.

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<sup>27</sup>Initially, the estimated road construction costs were the “purchaser road credits.” The credit program was terminated by §329 of the FY1999 Interior Appropriations Act (part of the Omnibus Consolidated and Emergency Supplemental Appropriations, 1999; P.L. 105-277, 112 Stat. 2681), but the purchaser election program was retained in §329(c) and was modified to increase the minimum contract value (from \$20,000 to \$50,000) and to end the prohibition on its use in Alaska.

- Midewin National Tallgrass Prairie, Rental Fee (\$1.0 million in FY1998). This account was established in §2915 of the National Defense Authorization Act of 1996 (P.L. 104-106) to replace existing DOD agricultural leases with USDA special use authorizations and to enact new authorizations for agricultural purposes. Seventy-five percent of the resulting rental fees are available for prairie improvement work on the Midewin National Tallgrass Prairie (in Illinois) established in §2914 of the Act. (The other 25% is to be distributed under the FS Payments to States, National Forest Fund program described above.)
- Restoration of Lands and Improvements (\$0.6 million in FY1998). This fund was created in §7 of the Forest Service Omnibus Act of 1958 (P.L. 85-464; 16 U.S.C. §579c) to collect recoveries of cash bonds, forfeitures, judgments, settlements, *etc.*, from permittees or timber purchasers who fail to complete required work. The money is to be used to complete the work.
- Licensee Programs, Smokey Bear and Woodsy Owl (\$0.1 million in FY 1998). This fund was created in 1952 (ch. 327; 16 U.S.C. §580p-2) and amended in 1974 (P.L. 93-318) to collect fees for the use of Smokey Bear and Woodsy Owl by private enterprises, to be used for forest fire prevention and for promoting wise environmental use, maintenance, and improvement.
- Timber Sales Pipeline (\$0 in FY1998). This program is described above, under BLM (Timber Sales Pipeline Restoration Fund). The funds come from certain canceled-but-reinstated national forest timber sales, with 75% of the money to prepare timber sales and 25% to address the backlog of recreation projects.

## Overview and Comparison

Each of the four major federal land management agencies has several special funds and trust funds that are permanently appropriated, with the money available to be spent without further action by Congress. Most of these accounts are funded by receipts from the sale, lease, or use of federal lands and resources. Other funding sources include excise taxes, license fees, import duties, donations, and the U.S. Treasury. For many accounts, the amount deposited is dictated by the authorizing legislation; the excise tax rates for the Pittman-Robertson fund, for example, are specified in law, while deposits of import duties for the Reforestation Trust Fund are limited to \$30 million annually. For other accounts, the agency has some discretion in determining the deposits; for example, the FS and BLM determine whether a timber sale is salvage, with the receipts deposited in specific accounts. Generally, greater agency discretion over the amount deposited in a specific account is likely to lead to greater controversy over its use, and in some cases there have been allegations of abuse.

The permanently appropriated accounts for these four agencies generally are used for one of three purposes: to fund agency activities; to compensate state and local governments for the tax-exempt status of federal lands; or to fund grants, with a formula allocation or with competition. Permanent appropriations for agency

activities can be contentious, especially if the fund can be used for several, possibly competing purposes and the agency has the discretion to allocate the funds among those purposes. The compensation programs have generally not been controversial, largely because the compensation level has been established in law.<sup>28</sup> Similarly, the grant programs typically have been uncontroversial, and are likely to remain so as long as the people who pay the fees or taxes benefit from the expenditures.

**Bureau of Land Management.** The BLM has 21 permanently appropriated trust funds or special funds, but only 3 had FY1998 obligations exceeding \$5 million. Thus, most of the accounts are relatively small. All but the largest account are funded from agency receipts; the largest (O&C county payments) is currently (and temporarily) funded from the general fund of the Treasury. Total obligations in FY1998 from the 21 funds were \$115 million, accounting for 9% of BLM funding. Thirteen of the accounts (\$71 million) are compensation programs and the other 8 (\$44 million) fund BLM activities.

