



Interior, Environment, and Related Agencies: FY2009 Appropriations

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Summary

The Interior, Environment, and Related Agencies appropriations bill includes funding for the Department of the Interior (DOI), except for the Bureau of Reclamation, and for two agencies within other departments—the Forest Service within the Department of Agriculture and the Indian Health Service (IHS) within the Department of Health and Human Services. It also includes funding for arts and cultural agencies, the Environmental Protection Agency, and numerous other entities.

On February 17, 2009, the President signed the American Recovery and Reinvestment Act of 2009 (P.L. 111-5, H.R. 1). This broad economic stimulus legislation contained \$10.95 billion in emergency funds for FY2009 for some of the accounts within agencies typically funded by the annual Interior, Environment, and Related Agencies appropriations laws. In general, the funds were made available for obligation until September 30, 2010 (the end of FY2010).

On March 11, 2009, the President signed the Omnibus Appropriations Act, 2009 (P.L. 111-8, H.R. 1105). The omnibus law contained regular appropriations for FY2009 of \$27.59 billion for Interior, Environment, and Related Agencies. This funding was \$825.9 million (3%) below the FY2008 level of \$28.42 billion (including \$1.82 billion in emergency appropriations), but \$1.78 billion (7%) above the FY2009 Bush Administration request of \$25.81 billion. Together with funding in the stimulus law, Interior, Environment, and Related Agencies received a total of \$38.54 billion for FY2009.

Regular appropriations for FY2009 were not enacted for Interior, Environment, and Related Agencies before the October 1, 2008, start of the fiscal year. Instead, agencies were receiving funds under the terms of a continuing funding resolution—Division A, Continuing Appropriations Resolution, 2009 (P.L. 110-329, FY2009 CR). The measure generally extended funding for accounts in the Interior, Environment, and Related Agencies Appropriations bill at the amounts provided in the FY2008 regular appropriations law and under the terms and conditions provided in that FY2008 law. A notable exception was that the FY2009 CR removed the prohibitions on spending funds for oil and gas leasing activities in certain regions of the Outer Continental Shelf.

No bills providing regular appropriations for FY2009 for Interior, Environment, and Related Agencies were reported by the House or Senate Appropriations Committees or considered on the House or Senate floor during the 110th Congress. Perhaps the biggest impediment to developing and considering an Interior bill was divisiveness over whether to retain long-standing prohibitions on funding for oil and gas leasing in the OCS. Other issues that have been controversial in Interior deliberations have included funding for Bureau of Indian Affairs construction, education, and housing; Indian Health Service construction and urban Indian health; wastewater/drinking water needs; land acquisition; the Payments in Lieu of Taxes program; the Superfund program; and wildland fire fighting, in addition to Indian trust fund management and royalty relief.

This report is not expected to be updated.

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Most Recent Developments

On March 11, 2009, the President signed the Omnibus Appropriations Act, 2009 (P.L. 111-8, H.R. 1105). The omnibus law contained regular appropriations for FY2009 of \$27.59 billion for Interior, Environment, and Related Agencies. In earlier action, on February 17, 2009, the President signed the American Recovery and Reinvestment Act of 2009 (P.L. 111-5, H.R. 1). This broad economic stimulus legislation contained \$10.95 billion in emergency funds for FY2009 for some of the accounts within agencies typically funded by the annual Interior, Environment, and Related Agencies appropriations laws. Taken together, the two laws provided a total of \$38.54 billion for FY2009.

Introduction

The annual Interior, Environment, and Related Agencies appropriations bill includes funding for agencies and programs in three separate federal departments, as well as numerous related agencies and bureaus. It provides funding for Department of the Interior (DOI) agencies (except for the Bureau of Reclamation, funded in Energy and Water Development appropriations laws), many of which manage land and other natural resource or regulatory programs. The bill also provides funds for agencies in two other departments—the Forest Service in the Department of Agriculture, and the Indian Health Service (IHS) in the Department of Health and Human Services—as well as funds for the Environmental Protection Agency (EPA). Further, the annual bill includes funding for arts and cultural agencies, such as the Smithsonian Institution, National Endowment for the Arts, and National Endowment for the Humanities, and for numerous other entities and agencies.

In former years, the appropriations laws for Interior and Related Agencies provided funds for several activities within the Department of Energy (DOE), including research, development, and conservation programs; the Naval Petroleum Reserves; and the Strategic Petroleum Reserve. However, at the outset of the 109th Congress, these DOE programs were transferred to the House and Senate Appropriations subcommittees covering energy and water, to consolidate jurisdiction over DOE.¹ At the same time, jurisdiction over the EPA and several smaller entities was moved to the House and Senate Appropriations subcommittees covering Interior and Related Agencies.² This change resulted from the abolition of the House and Senate Appropriations Subcommittees on Veterans Affairs, Housing and Urban Development, and Independent Agencies, which previously had jurisdiction over EPA.

Since FY2006, appropriations laws for Interior, Environment, and Related Agencies have contained three primary titles. This report is organized along these lines. Accordingly, the first section (Title I) provides information on Interior agencies; the second section (Title II) discusses EPA; and the third section (Title III) addresses other agencies, programs, and entities. A fourth section of this report discusses cross-cutting topics that encompass more than one agency.

Entries in this report are for major agencies (e.g., the National Park Service) and cross-cutting issues (e.g., Everglades restoration) that receive funding in the Interior, Environment, and Related

¹ These panels are now called the Subcommittees on Energy and Water Development.

² These panels are now called the Subcommittees on Interior, Environment, and Related Agencies.

Agencies appropriations bill. For each agency or issue, we discuss some of the key funding changes enacted for FY2009, or proposed by the George W. Bush Administration, that have been of interest to Congress. We also address related policy issues that tend to occur in the context of considering appropriations legislation. Presenting such information in summary form is a challenge. For example, budget submissions for some agencies number several hundred pages and contain innumerable funding, programmatic, and legislative changes for congressional consideration. Further, appropriations laws provide funds for numerous accounts, activities, and subactivities, and the accompanying explanatory statements provide additional directives and other important information. For information on programs funded in the bill but not directly discussed in this report, please contact the key policy staff members listed at the end of the report.

In general, in this report the term *appropriations* represents total funds available, including regular annual and supplemental appropriations, as well as rescissions, transfers, and deferrals, but excludes permanent mandatory budget authorities. This report contains final FY2009 appropriations levels for agencies, programs, and activities as enacted in the Omnibus Appropriations Act, 2009 (P.L. 111-8, H.R. 1105). These funds generally are referred to as omnibus funds, or funds provided by the omnibus law. Increases and decreases generally are calculated on comparisons between these FY2009 omnibus funding levels and those requested by President Bush for FY2009 and enacted for FY2008.

An overview of emergency funding for FY2009 provided in broad economic stimulus legislation (P.L. 111-5, H.R. 1) is discussed in the introduction to this report. This law contained additional FY2009 funding for some of the agencies and programs typically funded by the Interior, Environment, and Related Agencies Appropriations bill. These funds also are discussed in the pertinent sections throughout the report, in both the text and accompanying tables. They generally are referred to as stimulus funds, or funds provided by the stimulus law.

The House Committee on Appropriations is the primary source of the funding figures used throughout the report. Other sources of information include the Senate Committee on Appropriations, agency budget justifications, and the *Congressional Record*. References to the “Explanatory Statement” for the omnibus law refer to the statement published in the February 23, 2009, *Congressional Record*. References to the “Explanatory Statement” for the stimulus law refer to the statement published in the February 12, 2009, *Congressional Record*, together with the tables published in the February 13, 2009, *Congressional Record*. In the tables throughout this report, some columns of funding figures do not add to the precise totals provided due to rounding.

FY2004-FY2009

Table 1, below, shows appropriations for Interior, Environment, and Related Agencies for FY2004-FY2009. Funding for earlier years is not readily available due to the changes in the makeup of the Interior appropriations bill. The FY2009 omnibus funding represented a \$265.5 million increase (1%) over the FY2004 level in current dollars, or an 11% decrease in constant dollars (assuming the Congressional Budget Office’s inflation estimate of 2.2% for 2008 and projection of 1.5% for 2009). See **Table 29** for a budgetary history of each agency for FY2004-FY2009.

**Table I. Interior, Environment, and Related Agencies Appropriations,
FY2004 to FY2009**

(in billions of dollars)

	FY2004	FY2005	FY2006	FY2007	FY2008	FY2009 Omnibus	FY2009 Stimulus	FY2009 Total
Current Dollars	\$27.33	\$27.02	\$25.94	\$27.40	\$28.42	\$27.59	\$10.95	\$38.54
Constant 2009 Dollars ^a	\$31.03	\$29.70	\$27.64	\$28.42	\$28.84	\$27.59	\$10.95	\$38.54

Note: These figures exclude permanent budget authorities, and generally do not reflect scorekeeping adjustments. They generally reflect rescissions and supplemental appropriations to date, except that the FY2006 figure does not reflect supplementals. The FY2007 figure includes \$425.0 million for Secure Rural Schools.

a. These figures are based on the Congressional Budget Office's inflation projection of 1.5% for 2009.

Current Overview

On March 11, 2009, the President signed the Omnibus Appropriations Act, 2009 (P.L. 111-8, H.R. 1105). The omnibus law contained regular appropriations for FY2009 of \$27.59 billion for Interior, Environment, and Related Agencies. This funding was \$1.78 billion (7%) over the FY2009 Bush Administration request of \$25.81 billion, but \$825.9 million (3%) below the FY2008 level of \$28.42 billion. This FY2008 level included \$1.82 billion in emergency appropriations, most of which was for fighting wildfires on federal lands (\$1.74 billion) with the remainder (\$75.0 million) for FWS construction. While the FY2009 omnibus level included increases over FY2008 for many agencies, it contained decreases or level funding for others.

The enactment of the regular appropriations for FY2009 followed the enactment of emergency funds for FY2009 in the American Recovery and Reinvestment Act of 2009 (P.L. 111-5, H.R. 1). This broad economic stimulus legislation contained \$10.95 billion in emergency funds for FY2009 for some of the accounts within agencies typically funded by the annual Interior, Environment, and Related Agencies appropriations laws. In general, the funds were made available for obligation until September 30, 2010 (the end of FY2010). These funds are discussed in the next section (below). Taken together, the omnibus law and the stimulus law provided a total of \$38.54 billion for FY2009 for Interior, Environment, and Related Agencies for FY2009.

Regular appropriations for FY2009 were not enacted for Interior, Environment, and Related Agencies before the October 1, 2008 start of the fiscal year. Accordingly, on September 30, 2008, President Bush signed the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (FY2009 CR, P.L. 110-329).³ Division A, Continuing Appropriations Resolution, 2009, generally extended funding for accounts in the Interior, Environment, and Related Agencies Appropriations bill at the amounts provided in the FY2008 regular appropriations law. Funds were available under the terms and conditions provided in the FY2008 law, except where otherwise specified. The FY2009 CR provided appropriations from October 1,

³ Information on the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, is contained in CRS Report RL34711, *Consolidated Appropriations Act for FY2009 (P.L. 110-329): An Overview*, by (name redacted).

2008 through March 6, 2009, and continuing appropriations were later extended through March 11, 2009 (P.L. 111-6).⁴

The FY2009 CR contained additional provisions related to Interior, Environment, and Related Agencies. For instance, the law provided an additional \$2.0 million to the National Park Service for security for the Presidential inauguration. It removed the prohibitions on spending funds for oil and gas leasing activities in certain regions of the Outer Continental Shelf (OCS), which had been controversial (see the “Minerals Management Service” section). The law also removed the prohibition on using funds to prepare final regulations regarding a commercial leasing program for oil shale or to conduct a commercial oil shale lease sale (see the “Bureau of Land Management” section). Further, the law contained provisions on funding for the Modified Water Deliveries Project, which pertains to water deliveries to Everglades National Park (see the “Everglades Restoration” section).

President Bush had requested \$25.81 billion for Interior, Environment, and Related Agencies for FY2009, a \$2.61 billion (9%) reduction from the FY2008 level of \$28.42 billion (including emergency appropriations). While the President sought to increase funds for some agencies, he requested reduced funds for most agencies.

The House and Senate Appropriations Subcommittees on Interior, Environment, and Related Agencies had held hearings on FY2009 agency budget requests, and the House Subcommittee had marked up a draft appropriations bill. However, no bills providing regular appropriations for FY2009 for Interior, Environment, and Related Agencies were reported by the House or Senate Appropriations Committees or considered on the House or Senate floor during the 110th Congress. Divisiveness over whether to retain long-standing prohibitions on funding for oil and gas leasing in regions of the Outer Continental Shelf was perhaps the biggest impediment to developing and considering an Interior appropriations bill.

Economic Stimulus Legislation, P.L. 111-5

The American Recovery and Reinvestment Act of 2009 (P.L. 111-5, H.R. 1) was a \$787 billion broad economic stimulus package that contains tax cuts and spending.⁵ Among the purposes of the economic stimulus law were preserving and creating jobs; promoting economic recovery; and making investments in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits.

The law included funds for certain agencies and activities typically funded by the annual Interior, Environment, and Related Agencies appropriations law. In total, the law contained \$10.95 billion

⁴ Information on continuing resolutions is contained in CRS reports including the following: CRS Report RL30343, *Continuing Resolutions: Latest Action and Brief Overview of Recent Practices*, by (name redacted); CRS Report RL32614, *Duration of Continuing Resolutions in Recent Years*, by (name redacted); and CRS Report RL34700, *Interim Continuing Resolutions (CRs): Potential Impacts on Agency Operations*, by (name redacted).

