

CRS Report for Congress

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Land and Water Conservation Fund: Current Status and Issues

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Summary

The Land and Water Conservation Fund (LWCF), an account created in 1964, has been the principal source of monies for four federal agencies – the Park Service, Bureau of Land Management, Fish and Wildlife Service, and Forest Service – to acquire recreational lands. In addition, the LWCF funds a matching grant program to assist states (and localities) in acquiring recreational lands and developing facilities. The fund accumulates \$900 million annually from designated sources. The monies become available only after they are appropriated by Congress.

Current congressional issues include: (1) deciding the amount to appropriate each year to each of the four federal agencies, and to the state grant program; (2) determining which lands should be acquired; and (3) appropriating LWCF funds for purposes other than land acquisition. The primary context for debating these issues is the annual Interior appropriations legislation. This report will be updated as events warrant.

Introduction

The Land and Water Conservation Fund (LWCF) was created in 1964 and took effect January 1, 1965.¹ It has been the principal federal source of funds for acquiring new recreation lands. Some supporters assert that it was originally intended to be a revolving fund, but it has never operated as one. The fund's basic purpose has not been altered even though the authorizing legislation has been amended, mainly in the early years, most notably to raise the funding ceiling and to mandate that offshore oil and gas leasing revenues should make up any shortfall from other specified financing sources.

Appropriations are made for (1) federal land acquisition; (2) grants to states; and (3) related purposes (starting in FY1998). Most federal lands are acquired (and managed) by four agencies — the Forest Service (FS) in the Department of Agriculture, and the

¹ Act of Sept. 3, 1964; P.L. 88-578, 78 Stat. 897. 16 U.S.C. 460l-4, *et seq.*

National Park Service (NPS), Fish and Wildlife Service (FWS), and Bureau of Land Management (BLM) in the Department of the Interior, using funds appropriated from the LWCF.² These four agencies manage about 95% of all federally owned lands. These agencies have used LWCF funds to acquire a total of about 4.5 million acres, an area slightly smaller than New Jersey. (Viewed in a different way, 4.5 million acres is less than 1% of the almost 655 million acres owned by the federal government.) Another portion of the LWCF, administered by the NPS, provides matching grants to states for recreation planning, land acquisition, and facility development. These grants have funded about 38,000 state and local projects. Recipients have acquired approximately 2.3 million acres and have developed recreation facilities at about 27,000 of these projects. Acquisitions funded through LWCF grants must remain in recreation use in perpetuity. A final portion has been appropriated for other related federal purposes since FY1998.

How the Fund Works

The LWCF is a “trust fund”³ that accumulates revenues from federal outdoor recreation user fees, the federal motorboat fuel tax, and surplus property sales. To supplement these sources to reach the annual authorized level of \$900 million, it accumulates revenues from oil and gas leases on the Outer Continental Shelf (OCS). During the past decade, the OCS revenues have accounted for more than 90% of the deposits each year (and almost 100% in most recent years).

The LWCF is not a true trust fund in the way “trust fund” is generally understood in the private sector. The fund is credited with revenues totaling \$900 million annually, but Congress must authorize appropriations; unappropriated funds remain in the U.S. Treasury and can be spent for other federal activities. Interest is not accrued on the accumulated unappropriated balance that has been credited to the LWCF account. In addition, the LWCF is subject to earmarks and other directions from Congress during the annual appropriations process. From 1965 through FY2004, \$27.2 billion has been credited to the LWCF. However, only \$13.8 billion has been appropriated.