**National Park Service.** The NPS has 16 permanently appropriated trust funds or special funds, but only 4 had FY1998 obligations exceeding \$5 million. All the accounts are funded from agency receipts. Total FY1998 obligations from the 16 accounts were \$194 million, accounting for a little more than 10% of NPS funding. The agency has two very small (under \$1 million total) compensation programs. The other 14 accounts (\$193 million) fund agency activities. The largest account, the Recreation Fee Demonstration Program, accounted for 70% of NPS permanently appropriated funds in FY1998. Ten of the 16 NPS accounts are relatively new, having been created since 1993.

**Fish and Wildlife Service.** The FWS has the fewest permanently appropriated trust funds or special funds, with only 10, but 5 of those exceeded \$5 million in FY1998 obligations. Total FY1998 obligations from these 10 trust funds and special funds was \$655 million, 48% of FWS funding. The two largest accounts (\$533 million) — the two largest for any of the four agencies — are funded largely from excise taxes and import duties, and use fixed formulas to fund state grant programs. The next two largest (\$92 million) are funded from excise taxes (with supplemental appropriations) and from license fees, and fund competitive grant programs. One fund (\$20 million), which uses receipts (with supplemental appropriations), is a compensation account. The other five accounts (\$11 million) fund agency activities.

**Forest Service.** The FS has 18 permanently appropriated trust funds or special funds. Of these, 12 exceeded \$5 million in FY1998 obligations. Total FY1998 obligations of the 18 accounts were \$772 million, 22% of total FS obligations. One account is funded from license fees, one from the general fund of the Treasury, one from import tariffs, and the other 15 from agency receipts. Four accounts (\$280

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<sup>28</sup>The FS 25% payments and the BLM O&C payments have generated congressional interest in recent years, because the counties have argued that declining federal timber sales have substantially reduced their compensation payments. The Administration has proposed changing the payment formulas, and bills have been introduced in the 106<sup>th</sup> Congress to change the formulas. See CRS Report RS20178, *Forest Service Receipt-Sharing Payments: Proposals for Change*.

million) are compensation accounts. The other 14 accounts (\$492 million) fund agency activities. Several of the FS accounts have existed for many years, with five predating World War II; the earliest was created in 1908.

To date, FS trust and special funds have garnered much of the congressional attention devoted to such funds. The FS has as many large accounts as the other three agencies combined. It also has more discretion on allocating receipts among the accounts, and funds a larger share of agency activities (14% *versus* 1-10%) from trust and special funds. In addition, the FS has used a substantial (and rising) fraction of the funds in at least some of the permanently appropriated accounts to pay agency overhead costs.<sup>29</sup> Finally, county concerns about declining payments under the 25% receipt-sharing and the BLM's O&C receipt-sharing programs have led to legislation in the 106<sup>th</sup> Congress to alter the historic formula.<sup>30</sup>

If the recreation fee demonstration program were permanently authorized, as some have suggested (though no such legislation has been introduced), the NPS seems likely to get more attention, since this program alone funds 7% of all NPS activities. However, it and many other NPS trust funds and special funds are still relatively new, and thus the full extent of their use is not yet known. The BLM might also get more congressional attention, if its two large, relatively new accounts for funding agency activities grow significantly. (The extent of such possible growth is unclear.) The FWS has faced relatively little concern over its accounts, even though it administers the two largest permanently appropriated natural resource accounts, because the individuals who are the source of the FWS funds are also the primary beneficiaries of the spending from these accounts.

Congress is responsible for enacting all appropriations for agency programs. For many of the trust and special funds, the appropriations are permanent, with no required annual enactment by the appropriations committees, and thus typically without the annual review conducted by the appropriations subcommittees. The authorizing committees may also have conducted less oversight of the programs funded from permanently accounts than of the programs that are funded annually. It therefore may be unclear whether the programs are achieving the purposes for which they were created and whether the funds are well or wisely spent.

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<sup>29</sup>U.S. General Accounting Office, *Forest Service: Better Procedures Needed to Address Indirect Expenditures*, GAO/RCED-98-258 (Washington, DC: Aug. 1998).

<sup>30</sup>See CRS Report RS20178, *Forest Service Receipt-Sharing Payments: Proposals for Change*.