⁵ For an overview of the law, see CRS Report R40537, *American Recovery and Reinvestment Act of 2009 (P.L. 111-5): Summary and Legislative History*, by (name redacted), (name redacted), (name redacted), (name redacted), (name redacted), and (name redacted). For a discussion of stimulus issues and policies, see CRS Report R40104, *Economic Stimulus: Issues and Policies*, by (name redacted), (name redacted), and (name redacted).

for Interior, Environment, and Related Agencies.⁶ This amount was a 40% supplement to the \$27.59 billion in omnibus appropriations for FY2009.

Not every agency typically funded through the Interior bill received funding in the economic stimulus law. Moreover, the agencies that were funded received widely varying dollar amounts. In turn, these amounts constituted widely varying percentages of each agency's FY2009 annual appropriations. **Table 2**, below, identifies the agencies and accounts that were funded by P.L. 111-5. For general information on the agencies and the purposes of these accounts, as well as additional information on the stimulus funds, see the pertinent sections in the balance of this report.

Of the \$10.95 billion total in the economic stimulus law, \$7.22 billion (66%) was provided to the Environmental Protection Agency (EPA). The majority of EPA funding was for clean water (\$4.00 billion) and drinking water (\$2.00 billion) state revolving fund grants.⁷ The remainder of the funds was primarily for cleanup projects, specifically Superfund remediation, grants for cleanup of Brownfields and leaking underground storage tanks, and diesel emission reduction grants. Another portion of the funds was for the Office of Inspector General. EPA funding in the economic stimulus law approached the agency's total FY2009 appropriations of \$7.64 billion.

Another \$2.50 billion (23%) of the \$10.95 billion total was provided to the four federal land management agencies: the Bureau of Land Management, Fish and Wildlife Service, National Park Service, and Forest Service. These funds were provided for construction; wildfire management; and maintenance, repair, and rehabilitation of facilities and trails, among other purposes.⁸

Of the \$10.95 billion, a total of \$1.00 billion (9%) was provided to the Bureau of Indian Affairs for activities including repair and restoration of roads, construction and improvement of schools, and maintenance and repair of detention centers (\$500.0 million) and to the Indian Health Service for facilities construction, deferred maintenance, sanitation projects, and equipment purchases (\$500.0 million), among other activities. The remaining \$230.0 million (2%) of the \$10.95 billion was provided to several other agencies for purposes including deferred maintenance of the U.S. Geological Survey, salaries and expenses of the DOI Inspector General, repair of Smithsonian facilities, and grants for the arts.

In earlier action on the economic stimulus legislation (H.R. 1), the Senate had approved a slightly higher total—\$11.11 billion—while the House had passed a still larger one—\$14.81 billion. As shown in **Table 2**, there were a number of significant differences between the House- and Senate-passed versions of the bill. In general, the enacted appropriations for the various agencies and accounts were closer to the Senate's version of the measure.

Among the general provisions of the law,⁹ agencies were to begin spending the funds “as quickly as possible consistent with prudent management.”¹⁰ With regard to funds for infrastructure,

⁶ These funds were contained in Division A, Title VII.

⁷ For information on these grants and other water infrastructure funding in the economic stimulus law, see CRS Report R40216, *Water Infrastructure Funding in the American Recovery and Reinvestment Act of 2009*, by (name redacted) and (name redacted).

⁸ For more information on funds for these agencies in the economic stimulus law, see CRS Report R40217, *Federal Lands Provisions of Economic Stimulus Legislation (P.L. 111-5)*, by (name redacted).

⁹ The law contains other provisions on the allocation of appropriations that are beyond the scope of this discussion.

¹⁰ Sec. 3, “Purposes and Principles.”

recipients were to give preference to activities “that can be started and completed expeditiously,” with a goal of using at least 50% of the monies for activities that can be started within 120 days of enactment.¹¹

P.L. 111-5 provided emergency funding for FY2009, with the monies available for obligation until September 30, 2010 (the end of FY2010), unless otherwise specified.¹² In general, the accounts funded in the Interior, Environment, and Related Agencies Appropriations title of P.L. 111-5 did not contain different periods of obligation, although there were exceptions (e.g., funding for the DOI and EPA Inspectors General). By comparison, the regular, annual Interior appropriations laws generally do not limit obligations to two years. For instance, in the FY2009 omnibus appropriations law, some of the accounts that were funded by P.L. 111-5 received appropriations that would be available until expended, while others received appropriations only for one or two fiscal years.

The economic stimulus law also stated that it shall have no effect on the availability of funds under the FY2009 continuing appropriations resolution, and that appropriations were in addition to amounts otherwise appropriated for the fiscal year involved.¹³ It required that each agency receiving funding in the Interior, Environment, and Related Agencies title was to notify the House and Senate Appropriations Committees as to how the monies were to be spent. Specifically, it provided that each such agency was to submit to the House and Senate Committees on Appropriations, within 30 days of enactment, a general plan for the expenditure of the funds. Each agency also was to submit to the committees, within 90 days of enactment, a report “containing detailed project level information associated with the general plan.”¹⁴

The law authorized each agency receiving funding in the Interior, Environment, and Related Agencies title to transfer up to 10% of the funds in any account to other accounts within the agency, if certain conditions were met. The conditions were that the agency head “determines that the transfer will enhance the efficiency or effectiveness of the use of the funds without changing the intended purpose,” and notifies the House and Senate Appropriations Committees “10 days prior to the transfer.”¹⁵ In addition, in the explanatory statement on the bill, the Appropriations Committees expressed that funds for administrative and support costs of activities funded in the Interior title are not to exceed 5% of any specific appropriation, unless otherwise specified.¹⁶

¹¹ Sec. 1602, Division A.

¹² Sec. 1603, Division A.

¹³ Sec. 1601, Division A.

¹⁴ Sec. 701, Division A. The Administration has established a website for information related to implementation and oversight of stimulus funds. Through that website, <http://www.recovery.gov/>, separate websites established by federal agencies and states may be accessed.

¹⁵ Sec. 703, Division A.

¹⁶ H.Rept. 111-16, *Conference Report to Accompany H.R. 1, Joint Explanatory Statement of the Committee of Conference*, p. 447.

Table 2. Appropriations for Interior, Environment, and Related Agencies in P.L. 111-5
(\$ in millions)

Agency and Account	House Passed	Senate Passed	Enacted
Department of the Interior			
BLM			
—Management of Lands and Resources	0	135.0	125.0
—Construction	325.0	180.0	180.0
—Wildland Fire Management	0	15.0	15.0
Subtotal, BLM	325.0	330.0	320.0
FWS			
—Resource Management	0	165.0	165.0
—Construction	300.0	110.0	115.0
Subtotal, FWS	300.0	275.0	280.0
NPS			
—Operation of the National Park System	0	158.0	146.0
—Historic Preservation Fund ^a	0	0	15.0
—Construction	1,700.0	589.0	589.0
— <i>Historical and Cultural Resources</i>	<i>200.0</i>	<i>0</i>	<i>0</i>
— <i>Historic Preservation Fund^a</i>	<i>15.0</i>	<i>0</i>	<i>0</i>
—Centennial Challenge	100.0	0	0
Subtotal, NPS	1,800.0	747.0	750.0
USGS, Surveys, Investigations, and Research	200.0	135.0	140.0
Subtotal, USGS	200.0	135.0	140.0
BIA			
—Operation of Indian Programs	0	40.0	40.0
— <i>Housing Improvement Program</i>	<i>0</i>	<i>20.0</i>	<i>0</i>
—Construction	500.0	522.0	450.0
— <i>Schools and Detention Centers</i>	<i>250.0</i>	<i>0</i>	<i>0</i>
—Indian Guaranteed Loan Program Account	0	10.0	10.0
Subtotal, BIA	500.0	572.0	500.0
Other DOI			
—Departmental Offices, Insular Affairs, Assistance to Territories	0	62.0	0
—Departmental Offices, Office of Inspector General, Salaries and Expenses	15.0 ^b	15.0	15.0
—Department-Wide Programs, Central Hazardous Materials Fund	0	20.0	0
Subtotal, Other DOI	15.0^b	97.0	15.0
Subtotal, DOI	3,140.0	2,156.0	2,005.0
EPA			

Agency and Account	House Passed	Senate Passed	Enacted
—Office of Inspector General	20.0	0	20.0
—Hazardous Substance Superfund	800.0	600.0	600.0
—Leaking Underground Storage Tank Trust Fund Program	200.0	200.0	200.0
—State and Tribal Assistance Grants	8,400.0	6,400.0	6,400.0
—Clean Water State Revolving Fund Grants	6,000.0	4,000.0	4,000.0
—Drinking Water State Revolving Fund Grants	2,000.0	2,000.0	2,000.0
—Brownfields Projects (grants for site assessment and cleanup under §104(k) of CERCLA) ^c	100.0	100.0	100.0
—Diesel Emission Reduction Act grants (Title VII, Subtitle G, Energy Policy Act of 2005)	300.0	300.0	300.0
Subtotal, EPA	9,420.0	7,200.0	7,220.0
FS			
—Capital Improvement and Maintenance	650.0	650.0	650.0
—Wildland Fire Management	850.0	485.0	500.0
—Federal Lands	300.0	0	250.0
—State/Private Forestry	550.0	260.0	250.0
—Grants for Using Biomass ^d	0	50.0	50.0
Subtotal, FS	1,500.0	1,135.0	1,150.0
IHS			
—Indian Health Services	0	135.0	85.0
—Contract Health Services	0	50.0	0
—Health Information Technology	0	85.0	0
—Indian Health Facilities	550.0	410.0	415.0
—Completion of Two Facilities	0	0	227.0
Subtotal, IHS	550.0	545.0	500.0
Smithsonian Institution, Facilities Capital	150.0	75.0	25.0
Subtotal, Smithsonian Institution	150.0	75.0	25.0
NEA, Grants and Administration	50.0	0	50.0
Subtotal NEA	50.0	0	50.0
Total Appropriations	14,810.0	11,111.0	10,950.0

Source: The primary source of this information is the *Congressional Record*, February 13, 2009 p. H1546-H1548.

Note: The following agency acronyms are used in this table: BLM, Bureau of Land Management; FWS, Fish and Wildlife Service; NPS, National Park Service; USGS, United States Geological Survey; BIA, Bureau of Indian Affairs; DOI, Department of the Interior; EPA, Environmental Protection Agency; FS, Forest Service; IHS, Indian Health Service; NEA, National Endowment for the Arts.

- a. The House-passed bill provided that \$15.0 million of the funds provided for construction were to be transferred to the Historic Preservation Fund. This appropriation is reflected in the table under the NPS construction account for the House-passed bill.
- b. The House-passed bill included these funds in Title I (General Provisions) of the bill, rather than in the title for Interior, Environment, and Related Agencies.

- c. CERCLA is the acronym for the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.
- d. In the Senate-passed bill, it appears that these funds were to be derived from the state/private forestry amount. In the enacted bill, these funds were to be derived from the total for wildland fire management; therefore, the \$50.0 million is a subamount within the other line items.

Major Issues

Controversial funding and policy issues typically have been debated during consideration of the annual Interior, Environment, and Related Agencies Appropriations bill. Issues that have tended to be controversial, that are discussed in subsequent sections of this report, include those listed below.

- *Clean Water and Drinking Water State Revolving Funds*, especially the adequacy of funding to meet state and local wastewater and drinking water needs. These state revolving funds provide seed money for state loans to communities for wastewater and drinking water infrastructure projects. (For more information, see the “Environmental Protection Agency” section in this report.)
- *Construction of BIA Schools and IHS Health Facilities*, particularly whether to enact funding cuts proposed in President Bush’s budget. (For more information, see the “Bureau of Indian Affairs” and the “Indian Health Service” sections in this report.)
- *Indian Trust Funds*, especially whether to enact reductions proposed in President Bush’s FY2009 request and the method by which a historical accounting will be conducted of Individual Indian Money (IIM) accounts to determine correct balances in the class-action lawsuit against the government. (For more information, see the “Office of Special Trustee for American Indians” section in this report.)
- *Land Acquisition*, including the appropriate level of funding for the Land and Water Conservation Fund for federal land acquisition and the state grant program, and extent to which the fund should be used for activities not involving land acquisition. (For more information, see “The Land and Water Conservation Fund (LWCF)” section in this report.)
- *Outer Continental Shelf Leasing*, particularly preleasing and leasing activities in offshore areas. (For more information, see the “Minerals Management Service” section in this report.)
- *Payments in Lieu of Taxes Program (PILT)*, primarily the appropriate level of funding for compensating local governments for federal land within their jurisdictions. (For more information, see the “Payments in Lieu of Taxes Program (PILT)” section in this report.)
- *Royalty Relief*, especially the extent to which oil and natural gas companies receive royalty relief for production of oil and natural gas on federal lands. (For more information see the “Minerals Management Service” section of this report.)
- *Superfund*, notably the adequacy of proposed funding to meet hazardous waste cleanup needs, and whether to continue using general Treasury revenues to fund the account or reinstate a tax on industry that originally paid for most of the

program. (For more information, see the “Environmental Protection Agency” section in this report.)