Funding History

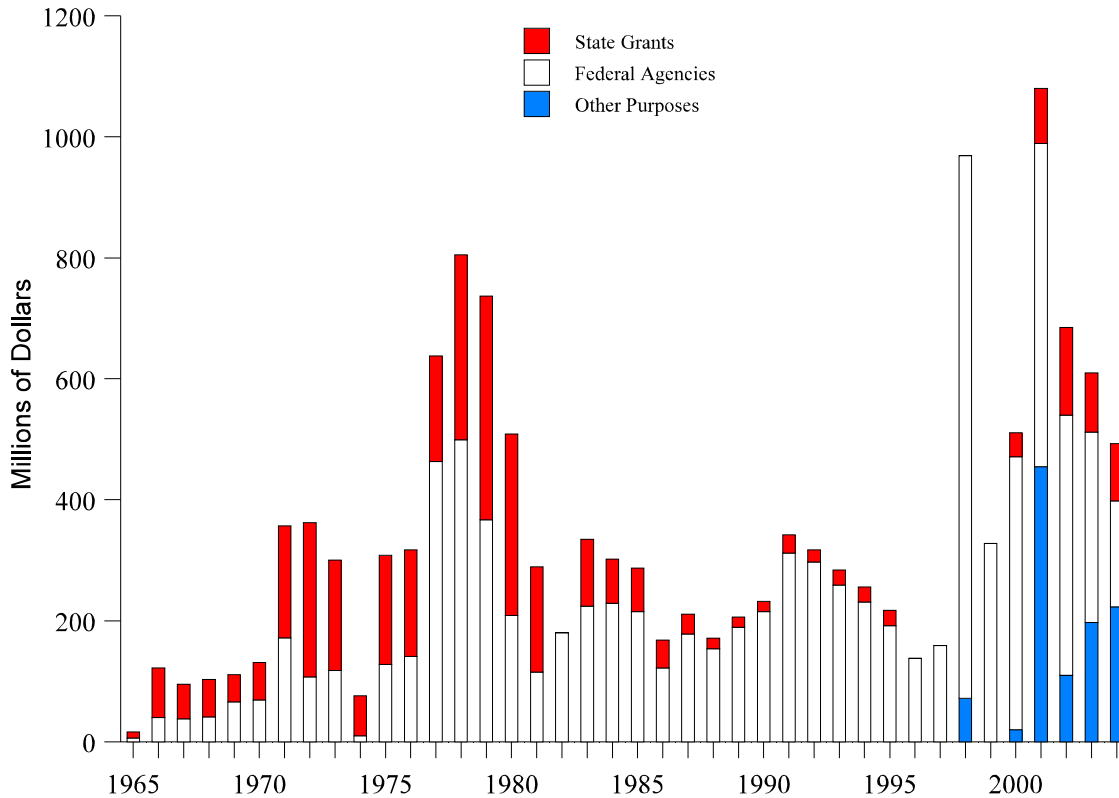
The \$13.8 billion appropriated from the fund has been unevenly allocated among the states, the four federal land management agencies, and for other purposes, as shown on the chart on the next page. States have received less than 30% of the total, almost \$3.7 billion. In the early years, more funds went to state grants than to the four federal agencies combined. State grants have declined as a portion of the total since the early 1980s and received no appropriations from FY1996 through FY1999. Funds for the four federal agencies have been distributed unevenly: the NPS has received \$4.0 billion; the FS has received almost \$2.5 billion; the FWS has received almost \$2.2 billion; and the BLM has received around \$0.7 billion. In addition, almost \$1.1 billion has been appropriated for other purposes, starting in FY1998.

² For an introduction to these agencies and their responsibilities, see CRS Report RL30867, *Federal Land Management Agencies: Background on Land and Resource Management*.

³ LWCF is technically a special account, rather than a trust fund, but in federal budgeting, the only difference is the allocation of interest on unappropriated balances — interest on a trust fund accrues to the fund, while interest on a special account accrues to the General Treasury.

Total annual appropriations from the LWCF also have fluctuated widely over the past 35 years (see chart below). Except during the Carter Administration (FY1977 – FY1980), when appropriations exceeded \$500 million each year, they have only approached or exceeded the authorized level of \$900 million in FY1998 and FY2001. Since the earliest decade, the lowest years were FY1996 and FY1997, when appropriations totaled \$138 million and \$159 million, respectively.

Total LWCF Appropriations: FY1965-2004



Source: Data through FY2002 compiled by the National Park Service Budget Office, May 1, 2002. Data since FY2002 from conference committee reports and Interior Appropriations public laws.

Over the past decade, overall annual appropriations have risen and fallen in multi-year periods. Between FY1996 and FY2001, the total generally rose, with spikes in FY1998 and FY2001. FY1998 was the first year that appropriations exceeded \$900 million; they included \$270 million in the usual funding titles for the four land management agencies, and an additional \$627 million in a separate title, funding both the acquisition of the Headwaters Forest in California and New World Mine outside Yellowstone National Park, and other activities that did not involve land acquisition. The total (and funding levels for each federal agency and the state grant program) has declined each of the past three years, although overall funding still remains above the historic average. The table below, which lists appropriations between FY2001 and the Administration's FY2005 request, shows this decline for each federal agency and the state grant program.