- *Termination of BIA Education and Housing and IHS Urban Health Programs*, particularly whether to end funding for BIA’s Johnson-O’Malley grants to schools and the Housing Improvement Program and for IHS’s urban Indian health projects. (For more information, see the “Bureau of Indian Affairs” and the “Indian Health Service” sections in this report.)
- *Wildland Fire Fighting*, involving questions about the appropriate level of funding to fight fires on agency lands; advisability of borrowing funds from other agency programs to fight wildfires; implementation of a program for wildland fire protection and locations for fire protection treatments; and impact of environmental analysis, public involvement, and challenges to agency decisions on fuel reduction activities. (For more information, see the “Wildland Fire Management” section in this report.)

Status of Bill

Table 3, below, contains information on the development of the Omnibus Appropriations Act, 2009, which included funding for Interior, Environment, and Related Agencies.

Table 3. Status of Interior, Environment, and Related Agencies Appropriations, FY2009 (H.R. 1105)

Subcommittee Markup		H. Comm. Report	House Passage	S. Comm. Report	Senate Passage	Conf. Report	Conference Report Approval		Public Law
							House	Senate	
06/11/08 ^a	—	—	02/25/09 245-178	—	03/10/09 voice vote	02/23/09 explanatory statement ^b	—	—	03/11/09 P.L. 111-8

- a. This subcommittee markup occurred on a draft of a different (unnumbered) bill.
- b. This column identifies the explanatory statement on H.R. 1105 published in the Congressional Record on February 23, 2009. Section 4 of P.L. 111-8 states that this statement “shall have the same effect with respect to the allocation of funds and implementation of this Act as if it were a joint explanatory statement of a committee of conference.”

Title I: Department of the Interior

Bureau of Land Management¹⁷

Overview

The Bureau of Land Management (BLM) manages approximately 258 million acres of public land for diverse and sometimes conflicting uses, such as energy and minerals development, livestock grazing, recreation, and preservation. The agency also is responsible for about 700 million acres of federal subsurface mineral estate throughout the nation, and supervises mineral operations on an estimated 56 million acres of Indian Trust lands. Another key BLM function is wildland fire management on about 370 million acres of DOI, other federal, and certain nonfederal land.

The FY2009 Omnibus Appropriations Act provided \$1.04 billion for the BLM, a \$30.7 million (3%) increase over FY2008 and a \$39.5 million (4%) increase over the FY2009 Bush Administration request.¹⁸ See **Table 4**. These figures do not include funds for DOI wildland fire management. In the past, wildland fire funds have been appropriated to BLM for fire fighting on all DOI lands. However, for FY2009, the Bush Administration proposed funding for DOI fire fighting as a department-wide program, rather than through the BLM. The Bush Administration had sought \$850.1 million for DOI wildland fire management. The FY2009 omnibus law contained \$859.5 million, a \$9.3 million (1%) increase over the FY2009 Bush Administration request but a \$332.6 million (28%) decrease from the \$1.19 billion appropriated to the BLM for FY2008. The FY2009 stimulus appropriations law contained an additional \$15.0 million for BLM for Wildand Fire Management. (For more information, see the “Wildland Fire Management” section in this report.) Proposed funding for several key activities is discussed below.

The Bush Administration’s FY2009 budget included several suggested changes in law. For instance, the Bush Administration suggested amending the Federal Land Transaction Facilitation Act in part to alter the distribution of proceeds from land sales. Legislation would be needed to make these changes, but such legislation has not been enacted. Under current law, proceeds are deposited into a separate Treasury account and are available primarily for land acquisition. President Bush’s proposal would have directed 70% of the proceeds to the general fund of the Treasury. It would have capped receipts retained by DOI at \$60 million annually, and directed using updated land management plans to determine which lands to sell or exchange. The Bush Administration supported these changes to increase the funds subject to oversight during the appropriations process and to enhance the public benefits from land sales, according to the BLM budget justification. The Bush Administration made similar proposals in earlier budget requests, which were not enacted.

¹⁷ For more information on BLM funding, contact (name redacted) at 7-.....

¹⁸ In this report, the Administration’s request for BLM is reported as \$999.1 million, rather than the \$987.4 million indicated in the tables accompanying the explanatory statement on the FY2009 omnibus bill. Those tables reflect an Administration reduction for the Abandoned Mine Reclamation Fund as part of the BLM request, whereas this report reflects that reduction in the request for the Office of Surface Mining Reclamation and Enforcement.

The FY2009 omnibus law included \$10.0 million for the Range Improvement Fund. The Bush Administration had proposed to eliminate the fund, and consequently did not request an appropriation. **Table 4**, below, nevertheless shows a request of \$10.0 million because under current law a portion of the grazing fees collected are deposited in the fund. The Administration had sought a legislative change to direct that the grazing fee receipts that are deposited into the fund instead be deposited in the general fund of the Treasury. Range improvements include vegetation projects, fencing, and water developments. The Bush Administration had advocated the change so that construction and maintenance of public land projects would be the responsibility of public land users and interest groups, while allowing that BLM funds from other accounts could be used for range improvements. The Bush Administration had proposed similar changes in earlier budget requests.

Management of Lands and Resources

Management of Lands and Resources includes funds for an array of BLM land programs, including protection, recreational use, improvement, development, disposal, and general BLM administration. For this line item, the FY2009 omnibus law contained \$890.2 million, \$36.3 million (4%) over the FY2008 level and \$25.4 million (3%) over the FY2009 Bush Administration request. The FY2009 stimulus law contained an additional \$125.0 million for Management of Lands of Resources, for activities including remediation of abandoned mines and wells and also maintenance, rehabilitation, and restoration of facilities, property, trails, and lands.

**Table 4. Appropriations for the Bureau of Land Management (BLM),
FY2008-FY2009**
(\$ in millions)

BLM	FY2008 Approp.	FY2009 Request	FY2009 Omnibus	FY2009 Stimulus	FY2009 Total
Management of Lands and Resources	853.9	864.8	890.2	125.0	1,015.2
Construction	6.4	4.5	6.6	180.0	186.6
Land Acquisition	8.9	4.5	14.8	0	14.8
Oregon and California Grant Lands	108.5	108.3	109.9	0	109.9
Range Improvements	10.0	10.0	10.0	0	10.0
Service Charges, Deposits, and Forfeitures ^a	0	0	0	0	0
Miscellaneous Trust Funds and Permanent Operating Funds	20.1	7.1	7.1	0	7.1
—Current Appropriations	20.1	20.1	20.1	0	20.1
—Naval Oil Shale Reserves, Mineral Leasing Receipts	0	-13.0	-13.0	0	-13.0
Total Appropriations^b	1,007.9	999.1	1,038.6	305.0	1,343.6

- a. The figures of "0" are a result of an appropriation matched by offsetting fees.
- b. The figures do not reflect funds for DOI wildland fire management. For FY2008, \$1.19 billion was appropriated to the BLM for DOI wildland fire management. For FY2009, the Bush Administration sought to fund wildland fire management as a department-wide program, with a request for \$850.1 million. The FY2009 omnibus law contained \$859.5 million for DOI Wildland Fire Management, and the FY2009 stimulus law included \$15.0 for the BLM for Wildland Fire Management.

The omnibus law specified \$28.2 million from this account for the national monuments and conservation areas of the National Landscape Conservation System (NLCS), an increase of \$6.4 million over the Administration's request of \$21.8 million. This system consists of approximately 27 million acres of BLM's protected areas. Overall, the FY2009 omnibus law contained \$60.8 million for the NLCS, from multiple accounts, an increase over both the FY2008 appropriation of \$54.2 million and the FY2009 Administration request of \$49.9 million.

The FY2009 omnibus law provided less funding than FY2008 for some activities that are funded by this account. For instance, it contained \$45.9 million for recreation resources management, a decrease from the FY2008 level of \$50.5 million. However, in general the FY2009 omnibus law contained increased funds for activities over the FY2008 level. Among the increases were those for the following:

- Soil, water, and air management: \$6.3 million, from \$34.3 million to \$40.6 million. Included within the appropriation was an increase of \$7.5 million for abandoned mine remediation and inventory in the West;
- Wild horse and burro management: \$4.4 million, from \$36.2 million to \$40.6 million;
- Wildlife management: \$4.4 million, from \$30.7 million to \$35.1 million. Included within the appropriation was an additional \$4.6 million for the native plant materials development program, which was moved from the DOI Wildland Fire Management account; and
- Resource protection and law enforcement: \$4.9 million, from \$22.6 million to \$27.5 million. Included in the appropriation was an increase of \$5.1 million for drug enforcement on BLM lands.

The FY2009 omnibus law included \$99.4 million for energy and minerals management, a \$10.5 million reduction from the FY2008 level of \$109.9 million and a \$32.6 million decrease from the FY2009 Bush Administration request of \$132.0 million. The lower appropriation for FY2009 was primarily the result of \$36.4 million in offsetting fees, as compared with \$25.5 million for FY2008 and none in the Administration's request. These revenues are derived through a program requiring payment of \$4,000 for each application for a permit to drill oil and gas wells. Including these revenues, the amount available for FY2008 was \$135.4 million and the amount available for FY2009 would be \$135.8 million.

The Continuing Appropriations Resolution, 2009, removed the prohibition on using funds to prepare final regulations regarding a commercial leasing program for oil shale or to conduct a commercial oil shale lease sale. The funding prohibition had been included in the FY2008 appropriations law. According to the Department of the Interior and the oil industry, final regulations were important for giving the industry greater certainty, regarding access to federal lands. Final regulations were subsequently issued.

For the healthy lands initiative for FY2009, the omnibus law contained \$7.8 million. These funds would be derived from the appropriations for different activities, and would constitute an increase of \$2.9 million over the \$4.9 million appropriated for FY2008. The Bush Administration had sought a higher funding level—\$14.9 million. The Administration anticipated using another \$8.2 million in existing funds for the initiative for both FY2009 and FY2008, while raising \$10.0 million in contributions from partners in FY2009 and \$3.4 million in FY2008. The initiative consists of vegetation resources enhancements to restore and improve the health and productivity of western public lands across large areas of land. It currently focuses on six areas located in

Utah, New Mexico, southwest Wyoming, southeast Oregon-southwest Idaho-northern Nevada, south-central Idaho, and western Colorado. In its FY2009 budget justification, BLM stated that these areas were selected due to an “urgent” need to maintain, improve, and restore wildlife habitat to help preclude the need to list species under the Endangered Species Act. With the additional funds sought in FY2009, the Administration was seeking to expand the Colorado initiative and to add a seventh area—California. The FY2009 omnibus law did not specify how the funding would be used.

Construction

For FY2009, the omnibus law contained \$6.6 million for BLM construction, an increase of \$0.2 million over FY2008 and \$2.1 million over the Bush Administration’s request for FY2009. The law included funding for two construction projects requested by the Administration as well as two additional ones. The FY2009 stimulus law provided an additional \$180.0 million to BLM for construction, including for energy efficient retrofits of existing facilities and for construction, reconstruction, decommissioning, and repair of roads, bridges, trails, property, and facilities. This funding is significantly larger than has been provided for BLM construction in at least a decade. Funds from FY1999 to the present have ranged from a low of \$6.4 million in FY2008 to a high of \$16.8 million in FY2001.

Land Acquisition

For Land Acquisition for FY2009, the omnibus law included \$14.8 million for eight specified acquisitions. This was an increase of \$5.8 million over FY2008 and \$10.3 million over the Bush Administration’s FY2009 request. The appropriation for BLM acquisitions had fallen steadily from \$49.9 million in FY2002 to \$8.9 million for FY2008. Money for land acquisition is appropriated from the Land and Water Conservation Fund. (For more information, see the “Land and Water Conservation Fund (LWCF)” section in this report.)

CRS Report R40237, *Federal Lands Managed by the Bureau of Land Management (BLM) and the Forest Service (FS): Issues for the 111th Congress*, (name redacted), (name redacted), (name redacted), and (name redacted).

For further information on the *Bureau of Land Management*, see its website at <http://www.blm.gov/nhp/index.htm>.

Fish and Wildlife Service¹⁹

The omnibus appropriations law provided \$1.44 billion for Fish and Wildlife Service (FWS) accounts. This was \$850,000 less than the FY2008 appropriation, which had included \$75.0 million in emergency appropriations for construction. However, it was a \$138.7 million increase (11%) over President Bush’s request of \$1.30 billion for FY2009.

By far the largest portion of the FWS annual appropriation is for the Resource Management account, for which the omnibus law appropriated \$1.14 billion. This was an increase of \$58.3 million (5%) over FY2008 and of \$72.1 million (7%) over the FY2009 Bush Administration’s

¹⁹ For more information on FWS funding, contact (name redacted) at 7-.....

request. Among the programs included in Resource Management are the Endangered Species program, the Refuge System, and Law Enforcement. The stimulus law provided an additional \$280.0 million for FWS, to be spent in two accounts: Resource Management (\$165.0 million) and Construction (\$115.0 million).