**LWCF Appropriations for Land Acquisition and State Grants:
FY2001 – FY2005 (Requested)¹(in millions of dollars)**

Agency	FY2001 Enacted	FY2002 Enacted	FY2003 Enacted	FY2004 Enacted	FY2005 Requested
Forest Service	\$150.9	\$149.7	\$133.8	\$66.8	\$66.9
Park Service	\$215.1	\$274.1	\$172.5	\$141.5	\$178.1
(State Grants)	(\$88.8)	(\$144.0)	(\$98.0)	(\$94.4)	(\$93.8)
Fish and Wildlife Service	\$121.5	\$99.1	\$73.4	\$43.3	\$45.0
Bureau of Land Management	\$47.3	\$49.9	\$33.5	\$18.5	\$24.0
Total	\$534.5	\$572.8	\$413.2	\$270.0	\$314.0

¹Appropriations for purposes other than land acquisition are not included in the table. Sources: Data for FY2001 and FY2002 from National Park Service Budget Office, May 1, 2002; data for FY2003 and FY2004 from Conference Reports, and data for FY2005 from the Administration's budget request, including department and agency documents.

Appropriations for purposes other than land acquisition using LWCF funds started in FY1998, and have been made each year since FY2000. Appropriations for other purposes were much higher in FY2001 than any other year, when they were used to fund programs in the Clinton Administration's Lands Legacy Initiative proposal. Starting in FY2002, these appropriations have increased each year, reaching \$223 million in FY2004. The FWS has received close to \$700 million of the \$1.1 billion appropriated for other purposes since FY1998. The amounts and purposes, by year, include:

- In FY1998, \$72 million was provided to the four land management agencies for critical maintenance needs, and to the Forest Service for the Beartooth Highway (Montana) rehabilitation and maintenance;
- In FY2000, \$20 million was provided to programs administered by the National Park Service and Forest Service;
- In FY2001, \$456 million was provided for numerous federal and state programs, such as the Historic Preservation Fund and the Payment-in-lieu-of-taxes Program;
- In FY2002, \$135 million was provided to programs three Fish and Wildlife Service programs;
- In FY2003, \$197 million was provided to four Fish and Wildlife Service programs; and
- In FY2004, \$223 million was provided, predominantly to Fish and Wildlife Service and Forest Service programs.

In FY2005, the Bush Administration is requesting almost level funding for three of the five LWCF components, as shown above. The largest single request would be to appropriate \$40 million to the NPS to acquire oil and gas rights beneath the Big Cypress National Preserve as part of the Everglades restoration effort. The Administration announced that it was requesting full funding for the LWCF at \$900 million, meaning that it is requesting the remaining \$586 million be spent on other purposes.

Current Issues Associated with Appropriations

Appropriation Levels. Between FY1998 and FY2002, funding for land acquisition generally returned to levels not seen since the Carter Administration, but has declined each of the past three years. However, even if Congress started to provide \$900 million annually and to spend it only on land acquisition, it would still take more than a decade to address the backlog of identified acquisitions, recently estimated to exceed a total of \$10 billion by the three DOI agencies.

The concept of the Fund enjoys widespread bipartisan support, led by resource protection advocates who seek higher levels as well as stable and predictable funding. However, others oppose higher appropriations levels based on concerns about further acquisition of privately owned land by the federal government generally or at specific sites, especially in the West, where federal ownership is already concentrated. These concerns involve preferences for private ownership, limits that federal agencies may place on uses of their lands, and reduced local tax revenues that result from public ownership. Some opponents believe that maintaining (and rehabilitating) the land and facilities that federal agencies already own should take priority over further acquisitions. Since federal agencies can not use LWCF funds for maintenance, supporters of this priority favor more funding to other accounts that can be used for maintenance and less to LWCF.

Since the early 1990s, the appropriations debate has grown more complicated as perspectives on resource protection have changed. One change is that alternatives to acquisition that may provide potentially lower levels of protection but at less cost (such as easements) have become more widely used by federal agencies. A second change is that resource protection is discussed increasingly for either larger areas with multiple land owners -- such as ecosystems, landscapes, or watersheds -- or for managing systems where only a portion of the land is in public ownership. In these more complex situations, success depends on cooperation and partnerships, and the LWCF may be less critical.

Which Lands to Acquire. The annual budget submission from each of the four federal agencies includes proposals of which lands it would acquire if Congress appropriates the requested amount, and provides no further direction. Section 7 of the Act (16 U.S.C. 460l-9) provides federal funds to acquire lands in national park, nation forest, and national wildlife system units, and for water development projects with recreational benefits. The large backlog of authorized sites provides each agency with many options. Congress reviews these requests, then determines the appropriations level and earmarks almost all appropriations to specific sites. In recent years, Congress has also provided each agency with small amounts for “emergencies,” “inholdings,” “hardships,” and “exchanges,” and a larger amount for acquisition management. (Appropriations to the state grant program, by contrast, almost never include any earmarks or other directions to the NPS to guide how these funds should be distributed or spent.)

Spending for Other Purposes. Starting in FY1998, some LWCF appropriations to federal agencies have been for purposes other than land acquisition. The FY2005 budget request continues this trend, seeking \$586 million for other purposes, which are being allowed under the law. Section 7 (16 U.S.C. 460l-9) on allocation of the fund for federal purposes, states that “moneys appropriated from the fund for federal purposes shall, unless otherwise allotted in the appropriations Act making them available, be allotted by the President for the following purposes and subpurposes” The listed purposes

define which lands are eligible. Expanding the uses of appropriations has attracted concern from traditional fund beneficiaries, who view these alternatives as competition that may reduce the amount available for federal land acquisition and state grants.

LWCF Funding in Recent Legislation

Legislation to fully fund the LWCF and to make it operate like a private sector trust fund was first introduced near the end of the 105th Congress. These proposals were revised and reconsidered during the 106th and 107th Congresses. These bills proposed to divert offshore oil and gas revenues to a Conservation and Reinvestment Act (CARA) Fund and to permanently appropriate receipts credited to the LWCF, among other related purposes, with total annual funding of approximately \$3 billion. In the 106th Congress, one CARA bill, H.R. 701, passed the House. It would have provided an additional \$900 million annually from the CARA Fund to the LWCF, giving it a total of \$1.8 billion annually. The Senate Committee on Energy and Natural Resources reported an amended version of H.R. 701, which was generally similar. However, it would have replaced the old LWCF (keeping the amount available at \$900 million), and would not have provided funds for state grants until after the appropriations to federal agencies had been approved. In the 107th Congress, it was reintroduced again as H.R. 701 in the House, where the Resources Committee reported it October 16, 2002 (H.Rept. 107-758, pt. 1). The Senate did not act on versions that had been introduced. (For details on the history of congressional deliberations of CARA, see CRS Report RL30444, *Conservation and Reinvestment Act (CARA) (H.R. 701) and a Related Initiative in the 106th Congress.*)

When it became clear that CARA legislation would not be enacted, Congress turned to including aspects of CARA in pending FY2001 appropriations legislation. This legislation was named the Conservation Spending Category (CSC), which some referred to as “CARA lite.” The LWCF is a major component in the CSC. The CSC provisions set a target for total funding for all the component programs in FY2001 at \$1.2 billion through Interior appropriations and \$400 million through Commerce appropriations, or \$1.6 billion combined in FY2001. The target increases each year until it reaches \$2.4 billion in FY2006. However, while the Interior Appropriations bill authorized the CSC through FY2006, the Commerce Appropriations bill authorized it for only FY2001. (For more information on the CSC, including funding by program, see CRS Report RS20471, *The Conservation Spending Category: Funding for Natural Resource Protection.*)

Many LWCF proponents continue to support legislative proposals that would provide full and certain funding to this fund each year, and thereby provide the maximum benefit from it. The annual appropriations process continues to be unpredictable. Opponents of these proposals believe that these monies should be appropriated for other priorities, that further federal land acquisitions should be limited, or that this funding should not be exempt from the annual appropriations process. However, support for considering the CARA legislation has declined and the gap between the CSC target and actual funding has expanded, possibly because of growing concern about federal budget deficits in future years or other priorities such as the war on terrorism.