**Table 5. Appropriations for the Fish and Wildlife Service (FWS),
FY2008-FY2009**

(\$ in thousands)

FWS Appropriations	FY2008 Approp.	FY2009 Request	FY2009 Omnibus	FY2009 Stimulus	FY2009 Total
Resource Management	1,082,616	1,068,886	1,140,962	165,000	1,305,962
—Ecological Services: Endangered Species	150,508	146,841	157,973	n/a	n/a
—Ecological Services: Habitat Conservation and Environmental Contaminants	112,888	108,739	118,297	n/a	n/a
—National Wildlife Refuge System	434,124	434,124	462,859	n/a	n/a
—Migratory Birds, Law Enforcement & International Conservation	118,919	120,906	126,717	n/a	n/a
—Fisheries	126,499	116,635	131,831	n/a	n/a
—General Administration	139,678	141,641	143,285	n/a	n/a
Construction	108,162	12,180	35,533	115,000	150,533
Land Acquisition	34,596	10,171	42,455	0	42,455
Cooperative Endangered Species Conservation Fund	73,831	75,501	75,501	0	75,501
National Wildlife Refuge Fund	13,980	10,811	14,100	0	14,100
North American Wetlands Conservation Fund	41,981	42,647	42,647	0	42,647
Neotropical Migratory Bird Conservation Fund	4,430	3,960	4,750	0	4,750
Multinational Species Conservation Fund	7,875	4,256	10,000	0	10,000
State and Tribal Wildlife Grants	73,830	73,830	75,000	0	75,000
Wildlife Conservation and Appreciation Fund (cancel prior-year funds)	0	-497	-497	0	-497
Total Appropriations	1,441,301	1,301,745	1,440,451	280,000	1,720,451

Endangered Species Funding

Funding for the Endangered Species program is part of the Resource Management account, and is one of the perennially controversial portions of the FWS budget. The FY2009 omnibus appropriation was \$158.0 million, an increase over both the FY2009 request of \$146.8 million and the FY2008 level of \$150.5 million. See **Table 6**.

Certain related programs also have benefitted conservation of species that are listed, or proposed for listing, under the Endangered Species Act. The omnibus law increased the Cooperative Endangered Species Conservation Fund (for grants to states and territories to conserve threatened

and endangered species) from \$73.8 million in FY2008 to \$75.5 million in FY2009.²⁰ This was the amount proposed by President Bush. The request included a proposal to cancel \$4.5 million in prior year balances, which Congress also accepted. See **Table 6**.

In total, the FY2009 appropriation contained \$233.5 million for endangered species and related programs, up 4% from the FY2008 level of \$224.3 million and 5% from the FY2009 Bush Administration request of \$222.3 million.

Table 6. Appropriations for the Endangered Species Program and Related Programs, FY2008-FY2009

(\$ in thousands)

Endangered Species and Related Programs	FY2008 Approp.	FY2009 Request	FY2009 Omnibus	FY2009 Stimulus ^a	FY2009 Total
Endangered Species Program					
—Candidate Conservation	9,731	8,659	10,670	n/a	n/a
—Listing	17,978	18,188	19,266	n/a	n/a
—Consultation	51,758	51,577	53,462	n/a	n/a
—Recovery	71,041	68,417	74,575	n/a	n/a
Subtotal, Endangered Species Program	150,508	146,841	157,973	n/a	n/a
Related Program: Cooperative Endangered Species Conservation Fund	73,831	75,501 ^b	75,501 ^b	0	75,501
Total Appropriations	224,339	222,342	233,474	n/a	n/a

a. It is unclear what, if any, of the stimulus funding of \$165.0 million appropriated to Resource Management would be allocated to these programs. Because job creation is a major criterion for use of stimulus funds, the Listing and Consultation Programs appear to be less likely to be eligible than Candidate Conservation and Recovery, given the nature of their responsibilities.

b. Reflects a cancellation of \$4.5 million in prior year balances.

Changing ESA Rules: Consultation and Polar Bears

In August 2008, FWS and the National Marine Fisheries Service proposed changes to the regulations that address the consultation process under ESA.²¹ Final regulations were published December 16, 2008, and took effect on January 15, 2009. The changes were considered controversial. A provision of the omnibus law authorized the Secretaries of the Interior and Commerce to withdraw or reissue the regulations within 60 days of enactment "without regard to any provision of statute or regulation."²² This meant that no rulemaking steps would be required, such as notice and comment periods. The law allowed the previous regulations to return to

²⁰ Two other related programs were terminated in FY2008, when President Bush proposed, and Congress approved, ending the Landowner Incentive Program (\$23.7 million in FY2007) as well as Stewardship Grants (\$7.3 million in FY2007), which also benefit listed species. No funding was sought or provided for either program for FY2009.

²¹ See CRS Report RL34641, *Changes to the Consultation Regulations of the Endangered Species Act (ESA)*, by (name redacted) and (name redacted).

²² P.L. 111-8, Div. E, Tit. I, § 429(a)(1).

effect.²³ On April 28, 2009, FWS announced that the new rules were rescinded and the old rules would be in effect.

This provision of the omnibus appropriations law also authorized the Secretary of the Interior to withdraw special rules that were issued for the threatened polar bear. The final rules were published on December 10, 2008, and limited ESA protections to those protections already available under the Marine Mammal Protection Act. They further limited requirements for consultation about federal activities that may affect the species.²⁴

National Wildlife Refuge System (NWRS) and Law Enforcement

The omnibus appropriations law provided \$462.9 million for refuge operations and maintenance. The FY2008 appropriation was \$434.1 million, the same level as was proposed by President Bush for FY2009. The law increased wildlife and habitat management, refuge-based law enforcement, visitor services, maintenance, and conservation planning. The Bush Administration had proposed that a portion of the wildlife and habitat management spending be funded by the Land and Water Conservation Fund, but Congress did not accept the proposal.

Costs of operations have increased on many refuges, partly due to special problems such as hurricane damage and more aggressive border enforcement, but also due to increased use, invasive species control, and other demands. Refuge funding was not keeping pace with new demands, and these demands, combined with the rising costs of rent, salaries, fuel, and utilities, led to cuts in funding for programs to aid endangered species, reduce infestation by invasive species, protect water supplies, address habitat restoration, and ensure staffing at the less popular refuges. While increases were provided to address these problems in recent years, the stimulus law provided additional funding to address these concerns. However, some observers contend that the system's problems are on-going and will be significant after the stimulus funding is exhausted.

The omnibus appropriations law contained \$62.7 million for FY2009 for FWS law enforcement nationwide, an increase of 5% over the FY2008 level of \$59.6 million. The FY2009 Bush Administration request was \$57.4 million. Nationwide, law enforcement includes border inspections and investigations of violations of endangered species or waterfowl hunting laws.

Refuges: Stimulus Funding

The FY2009 stimulus law provided the FWS with \$165.0 million for Resource Management and \$115.0 for Construction, using nearly identical criteria for project selection. For both accounts, the explanatory statement²⁵ encouraged that "selection of individual projects be based on a

²³ The law provided that if the rule was withdrawn, the Secretary "shall implement the provisions of law under which the rule was issued in accordance with the regulations in effect under such provisions immediately before the effective date of such rule, except as otherwise provided by any Act or rule that takes effect after the effective date of the rule that is withdrawn." P.L. 111-8, Div. E, Tit. I, § 429(b).

²⁴ For more analysis on the polar bear special rules, see CRS Report RL34573, *Does the Endangered Species Act (ESA) Listing Provide More Protection of the Polar Bear?: A Look at the Special Rules*, by (name redacted), and CRS Report RL33941, *Polar Bears: Listing Under the Endangered Species Act*, by (name redacted), (name redacted), and (name redacted).

²⁵ H.Rept. 111-16, p. 439-440.

prioritization process which weighs the capacity of proposals to create the largest number of jobs in the shortest period of time and which creates lasting value for the American public. While maximizing jobs, the Service should consider

priority critical deferred maintenance and capital improvement projects, trail maintenance, and habitat restoration on National Wildlife Refuges, National Fish Hatcheries, and other Service properties.” [for the Resource Management account]

priority construction, reconstruction and repair, critical deferred maintenance and capital improvement projects, road maintenance, energy conservation projects and habitat restoration on National Wildlife Refuges, National Fish Hatcheries and other Service properties.” [for the Construction account]

FWS has elaborated that “[t]o complete this work, we plan to hire local laborers, building contractors, companies and other entities to do the maintenance, repairs, retrofits, and construction.”²⁶ Refuges are likely to be among the biggest beneficiaries of the stimulus funding, and the refuge maintenance backlog could be affected substantially. Improvements in energy conservation at refuge visitor centers also appear likely. Habitat improvement might include removal of invasive species, and recovery of protected species. To the extent that refuges are scattered throughout the country, job creation should likewise be distributed.

Construction

The omnibus appropriations law contained \$35.5 million for construction, an increase from the President’s request of \$12.2 million, but down 67% from the FY2008 total of \$108.2 million. The FY2008 total included regular appropriations of \$33.2 million and \$75.0 million in emergency appropriations. The Construction account received an additional \$115.0 million from the stimulus law. This figure, along with the FY2009 annual appropriation, resulted in a total of \$150.5 million for Construction, up 39% over the total FY2008 appropriation.

Avian Flu

The omnibus law appropriated \$4.9 million for avian flu research and monitoring, the level requested by President Bush, and down 33% from the FY2008 level of \$7.3 million. In addition, Congress transferred the program from General Administration to the Migratory Bird Management Program, as requested by President Bush. Under the program, FWS cooperates with other federal and nonfederal agencies in studying the spread of the virus through wild birds. Attention is on North American species whose migratory patterns make them likely to come into contact with infected Asian birds. The geographic focus is on Alaska, the Pacific Flyway (along the west coast), and Pacific islands, with smaller samples in other areas. (See CRS Report RL33795, *Avian Influenza in Poultry and Wild Birds*, by (name redacted) and (name redacted).)

Land Acquisition

The omnibus appropriations law increased land acquisition funding for FY2009 to \$42.5 million, up from the FY2008 level of \$34.6 million. For FY2009, President Bush’s budget had sought to

²⁶ Personal communication to (name redacted) from Division of Congressional and Legislative Affairs, U.S. Fish and Wildlife Service, March 24, 2009.

reduce Land Acquisition to \$10.2 million, down 71%. The Administration had proposed that \$0.9 million be allocated to Refuge Acquisition, down \$19.8 million (96%) from FY2008. The Administration asserted that the proposed reduction would allow the agency to better focus on management of lands currently in the refuge system, by not adding to operations and maintenance costs through additional acquisitions.²⁷ See **Table 7**. In the past, the bulk of this FWS program has been for acquisitions of land for specified federal refuges, but a portion was used for closely related functions such as acquisition management, land exchanges, emergency acquisitions, purchase of inholdings, and general overhead. In recent years, less of the funding has been reserved for traditional land acquisition. This program is funded with appropriations from LWCF. (For more information, see the “Land and Water Conservation Fund (LWCF)” in this report.)

Under the Migratory Bird Conservation Account (MBCA), FWS has a source of mandatory spending for land acquisition. The account is permanently appropriated, with funds derived from the sale of duck stamps to hunters and import duties on certain arms and ammunition. For FY2009, President Bush proposed to increase the price of a duck stamp from the current \$15 to \$25, with a further increase to \$35 beginning in FY2013. No action has been taken on the proposal. As annual appropriations for acquisitions under LWCF have declined, the MBCA (\$43.7 million in FY2007, and an estimated \$40.0 million for FY2008 and FY2009) has become increasingly used to protect habitat for migratory birds, especially waterfowl. Other species in these habitats benefit incidentally. President Bush’s budget assumed that Congress would enact an increase in the price of duck stamps, and that as a result MBCA revenues for FY2009 would increase 35% to \$54.0 million.

**Table 7. Appropriations for the Fish and Wildlife Service (FWS):
Land Acquisition Program, FY2008-FY2009**
(\$ in thousands)

FWS Land Acquisition	FY2008 Approp.	FY2009 Request	FY2009 Omnibus
Acquisitions—Federal Refuge Lands	20,676	900	28,315
Inholdings	2,953	1,500	3,000
Emergencies & Hardships	0	1,500	0
Exchanges	1,477	1,537	1,500
Acquisition Management	8,013	3,240	8,140
Cost Allocation Methodology	1,477	1,494	1,500
Total Appropriations	34,596	10,171	42,455

Wildlife Refuge Fund

The National Wildlife Refuge Fund (also called the Refuge Revenue Sharing Fund) compensates counties for the presence of the non-taxable federal lands of the National Wildlife Refuge System (NWRS). A portion of the fund is supported by the permanent appropriation of receipts from various activities carried out on the NWRS. However, these receipts are not sufficient for full funding of amounts authorized in the formula, and county governments have long urged

²⁷ U.S. Dept. of the Interior, *Fiscal Year FY2009: The Interior Budget in Brief*, February 2008, p. DO-21.

additional appropriations to make up the difference. As it often has in the past, Congress has provided additional appropriations — \$14.1 million for FY2009. This was a slight increase over the FY2008 level of \$14.0 million, and a 30% increase over the President’s request of \$10.8 million. With refuge receipts, the FY2009 omnibus appropriation level would fund about 47% of the authorized payment level, down from 51% in FY2008.²⁸

Multinational Species and Neotropical Migrants

The Multinational Species Conservation Fund (MSCF) has generated considerable constituent interest despite the small size of the program. It benefits Asian and African elephants, tigers, rhinoceroses, great apes, and marine turtles. The omnibus appropriations law contained \$10.0 million for MSCF, an increase over President Bush’s request of \$4.3 million and the FY2008 level of \$7.9 million. The law also appropriated \$4.8 million for the Neotropical Migratory Bird Conservation Fund (NMBCF). This was higher than President Bush’s FY2009 request of \$4.0 million and the FY2008 level of \$4.4 million. See **Table 8**.

Table 8. Appropriations for the Multinational Species Conservation Fund (MSCF) and Neotropical Migratory Bird Conservation Fund, FY2008-FY2009

(\$ in thousands)

Multinational Species Conservation Fund	FY2008 Approp.	FY2009 Request	FY2009 Omnibus
African Elephant	1,477	990	2,000
Tiger and Rhinos	1,969	990	2,500
Asian Elephant	1,477	990	2,000
Great Apes	1,969	990	2,000
Marine Turtles	983	296	1,500
Total MSCF Appropriations	7,875	4,256	10,000
Neotropical Migratory Birds	4,430	3,960	4,750

State and Tribal Wildlife Grants

State and Tribal Wildlife Grants help fund efforts to conserve species (including nongame species) of concern to states, territories, and tribes. The grants have generated considerable support from these governments. The program was created in the FY2001 Interior appropriations law (P.L. 106-291) and further detailed in subsequent Interior appropriations laws. (It does not have any separate authorizing statute.) Funds may be used to develop state conservation plans as well as to support specific practical conservation projects. A portion of the funding is set aside for competitive grants to tribal governments or tribal wildlife agencies. The remaining portion is for matching grants to states. A state’s allocation is determined by formula. The omnibus appropriations law contained \$75.0 million for FY2009. The appropriation for FY2008 was \$73.8 million, and the FY2009 request was identical. See **Table 9**.

²⁸ The National Wildlife Refuge Fund is distinct from the Payments in Lieu of Taxes (PILT) program run by DOI, and for which many types of federal lands are eligible. In 2009, Congress made PILT a mandatory spending program for FY2008-FY2012, but did not change the Refuge Fund. See “Payments in Lieu of Taxes,” below.

Table 9. Appropriations for State and Tribal Wildlife Grants, FY2008-FY2009

(\$ in thousands)

State and Tribal Wildlife Grants	FY2008 Approp.	FY2009 Request	FY2009 Omnibus
State Grants	62,724	62,724	63,000
Competitive Grants for States, Territories, & Other Jurisdictions	4,922	4,922	5,000
Tribal Grants	6,184	6,184	7,000
Total Appropriations	73,830	73,830	75,000

CRS Report RL33872, *Arctic National Wildlife Refuge (ANWR): New Directions in the 110th Congress*, by (name redacted), (name redacted), and (name redacted).

CRS Report RL33795, *Avian Influenza in Poultry and Wild Birds*, by (name redacted) and (name redacted).

CRS Report R40185, *The Endangered Species Act (ESA) in the 111th Congress: Conflicting Values and Difficult Choices*, by (name redacted), (name redacted), (name redacted), (name redacted), and (name redacted).

CRS Report RS21157, *Multinational Species Conservation Fund*, by (name redacted) and (name redacted).

For further information on the *Fish and Wildlife Service*, see its website at <http://www.fws.gov/>.

National Park Service²⁹

The National Park Service (NPS) is responsible for the National Park System, currently comprising 391 separate and diverse park units covering 85 million acres. The NPS protects, preserves, interprets, and administers the park system's diverse natural and historic areas representing the cultural identity of the American people. The system has roughly 20 types of area designations, including national parks, monuments, memorials, historic sites, battlefields, seashores, recreational areas, and other classifications. The NPS mission is to protect park resources and values, unimpaired, while making them accessible to the public. Park recreational visits totaled nearly 275 million visits in 2008. The NPS also supports and promotes some resource conservation activities outside the park system through limited grant and technical assistance programs and cooperation with partners.

The omnibus appropriations law included a total of \$2.53 billion for the Park Service for FY2009, with increases of \$121.3 million (5%) compared to the Bush Administration's FY2009 request and \$135.1 million (6%) more than the FY2008 enacted level. The law provided increases for most NPS accounts. See **Table 10**. The Bush Administration's request would have boosted funding for the major park operations account, but it sought substantial reductions for the

²⁹ For more information on NPS funding in general, contact (name redacted) at 7-..... For more information on funding for historic preservation, contact Shannon Loane at 7-.....

recreation and preservation, construction, and land acquisition line items. A provision of the FY2009 omnibus appropriations law extended the authorization for the NPS Advisory Board for one year, until January 2010.

The condition of the national parks and the adequacy of their care and operating capacity continues to be a congressional focus. Some advocacy groups claim that the park system has long experienced chronic budget shortfalls. By one estimate, the national parks operate with two-thirds of needed funding—a budget shortfall of more than \$600 million annually.³⁰

To be ready for the NPS's 100th anniversary in 2016, the Bush Administration had proposed a multi-year initiative, to begin in FY2008, to strengthen visitor services and other park programs. The National Parks Centennial Initiative, announced by President Bush in August 2006, sought to add up to \$3 billion in new funds for the parks over 10 years through a public/private joint effort. The initiative had three components: (1) a commitment to add \$100.0 million annually in discretionary funds; (2) a challenge for the public to donate \$100.0 million annually; and (3) a request that legislation be enacted to establish a mandatory fund with \$100.0 million annually to match the public donations. The second part of the initiative—the proposed \$1 billion “Centennial Challenge”—would rely on corporate, foundation, and other private donations, raising concerns among some park supporters about potential commercialization and privatization influence on the parks. (See the “Centennial Challenge” section, below.)

The stimulus law provided additional funding for three NPS budget accounts. In total, it contained \$750.0 million, close to the amount that originally had been supported by the Senate — \$747.0 million. The House initially had supported a significantly higher level of funding for the NPS — \$1.80 billion. The House amount had included \$100.0 million for the Centennial Challenge program, which was not retained in the law. The largest amount of NPS funding in the stimulus law was for construction, where the \$589.0 million provided was more than double the amount included in regular FY2009 appropriations. The funds for construction cover major facility construction, road repair, and equipment replacement, among other programs. See **Table 10**. The \$146.0 million in stimulus funds for park operations covered deferred maintenance of facilities and trails, and other critical repair and rehabilitation projects. Language in the explanatory statement on the bill for both NPS construction and park operations emphasized agency flexibility in determining the allocation among activities, but encouraged projects that will provide the most jobs in the shortest time and create lasting value for the park system. The \$15.0 million for historic preservation was exclusively for grants to Historically Black Colleges and Universities, and the law waived matching requirements for grants.

³⁰ See the website of the National Parks Conservation Association at http://www.npca.org/media_center/reports/analysis.html.

Table 10. Appropriations for the National Park Service (NPS), FY2008-FY2009

(\$ in millions)

NPS	FY2008 Approp.	FY2009 Request ^a	FY2009 Omnibus ^b	FY2009 Stimulus	FY2009 Total
Operation of the National Park System	1,970.6	2,130.7	2,131.5	146.0	2,277.5
—Park Management	1,744.5	1,889.1	1,894.8	<i>n/a</i>	<i>n/a</i>
—Administrative Costs	139.4	148.1	138.2 ^c	<i>n/a</i>	<i>n/a</i>
—U.S. Park Police	86.7	93.6	98.6 ^d	<i>n/a</i>	<i>n/a</i>
Centennial Challenge (Matching Program) ^e	24.6	0	0	0	0
National Recreation and Preservation ^f	67.4	45.5	59.7	0	59.7
Historic Preservation Fund ^f	70.4	66.1	69.0	15.0	84.0
Construction	218.5	172.5	232.5	589.0	821.5
Land and Water Conservation Funds ^g	-30.0	-30.0	-30.0	0	-30.0
Land Acquisition and State Assistance	69.0	20.8	64.2	0	64.2
—Assistance to States	24.6	-1.0	19.0	0	19.0
—NPS Acquisition	44.4	21.8	45.2	0	45.2
Total Appropriations	2,390.5	2,404.3	2,525.6	750.0	3,275.6

- a. Includes cancellation of \$4.3 million of prior-year funds: \$0.8 million for U.S. Park Police, \$0.5 million for Historic Preservation, \$0.6 million for Construction, \$1.0 million for Assistance to States, and \$1.3 million for Urban Parks and Recreation.
- b. Includes cancellation of \$3.5 million of prior-year funds: \$0.5 million for Historic Preservation, \$0.6 million for Construction, \$1.0 million for Assistance to States, and \$1.3 million for Urban Parks and Recreation.
- c. Includes savings of \$9.9 million through delayed hiring and contracting.
- d. Includes an additional \$2.0 million for inaugural security.
- e. The FY2009 request figure reflects the fact that the Bush Administration did not seek funding for the matching program through annual appropriations.
- f. Preserve America funding requested for FY2009 (\$10.0 million) is included in the Historic Preservation Fund. For FY2008, funds were included (\$7.4 million) in National Recreation and Preservation.
- g. Figures reflect a rescission of contract authority.

Operation of the National Park System

The FY2009 omnibus appropriations law provided \$2.13 billion to support overall park operations, the same as requested, except that the request included a cancellation of \$0.8 million in prior-year Park Police funds. The enacted level was \$160.9 million (8%) above the FY2008 level. See **Table 10**. Operations account funds will support 20,923 full-time equivalent (FTE) positions, an increase of 622 FTEs above FY2008. The law also directed that \$99.6 million be targeted specifically for the maintenance, repair, and rehabilitation of constructed park assets and related purposes. As noted, the stimulus law contained an additional \$146.0 million for FY2009 for the Operation of the National Park System.

The park operations line item is the primary source of funding for the national parks, accounting for nearly 85% of the total NPS budget. The majority of operations funding is provided directly to park managers. It supports the activities, programs, and services essential to the day-to-day

operations of the park system, and covers resource protection, visitors' services, facility operations and maintenance, and park support programs, as well as such administrative expenses as employee pay, benefits, and other fixed costs. The FY2008 law incorporated the U.S. Park Police account into the operations line item.

United States Park Police (USPP)

The FY2009 omnibus law appropriated \$98.6 million for the USPP, under the park operations account, including \$2.0 million specifically for security for the Presidential Inauguration. The total is an increase of \$5.0 million (5%) above the request (after the requested cancellation of \$0.8 million in prior-year funds) and \$11.8 million (14%) above FY2008. The funding is directed to supporting additional recruits during 2009; as of the end January 2008, the number of sworn USPP officers had fallen to a 20-year low of 576.

The USPP is an urban-oriented, full-service, uniformed law enforcement entity with primary jurisdiction at park sites within the metropolitan areas of Washington, DC, New York City, and San Francisco. USPP law enforcement authority extends to all NPS units and to certain other federal and state lands. The USPP also assists other law enforcement agencies during emergencies. The USPP support approximately 1,500 law enforcement trained and commissioned park rangers and 400 seasonal law enforcement rangers working in park units system-wide.

A report by the DOI Inspector General cited serious deficiencies in USPP leadership, staffing, training, and equipment.³¹ The report charged that the force was failing to adequately perform its expanded security duties for the icon parks and monuments as well as other law enforcement obligations, including patrol functions, dignitary protection, and special events and crowd management. Since the release of the OIG report, the USPP Chief was reassigned and the senior level commanders retired. A former USPP Major was brought out of retirement to serve as Acting Chief,³² and in December 2008 was appointed permanently.

Centennial Challenge

As discussed above, the Bush Administration proposed a three-part National Parks Centennial Initiative, with additional discretionary funding for park operations, and a Centennial Challenge program consisting of public donations and federal funds to match the donations. President Bush's FY2009 budget requested \$100.0 million in mandatory spending, which has not been authorized by Congress to date. Neither the FY2009 omnibus law nor the stimulus law provided funding for the Centennial Challenge.

Congress had provided \$24.6 million as seed money for the Centennial Challenge in the FY2008 appropriations law, to be matched by equal private contributions. The FY2008 appropriations law, and language in the House Appropriations Committee report on the FY2008 Interior Appropriations bill (H.Rept. 110-187), directed that the Challenge money be used for signature projects, not for core operations or for projects that commercialize parks, and that the NPS must

³¹ U.S. Dept. of the Interior, Office of Inspector General, *Assessment of the United States Park Police*, PI-EV-NPS-0001-2007 (Washington, DC: February 2008).

³² Testimony of James Austin, Fraternal Order of Police, United States Park Police Labor Committee, "Restoring the Federal Land Management Workforce," before U.S. Congress, House Natural Resources Committee, Subcommittee on National Parks, Forests, and Public Lands, March 19, 2009.

control all projects. The Park Service has begun work on a number of projects funded through the Centennial Challenge.

National Recreation and Preservation

The omnibus appropriations law included \$59.7 million for FY2009 for National Recreation and Preservation (NR&P), \$14.2 million (31%) more than the Bush Administration's request and \$7.7 million (11%) less than FY2008. The reduction from FY2008 reflected the inclusion in FY2008, in the NR&P line item, of \$7.4 million for the Preserve America grant program. The program had been traditionally funded elsewhere — in the Historic Preservation Fund. (See below.) NR&P funds a variety of park system recreation, natural and cultural resource protection programs, environmental and compliance review, and an international park affairs office, as well as programs connected with state and local community efforts to preserve natural, historic, and cultural resources.

The FY2009 omnibus law provided \$15.7 million for the heritage partnerships program that supports the national heritage areas (NHAs). This was an increase of \$8.6 million (121%) above the request and \$0.4 million (3%) above FY2008. The increase from FY2008 was for \$148,000 in planning funds for each of the three newly authorized NHAs. In the explanatory statement on the bill, the Appropriations Committees expressed concerns about the expanding numbers of NHAs, and favored funding new areas principally by savings when mature programs graduate from federal support. They directed the NPS to develop new guidelines for financial self-sufficiency for all NHAs.

The omnibus appropriations law included \$5.6 million for statutory and contractual aid and directed specified allocations among the 10 recipients. This was \$1.9 million (25%) less than the FY2008 enacted. As in recent years, the Bush Administration had proposed discontinuing this program. Under the program, limited financial assistance is provided through partnerships to natural, historical, cultural, or recreational areas not managed by the NPS, in support of the NPS mission to work with other agencies and state and local organizations to promote systems of parks and open space nationwide.

Historic Preservation

The Historic Preservation Fund (HPF), administered by the NPS, provides grants-in-aid for activities specified in the National Historic Preservation Act (NHPA; 16 U.S.C. §470), such as restoring historic districts, sites, buildings, and objects significant in American history and culture. NHPA was reauthorized (P.L. 109-453) on December 22, 2006, extending the funding authority through 2015. The Fund's preservation grants are normally funded on a 60% federal/40% state matching share basis. The HPF also includes funding for *Save America's Treasures*, a grant program for preservation and/or conservation work on nationally significant intellectual and cultural artifacts and historic structures and sites.

The omnibus appropriations law provided \$69.0 million for the HPF, compared to a FY2008 level of \$70.4 million, representing a 2% decrease, but a 4% increase over the FY2009 request of \$66.1 million. See **Table 10**. The law increased funding for state and tribal historic preservation grants by \$3.1 million (8%) and \$0.6 million (9%) respectively. Funding for *Save America's Treasures* was decreased by \$4.6 million, down 19% from the \$24.6 million appropriated in FY2008. The *Preserve America* grant program—traditionally funded through the HPF but funded through

National Recreation and Preservation in FY2008—was not funded in the FY2009 appropriations. Instead, the explanatory statement on the bill called for an evaluation of the program's effectiveness before further funding was committed.

Funding for the National Inventory of Historic Properties, a proposed program to help states and tribal governments create an integrated inventory of historic properties, was not included in the FY2009 appropriations. The FY2009 Bush Administration budget request had included \$3.0 million for the program, of which \$2.0 million would have funded grants through the HPF and the balance would have been provided through the National Recreation and Preservation account. A \$5.0 million proposal for a similar program was included in the Bush Administration's FY2008 request, but was not funded.

In the stimulus law, an additional \$15.0 million was included for competitive grants to Historically Black Colleges and Universities (HBCUs) for the preservation of campus buildings listed in the National Register of Historic Places.³³

Construction

The FY2009 omnibus appropriations law provided \$232.5 million for the NPS construction budget, a substantial boost (\$60.1 million, 35%) above the request and \$14.0 million (6%) above FY2008. The Construction line item funds new construction projects, as well as improvements, repair, rehabilitation, and replacement of park facilities. DOI estimates deferred maintenance for the NPS for FY2008 at between \$8.23 billion and \$12.11 billion, with a mid-range figure of \$10.17 billion. The additional \$589.0 million for NPS construction provided in the stimulus law, as well as the additional \$146.0 million in the law for the Operation of the National Park System, was expected to address some of this backlog.

Land Acquisition and State Assistance

The omnibus appropriations law provided \$64.2 million under the Land and Water Conservation Fund (LWCF). Funding was provided for NPS land acquisition and state assistance. For NPS land acquisition, the FY2009 enacted level was \$45.2 million, \$23.4 million (107%) above the Administration's request and \$0.8 million (2%) above the FY2008 appropriations. Land acquisition funds are used to acquire lands, or interests in lands, for inclusion within the National Park System. This account also includes money to buy inholdings—the private lands within park boundaries. For LWCF state assistance, the Bush Administration had, as in past years, requested no funds for FY2009. The FY2009 enacted level was \$19.0 million, \$5.6 million (23%) less than the FY2008 level. State assistance is for recreation-related land acquisition and recreation planning and development by the states, with the appropriated funds allocated among the states by formula and the states determining their spending priorities. (For more information, see the "Land and Water Conservation Fund (LWCF)" section in this report.)

CRS Report RL33617, *Historic Preservation: Background and Funding*, by (name redacted).

³³ Funding for the HBCU historic preservation grant program was not included in FY2007 through FY2009 appropriations. In FY2006, \$3.0 million was appropriated for the program, which was established under the Omnibus Parks and Public Lands Management Act of 1996 (P.L. 104-333).

CRS Report RL33525, *Recreation on Federal Lands*, by Kori Calvert, (name redacted), and (name redacted).

For further information on the *National Park Service*, see its website at <http://www.nps.gov/>.

For further information on *Historic Preservation*, see its website at <http://www.cr.nps.gov/hps/>.

U.S. Geological Survey³⁴

The U.S. Geological Survey (USGS) is a science agency that provides physical and biological information related to natural hazards; certain aspects of the environment; and energy, mineral, water, and biological sciences. In addition, it is the federal government's principal civilian mapping agency and a primary source of data on the quality of the nation's water resources.

Funds for the USGS are provided in the line item Surveys, Investigations, and Research for eight activities: Geographic Research, Investigations, and Remote Sensing; Geologic Hazards, Resources, and Processes; Water Resources Investigations; Biological Research; Enterprise Information; Science Support; Facilities; and Global Climate Change Research. The FY2009 omnibus appropriations law provided \$1.04 billion for the USGS, which was \$37.3 million (4%) over the FY2008 enacted level of \$1.01 billion and \$75.3 million (8%) over the FY2009 request of \$968.5 million. With the exception of Geographic Research, Investigations, and Remote Sensing, funding for all USGS programs remained about the same or increased beyond FY2008 levels. See **Table 11**.

As detailed below, the FY2009 omnibus appropriations law provided a \$33.2 million increase over FY2008 appropriations for global climate change research, and contained \$40.2 million for satellite operations related to the Landsat Program. It provided \$6.5 million for the water resources research institutes, which the Bush Administration had zeroed out in its FY2009 request. Further, the law included \$79.2 million for geologic resource assessments, reversing a proposed reduction of \$24.6 million for the mineral resources assessment portion of this program.

The stimulus law provided an additional \$140.0 million to the USGS for a variety of activities including the repair and construction of facilities, upgrades to streamgages, seismic and volcano monitoring systems, national map activities, and other critical activities that improve the Nation's science capacity.

³⁴ For more information on USGS funding, contact (name redacted) at 7-.....

Table 11. Appropriations for the U.S. Geological Survey (USGS), FY2008-FY2009
(\$ in millions)

U.S. Geological Survey	FY2008 Approp.	FY2009 Request	FY2009 Omnibus	FY2009 Stimulus	FY2009 Total
Enterprise Information	110.4	112.1	112.5	n/a	n/a
Geographic Research, Investigations, and Remote Sensing	77.7	73.1	72.3	n/a	n/a
Geologic Hazards, Resources, and Processes	243.5	208.0	242.1	n/a	n/a
Water Resources Investigations	220.5	203.0	221.4	n/a	n/a
Biological Research	179.9	180.3	185.3	n/a	n/a
Science Support	67.2	67.2	67.4	n/a	n/a
Facilities	100.0	98.1	102.1	n/a	n/a
Global Climate Change Research	7.4	26.6	40.6	n/a	n/a
Total Appropriations	1,006.5	968.5	1,043.8	140.0	1,183.8

Enterprise Information

The Enterprise Information Program consolidates funding of all USGS information needs including information technology, security, services, and resources management, as well as capital asset planning. The FY2009 omnibus appropriations law provided \$112.5 million for this program, \$2.1 million above the FY2008 level.

There are three primary programs within Enterprise Information: (1) enterprise information security and technology, which supports management and operations of USGS telecommunications (e.g., computing infrastructure and email); (2) enterprise information resources, which provides policy support, information management, and oversight over information services; and (3) national geospatial program, which provides operational support and management for the Federal Geographic Data Committee (FGDC). The FGDC is an interagency, intergovernmental committee that encourages collaboration to make geospatial data available to state, local, and tribal governments, as well as communities.

Geographic Research, Investigations, and Remote Sensing

This program aims to provide public access to high quality geospatial information. The FY2009 omnibus appropriations law included \$72.3 million for this program, \$5.4 million below the FY2008 level.

The omnibus appropriations law provided a total of \$40.2 million for the Landsat program, comprised of \$24.2 million for the Landsat Data Continuity Mission, also known as Landsat 8, and \$16.0 million to continue the Landsat 5 and 7 program. Landsat 8 is a satellite that is being developed to take remotely sensed images of the Earth's land surface and surrounding coastal areas primarily for environmental monitoring. Landsat 5 and 7 are satellites currently providing data of the Earth's natural systems. The explanatory statement on the bill specified that funds for future satellite development and launch costs associated with Landsat should not be transferred to the USGS from NASA, until a new plan for future land imaging and remote sensing coordination and funding is completed.

Geologic Hazards, Resources, and Processes

For Geologic Hazards, Resources, and Processes activities, the FY2009 omnibus law appropriated \$242.1 million, \$1.3 million below the FY2008 level. This line item covers programs in three activities: Hazard Assessments (\$90.6 million), Landscape and Coastal Assessments (\$72.4 million), and Resource Assessments (\$79.2 million).

The volcano hazards program received \$23.9 million for FY2009, an increase of \$1.7 million over FY2008. The explanatory statement on the FY2009 omnibus bill noted that volcano research and monitoring needs should be evaluated at active areas such as Hawaii, Yellowstone, the Cascades, and Alaska.

The Bush Administration's request included an \$8.2 million increase over FY2008 levels to support a water census component of the Water for America Initiative with the Bureau of Reclamation. In the Landscapes and Coastal Assessments program, funds for the water census were not provided for FY2009. The explanatory statement directed the Administration to submit a more integrated program request for the next budget cycle.

The FY2009 omnibus law contained funding for mineral resource assessments, although none had been recommended by the Bush Administration as in previous years. According to the Bush Administration, universities or other entities would undertake assessments and research that support nonfederal needs. In all years Congress retained funding for the program.

Water Resources Investigations

The FY2009 omnibus law appropriated \$221.4 million for this program, \$0.8 million above the FY2008 level. Funding for water resources research at universities was included. This countered a Bush Administration request that sought to discontinue USGS support for water resources research institutes because, according to the Bush Administration, most institutes have succeeded in leveraging sufficient funding for program activities from non-USGS sources.

Of the \$221.4 million, \$65.1 million was included for the National Water Quality Assessment. This was an increase of \$1.1 million over FY2008, and countered a Bush Administration request to reduce funding by \$9.8 million from the FY2008 level. The Groundwater Resources Program was funded at \$9.0 million. While this program did not include funding for the Water for America Initiative, it will support that Initiative by helping to assess water availability and water quality and conducting region-specific assessments of ground water. However, the explanatory statement on the bill noted that a revamped proposal for the Initiative should be presented in the FY2010 budget cycle. Also, there was a \$2.0 million increase for the streamgage program over FY2008, for a total of \$22.4 million for the National Streamflow Information Program for FY2009. Streamgage replacement and upgrades were included as projects for funds in the stimulus law.

Biological Research

The Biological Research Program generates and distributes information related to conserving and managing the nation's biological resources. The FY2009 omnibus appropriations law provided \$185.3 million for this program, a \$5.5 million increase over FY2008. The program funds work in focal areas that will support DOI's science strategies, including research on effects of climate change on wildfires and ecosystems, large river ecosystem processes and habitat, vertebrate

diseases and impacts, gap analysis³⁵ and taxonomic research, and adaptive management. Under this program, funding was provided for priority ecosystems located in the Greater Everglades, Chesapeake Bay, San Francisco Bay, and Mojave Desert. The omnibus law also moved funding for priority ecosystem science from other activities to the Biological Research Program.

Science Support and Facilities

Science Support focuses on those costs associated with modernizing the infrastructure for managing and disseminating scientific information. The omnibus appropriations law provided \$67.4 million for FY2009, similar to the FY2008 enacted level. Facilities focuses on the costs for maintenance and repair. The FY2009 omnibus law included \$102.1 million, \$2.2 million above the FY2008 level. The additional \$140.0 million provided to the USGS in the stimulus law was for repair, construction, and restoration of facilities, among other purposes.

Global Climate Change Research

The FY2009 omnibus law combined most of the climate change activities of the USGS into an integrated global climate change research program. It provided \$40.6 million for this program, an increase of \$33.2 million over FY2008 in part through internal budget transfers. In total, USGS received \$45.5 million for climate change science in FY2009, an increase of \$12.0 million over total funds for FY2008. Work under the climate change research program seeks to provide science, monitoring, and predictive modeling to generate information on climate changes and its effect on the resources and landscape of the United States. Specifically, scientists will continue to track indicators of climate change and link them to effects. Further, work is planned to develop decision support tools for policy makers and resource managers to develop and implement adaptation strategies. Some specific projects will concentrate on the effects of climate change on forest carbon storage, the use of glaciers as indicators of climate change, ecosystem modeling, and the effects of climate change on the Yukon River Basin.

The FY2009 omnibus law included \$10.0 million for a new National Global Warming and Wildlife Science Center. The explanatory statement expressed that the Center should develop mechanisms to ensure its responsiveness to the research and management needs of federal and state agencies regarding impacts of climate change on fish, wildlife, plants, and ecosystems. The Center also was tasked with studying mechanisms for adaptation to climate change and mitigation of its impacts. The explanatory statement recommended that the Secretary of the Interior, with the assistance of the Center and a scientific advisory board, develop a national strategy to assist plants, wildlife, and ecosystems to adapt and become resilient to climate change. It encouraged collaboration with other federal, state, and private stakeholders in developing this strategy. Further, the law contained at least \$3.0 million for geological and biological carbon sequestration studies under this heading, according to the explanatory statement.

For further information on the *U.S. Geological Survey*, see its website at <http://www.usgs.gov/>.

³⁵ Gap analysis identifies the degree to which native animal species and plant communities are represented in federal lands.

Minerals Management Service³⁶

The Minerals Management Service (MMS) administers two programs: the Offshore Energy and Minerals Management (OEMM) Program and the Minerals Revenue Management (MRM) Program. OEMM administers competitive leasing on Outer Continental Shelf (OCS) lands and oversees production of offshore oil, gas, other minerals, and offshore alternative energy. On April 22, 2009, the Obama Administration announced that regulations for the administration of alternative energy leases in the OCS had been finalized.³⁷ MRM collects and disburses bonuses, rents, and royalties paid on federal onshore and OCS leases and Indian mineral leases. Revenues from onshore leases are distributed to states in which they were collected, the general fund of the U.S. Treasury, and designated programs. Revenues from the offshore leases are allocated among the coastal states, the Land and Water Conservation Fund, the Historic Preservation Fund, and the U.S. Treasury.

MMS collected and disbursed about \$23.5 billion in revenue in FY2008 from mineral leases on federal and Indian lands. This amount fluctuates annually based primarily on the prices of oil and natural gas. For about a decade prior to FY2007, royalties from natural gas production accounted for 40% to 45% of annual MMS receipts, while oil royalties were not more than 25%. However, in FY2007, oil royalties accounted for about 39% of MMS receipts. In FY2008, royalties from natural gas and oil leases contributed about 25% each, while record bonus bids accounted for about 44% of MMS receipts. Other sources of MMS receipts include rents for all leaseable minerals and royalties from coal and other minerals.

Budget and Appropriations

The FY2009 funding level for MMS was \$310.4 million (gross funding level), composed of: \$116.7 million in appropriations (net funding level); \$146.7 million in offsetting collections, which the MMS has been retaining since 1994; and \$47.0 million in state cost sharing deductions. See **Table 12**. This was an increase in the gross funding level of \$13.6 million (5%) from the FY2008 level of \$296.8 million, but a decrease of \$1.4 million (1%) from FY2008 total net funding of \$118.1 million.

For FY2009, the Bush Administration had sought gross funding of \$307.1 million FY2009 or a \$160.4 net funding level. The Bush Administration's net funding request was much higher than the amount enacted for FY2009 because the \$47.0 million deduction for royalty cost-sharing with the states was not included in the Administration's request.

**Table 12. Appropriations for the Minerals Management Service (MMS),
FY2008-FY2009**

(\$ in millions)

Minerals Management Service	FY2008 Approp.	FY2009 Request	FY2009 Omnibus
Royalty and Offshore Minerals Management			

³⁶ For more information on MMS funding, contact (name redacted) at 7-.....

³⁷ For details on the content and status of the regulations, see the MMS website at <http://www.mms.gov>.

—OCS Lands (OEMM)	161.3	164.0	166.2
—Royalty Management (MRM)	81.7	86.0	86.7
—General Administration	47.5	51.0	51.2
—Gross, Royalty and Offshore Minerals Management	290.5	301.0	304.1
—Use of Receipts and Cost Recovery Fees	-135.7	-146.7	-146.7
Subtotal, Royalty and Offshore Minerals Management Appropriations	154.8	154.3	157.4
Oil Spill Research	6.3	6.1	6.3
Administrative Provisions			
—State Royalty Administrative Cost Deduction	-43.0	0	-47.0
Total Appropriations	118.1	160.4	116.7

Oil and Gas Leasing Offshore

Issues not directly tied to specific funding accounts remain controversial. Oil and gas development moratoria in the OCS along the Atlantic and Pacific Coasts, parts of Alaska, and the Gulf of Mexico had been in place since 1982, as a result of public laws and executive orders of the President. On July 14, 2008, President Bush lifted the executive moratoria, which included MMS Planning areas along the Atlantic and Pacific coasts. In the Continuing Appropriations Resolution, 2009, Congress removed the annual moratoria provisions that included the Atlantic and Pacific coasts; these coastal areas could now be made available for future oil and gas development. An OCS moratoria was not reinstated in the omnibus appropriations law for FY2009.

Whether to reinstate the moratoria remains highly controversial. Their removal was supported in an attempt to increase domestic oil and gas supply. Others favored continuing the moratoria due to concerns about adverse economic and environmental impacts of development. Congress enacted legislation in the 109th Congress (P.L. 109-432) to open part of the Gulf of Mexico (about 5.8 million acres), but the law placed nearly all of the eastern Gulf under a leasing moratorium until 2022. The law also contained revenue sharing provisions for selected coastal states. While the current MMS 5-year leasing program is in effect, the Bush Administration initiated a new leasing program in August 2008. Its draft program proposal published in January 2009, if finalized, would take effect in 2010. The Obama Administration, however, extended the comment period from its typical 60 days to 240 days (an additional 180 days). Because of the uncertainty over resource assessments and environmental concerns, the Secretary of the Interior announced that the Department would like to examine more closely the current information on the OCS. Legislation has been introduced in the 111th Congress to permanently prohibit oil and gas leasing and development in the North Atlantic and Mid-Atlantic Planning Areas of the OCS. (For more information, see CRS Report RL33493, *Outer Continental Shelf: Debate Over Oil and Gas Leasing and Revenue Sharing*, by (name redacted).)

Royalty relief for OCS oil and gas producers has been debated during consideration of Interior appropriations bills. The MMS has not been collecting royalties on leases awarded in 1998 and 1999 because no price threshold was included in the lease agreements during those two years. Without the price thresholds, producers may produce oil and gas up to specified volumes without paying royalties no matter what the price. The MMS asserts that placing price thresholds in the

lease agreements is at the discretion of the Secretary of the Interior. However, according to the MMS, the price thresholds were omitted by mistake during 1998 and 1999.

In addition, the authority of the Secretary to impose price thresholds has come into question in a lawsuit filed by Kerr-McGee.³⁸ The U.S. District Court, Western District of Louisiana issued a ruling on October 18, 2007, in favor of Kerr-McGee,³⁹ meaning that the Secretary of the Interior did not have authority to impose price threshold levels in leases issued under the Deep Water Royalty Relief Act (DWRRA, 1996-2000). The Department of the Interior appealed the District Court ruling. On January 12, 2009, a three-judge panel of the 5th U.S. Circuit Court of Appeals in New Orleans upheld the District Court decision.⁴⁰ The ruling could apply to potentially \$23-\$31 billion in future OCS royalties according to the MMS, but may not affect congressional efforts to impose new fees or establish new lease eligibility criteria.⁴¹ The GAO estimates the range of royalty revenue loss to the federal Treasury at between \$21-\$53 billion over 25 years. The ranges of MMS and GAO estimated losses are based on a number of assumptions including future prices and production rates.

There are discussions underway in the 111th Congress on how to address the royalty relief issue involving price thresholds and DWRRA leases. In the 110th Congress, the House passed H.R. 6899, the Comprehensive American Energy Security and Consumer Protection Act. Under Title I, this legislation would, among other provisions, have required the Secretary of the Interior to accept a lessee's request to modify those leases without price thresholds ("covered leases") to include price thresholds. The bill would not have made new oil and gas leases in the Gulf of Mexico available to lessees holding "covered leases" unless current leases included price thresholds or the lessee agreed to pay the proposed "conservation of resources fee."⁴² The bill also would have affirmed the Secretary's authority to impose a price threshold in certain leases. The royalty relief provisions were not enacted into law.

Another challenge confronting the MMS is to ensure that its audit and compliance program is consistently effective. Critics contend that less auditing and more focus on compliance review has led to a less rigorous royalty collection system and thus a loss of revenue to the federal Treasury. DOI's Inspector General has made recommendations to strengthen and improve administrative controls of the Compliance and Asset Management Program. Further, DOI established an independent panel (the Royalty Policy Committee—RPC) to review the MMS Mineral Leasing Program. The RPC offered over 100 recommendations to the MMS for improving its leasing program and auditing function. The review included an examination of the Royalty-in-Kind Program which has grown significantly over the past three years—from 41.5 million barrels of oil equivalent (BOE) sold in 2004 to 112 million BOE sold in 2007.⁴³ The Government

³⁸ For more details on this case, see CRS Report RL33404, *Offshore Oil and Gas Development: Legal Framework*, by (name redacted).

³⁹ *Kerr-McGee Oil & Gas Corp. v. Allred*.

⁴⁰ U.S. Court of Appeals for the 5th Circuit.

⁴¹ See CRS Report RL33974, *Legal Issues Raised by Provision in House Energy Bill (H.R. 6) Creating Incentives for Certain OCS Leaseholders to Accept Price Thresholds*, by (name redacted) and (name redacted) and CRS Congressional Distribution Memorandum: *Impact of the Kerr-McGee Oil and Gas Corp. v. Allred Ruling on the Proposed Royalty Relief for America Consumers Act of 2007*, by (name redacted).

⁴² The fee would be \$9/barrel oil and \$1.25/million Btu natural gas on covered producing leases and \$3.75/acre annually on non-producing leases.

⁴³ The report of the panel, *Mineral Revenue Collection from Federal and Indian Lands and the Outer Continental Shelf*, is available on the MMS website at http://www.mrm.mms.gov/Laws_R_D/RoyPC/PdFDocs/PCRMS1207.pdf.

Accountability Office issued a report on September 26, 2008, concluding that the Royalty-in-Kind Program could be improved.⁴⁴

CRS Report RL33974, *Legal Issues Raised by Provision in House Energy Bill (H.R. 6) Creating Incentives for Certain OCS Leaseholders to Accept Price Thresholds*, by (name redacted) and (name redacted).

CRS Report RL33493, *Outer Continental Shelf: Debate Over Oil and Gas Leasing and Revenue Sharing*, by (name redacted).

CRS Report RS22567, *Royalty Relief for U.S. Deepwater Oil and Gas Leases*, by (name redacted).

For further information on the *Minerals Management Service*, see its website at <http://www.mms.gov>.

Office of Surface Mining Reclamation and Enforcement⁴⁵

The Surface Mining Control and Reclamation Act of 1977 (SMCRA, P.L. 95-87; 30 U.S.C. §1201 note) established the Office of Surface Mining Reclamation and Enforcement (OSM) to ensure that land mined for coal would be returned to a condition capable of supporting its pre-mining land use. However, coal mining is an old activity in the United States, and at the time SMCRA was enacted there was a large inventory of abandoned mine sites that no company could be held accountable to reclaim. To address this problem, SMCRA established an Abandoned Mine Reclamation Fund,⁴⁶ with fees levied on coal production, to reclaim abandoned sites that posed serious health or safety hazards.

The omnibus appropriations law provided a total of \$164.7 million for the Office of Surface Mining for FY2009, an increase of \$27.1 million (20%) over the Bush Administration's request, and a reduction of \$5.7 million from the FY2008 enacted level of \$170.4 million. Of the total of \$164.7 million, the omnibus law contained \$120.3 million for Regulation and Technology, an increase over the Bush Administration's request and the amount enacted for FY2008 — \$118.5 million. The \$1.8 million over FY2008 included an increase of \$1.0 million for assistance to state regulatory programs for environmental protection. Reflecting an \$8.5 million rescission of prior year unobligated balances, the net appropriation for the Abandoned Mine Reclamation Fund was \$44.4 million. This was \$25.3 million above the Bush Administration's request of \$19.1 million. See **Table 13**.

The Bush Administration's request also had proposed a rescission. Specifically, on August 1, 2008, President Bush submitted an amendment to his budget request to cancel \$11.7 million of unobligated balances in the Abandoned Mine Reclamation Fund.⁴⁷ The amendment reduced

⁴⁴ The report is available at U.S. Government Accountability Office, *Oil and Gas Royalties: MMS's Oversight of Its Royalty-in-Kind Program Can Be Improved through Additional Use of Production Verification Data and Enhanced Reporting of Financial Benefits and Costs*, GAO-08-942R, September 26, 2008.

⁴⁵ For more information on OSM funding, contact (name redacted) at 7-.....

⁴⁶ Hereafter this fund is referred to as the AML fund.

⁴⁷ In this report, the Administration's request is reported as \$137.6 million, rather than the \$149.3 million indicated in the tables accompanying the joint explanatory statement on the FY2009 omnibus bill. Those tables reflect the (continued...)

President Bush’s request for AML funds to \$19.1 million. The Administration asserted that this level would be sufficient to meet the needs of discretionary reclamation as the discretionary grant program is phased out, and that these needs would be met from funds in the mandatory appropriation. The reduction from the AML request was proposed as an offset to an increase for the Bureau of Land Management to fund the cost of environmental investigation and restoration at Naval Oil Shale Reserve Number 3 in Colorado.

The FY2009 Bush Administration’s request did not include new funding for State Emergency Grants, and Federal Emergency Projects owing to a sufficient carryover of funds from FY2008. The Bush Administration asserted that funding for these programs could cease when these funds were exhausted because the changes to the AML program would be making additional funds available to states and tribes to manage their own AML emergency programs.⁴⁸ Congress disagreed, maintaining a federal appropriation for this purpose in the omnibus appropriations law, adding \$25.3 million to the Administration’s request for the Fund.

Table 13. Appropriations for the Office of Surface Mining Reclamation and Enforcement, FY2008-FY2009

(\$ in millions)

Office of Surface Mining Reclamation and Enforcement	FY2008 Approp.	FY2009 Request^a	FY2009 Omnibus
Regulation and Technology	118.5	118.5	120.3
—Environmental Protection	87.4	86.9	88.4
Abandoned Mine Reclamation Fund	52.0	30.8	52.9
—Rescission	0	-11.7	-8.5
Total Appropriations	170.4	137.6	164.7

a. See note 53.

Until FY2008, disbursements from the AML fund were determined strictly by annual appropriations. SMCRA provided that individual states and Indian tribes would develop their own regulatory programs incorporating minimum standards established by law and regulations. Reclamation in states with no approved programs is directed by OSM.

Historically, AML collections were divided up and assigned to different accounts, some of which were designated to a federal share account that partly funded reclamation based upon a state’s historical coal production. A portion of fee collections also was credited to a state share account. Application of a complex formula—and other considerations—determined what portion of the annual appropriation each state with an approved program would receive. Grants from the appropriation to a state or tribe were drawn on both a state’s federal-share and state-share accounts.

(...continued)

Administration’s reduction for the Abandoned Mine Reclamation Fund as part of the BLM request, whereas this report reflects that reduction in the OSM request.

⁴⁸ Fifteen states manage their own emergency programs: Alabama, Alaska, Arkansas, Illinois, Indiana, Iowa, Kansas, Missouri, Montana, North Dakota, Ohio, Oklahoma, Texas, Virginia, and West Virginia.

Fee collections have exceeded appropriations for a number of years. The total unappropriated balance—including both federal and state share accounts in the AML fund—was over \$2.1 billion by the end of FY2007, of which approximately \$1.3 billion was in the state-share accounts.

The Tax Relief and Health Care Act (P.L. 109-432) reauthorized AML fee collections through FY2021, and also made significant changes in the procedures for disbursing grants. As coal production has shifted westward, western states have paid more into the fund. These states contended that they are shouldering a disproportionate share of the reclamation burden because the great majority of the sites requiring remediation are in the East.⁴⁹ Noting, in particular, the steadily increasing unappropriated balances in their state share accounts, Western states pressed for increases in the annual AML appropriations to return more of the unappropriated balances to them. These concerns were addressed by several changes to the program included in P.L. 109-432. Beginning in FY2008, state and tribal grants were funded by mandatory appropriations from general U.S. Treasury funds. But some activities remain subject to annual appropriations. Among these are the expenses of federal AML programs in states with no OSM-approved reclamation programs, an emergency reclamation program, OSM administrative expenses, and the Clean Streams program.

Annual collections deposited to the AML fund are included in the calculation of total funds to be distributed to states and tribes during the fiscal year that follows.⁵⁰ Additionally, under the restructuring, the balances in the state- and tribal-share accounts of states and tribes that have completed remediation of the highest priority sites are to be returned to the states or tribes in seven annual installments paid from general Treasury funds.⁵¹ These states and tribes, referred to as “certified,” also are to receive whatever grants they would be entitled to based upon application of the distribution formula to both prior year collections and the entitlement based upon its historic coal production.

Other changes enacted in P.L. 109-432 were designed to make more funds available on an annual basis to states with significant reclamation work yet to be done. The portion of AML collections from certified states that, under the old program, would have been deposited to those states’ state-share accounts are instead credited to the federal-share account, the state balances of which represented historical coal production. The allocation of a portion of AML fee collections under the old program to the Rural Abandoned Mine Program (RAMP) also was discontinued by P.L. 109-432. The unappropriated balances in the RAMP account also were transferred to the pool of funds representing state historical coal production. These changes were made with the intention of increasing the pool of money available for distribution to “uncertified states” (those states that have not reclaimed the most serious sites). Disbursements to uncertified states are based upon their proportionate entitlement from the historical coal production account as well as the amount that otherwise would have been deposited to the state-share account.⁵²

⁴⁹ Interest generated by unappropriated balances in the AML fund is transferred to the United Mine Workers of America Combined Benefit Fund, established by P.L. 102-486 to cover the unreimbursed health cost requirements of retired miners.

⁵⁰ The permanent appropriation has a ceiling of \$490 million annually. If demands on that money would exceed the cap, distributions will be proportional.

⁵¹ Added to these totals will be any money needed to fund minimum program states. These states have sites remaining with serious problems. However, these states also have insufficient levels of current coal production to generate significant fees to the AML fund. Each minimum program state is to receive \$1.5 million annually.

⁵² Whether or not fee collections are reauthorized beyond FY2021, mandatory distributions will continue as long as money remains in the AML fund.

Under P.L. 109-432, distributions to uncertified states will be 50% of the designated amount in FY2009, and 75% in FY2010 and FY2011, before reaching 100% beginning in FY2012. Certified states will receive 50% of their designated amount in FY2009, 75% beginning in FY2010, and the full amount beginning in FY2011. Once fully in place, OSM estimates that 83% of annual fee collections will be distributed to states and tribes outside the appropriation process.⁵³

For further information on the *Office of Surface Mining Reclamation and Enforcement*, see its website at <http://www.osmre.gov/>.

Bureau of Indian Affairs⁵⁴

The Bureau of Indian Affairs (BIA) provides a variety of services to federally recognized American Indian and Alaska Native tribes and their members, and historically has been the lead agency in federal dealings with tribes. Programs provided or funded through the BIA include government operations, courts, law enforcement, fire protection, social programs, roads, economic development, employment assistance, housing repair, dams, Indian rights protection, implementation of land and water settlements, and management of trust assets (real estate and natural resources). Education programs are now provided by the Bureau of Indian Education (BIE), a sister agency to BIA.⁵⁵ The BIE appropriations remain within DOI's Indian Affairs appropriations.

The FY2009 omnibus appropriations act provided \$2.38 billion for BIA and BIE, an increase of \$84.9 million (4%) over FY2008. For FY2009, the Bush Administration had proposed \$2.19 billion, a decrease of \$99.9 million (4%) below FY2008.

The FY2009 stimulus law added \$500.0 million in emergency supplemental appropriations for the BIA, which, together with the FY2009 omnibus funding, increased Indian Affairs funding by 26% compared to FY2008. The stimulus law targeted \$450.0 million toward BIA "priority critical" construction programs, specifically for road repair and restoration, construction of BIE replacement schools, and maintenance and repair of BIE schools and BIA detention centers, according to the explanatory statement. Of the remaining \$50.0 million, the stimulus law specified \$40.0 million for BIA's workforce training and housing improvement programs and \$10.0 million for BIA's guaranteed loan program. The conferees on the bill encouraged that BIA spend the construction funds to maximize jobs and to create both the largest number of jobs in the shortest period of time and lasting value for the American public. The stimulus law excluded BIA construction projects from its blanket provision requiring payment of prevailing wage rates under the Davis-Bacon Act, thereby retaining the current prevailing wage rate requirements applicable to BIA construction activities (under the Indian Self-Determination and Education Assistance Act⁵⁶ and other laws). On April 25, 2009, DOI released details on projects which will be funded with BIA stimulus monies.⁵⁷

⁵³ U.S. Dept. of the Interior, Office of Surface Mining Reclamation and Enforcement, *Budget Justifications and Performance Information, Fiscal Year 2009*, p. 148.

⁵⁴ For more information on BIA funding, contact (name redacted) at 7-.....

⁵⁵ In August 2006, the BIA's administrative office for its education programs was removed from the BIA, made a parallel agency under DOI's Assistant Secretary—Indian Affairs, and renamed the Bureau of Indian Education (BIE).

⁵⁶ Sec. 7, P.L. 93-638, act of Jan. 4, 1975, 88 Stat. 2203, 2205, as amended; 25 U.S.C. 450e.

⁵⁷ For further information, see the BIA stimulus page at <http://recovery.doi.gov/press/bureaus/bureau-of-indian-affairs/>.

Table 14 below presents funding figures for FY2008 and FY2009, including both omnibus and stimulus appropriations. Key programs for BIE include education management, education construction, the Johnson-O'Malley program, and tribal technical colleges. Key programs for BIA include the law enforcement, welfare assistance, housing, and road maintenance programs, and the Interior Department's process for acknowledging Indian tribes.

**Table 14. Appropriations for the Bureau of Indian Affairs (BIA)
(including Bureau of Indian Education (BIE)), FY2008-FY2009**
(\$ in thousands)

Indian Affairs	FY2008 Approp.	FY2009 Request		FY2009 Omnibus	FY2009 Stimulus ^b	FY2009 Total
		Total	TPA ^a			
Operation of Indian Programs						
Tribal Government	399,863	389,703	381,966	402,531	0	402,531
—Johnson-O'Malley Grants ^c	7,565	0	0	7,565	0	7,565
—Welfare Assistance ^d	7,549	0	0	5,000	0	5,000
—Housing Improvement Program ^e	37	0	0	0	0	0
—Contract Support Costs	147,294	147,294	147,294	147,294	0	147,294
Human Services	139,339	112,426	108,287	137,448	19,000	156,448
—Welfare Assistance ^d	78,928	64,491	64,491	74,915	0	74,915
—Housing Improvement Program ^e	13,614	0	0	13,614	19,000	32,614
Trust - Natural Resources Management	147,158	141,822	65,739	147,710	0	147,710
Trust - Real Estate Services	148,370	150,087	63,539	150,087	0	150,087
—Probate	19,573	20,334	12,952	20,334	0	20,334
—Real Estate Services	47,216	48,140	33,828	48,140	0	48,140
—Land Records Improvement	15,814	15,659	0	15,659	0	15,659
Public Safety and Justice	243,656	242,774	13,197	270,785	0	270,785
—Law Enforcement	228,137	229,577	0	255,077	0	255,077
—Detention/Corrections	64,023	64,648	0	64,648	0	64,648
—Tribal Courts	14,338	12,047	12,047	14,508	0	14,508
Community and Economic Development	39,436	27,171	25,385	43,589	19,000	62,589
—Road Maintenance ^f	25,576	13,028	13,028	26,046	0 ^g	26,046 ^g
—Construction workforce on-the-job training in maintenance	0	0	0	0	13,300	13,300
—Workforce training	0	0	0	0	5,700	5,700
Executive Direction Administrative Services	240,375	260,327	27,145	260,327	0	260,327
—Office of Federal Acknowledgment	2,593	2,614	0	2,614	0	2,614
—Information Resources Technology	52,866	59,735	0	59,735	0	59,735
Bureau of Indian Education	689,612	663,980	24,935	716,153	0	716,153
—Elementary/ Secondary (Forward-Funded)	479,895	475,594	0	499,470	0	499,470

Indian Affairs	FY2008 Approp.	FY2009 Request		FY2009 Omnibus	FY2009 Stimulus ^b	FY2009 Total
		Total	TPA ^a			
—ISEP Formula Funds	358,341	364,556	0	375,000	0	375,000
—Education program Enhancements	12,108	5,217	0	12,108	0	12,108
—Elementary/Secondary—Other	74,621	61,329	0	75,126	0	75,126
—Johnson-O'Malley Grants ^c	13,782	0	0	13,797	0	13,797
—Post Secondary Programs	111,749	100,772	24,935	115,272	0	115,272
—Tribal Colleges and Universities (incl. Supplements)	58,093	58,093	0	60,593	0	60,593
—Tribal Technical Colleges	5,906	0	0	6,000	0	6,000
—Education Management	23,347	26,285	0	26,285	0	26,285
Subtotal, Operation of Indian Programs	2,047,809	1,988,290	710,193	2,128,630	38,000	2,166,630
Construction						
Education Construction	142,935	115,376	n/a	128,837	277,700	406,537
—Replacement School Construction	46,716	22,405	n/a	22,405	134,600	157,005
—Replacement Facility Construction	9,748	17,013	n/a	17,013	0	17,013
—Education Facilities Improvement and Repair	84,529	74,363	n/a	84,974	143,100	228,074
Public Safety and Justice Construction	14,393	11,433	n/a	39,399	7,300	46,699
—Facilities Replacement/New Construction	0	0	n/a	21,500	0	21,500
—Employee Housing	0	0	n/a	3,500	0	3,500
—Law Enforcement Facilities Improvement and Repair	10,938	7,975	n/a	10,941	7,300	18,241
Resources Management Construction	38,309	37,306	n/a	40,306	0	40,306
General Administration Construction and Construction Management	8,117	9,146	n/a	9,146	0	9,146
Road Maintenance ^f	0	0	0	0	142,500 ^f	142,500 ^f
Subtotal, Construction	203,754	173,261	n/a	217,688	427,500	645,188
Land and Water Claim Settlements and Miscellaneous Payments	33,538	21,627	n/a	21,627	0	21,627
Indian Guaranteed Loan Program	6,178	8,186	n/a	8,186	9,500	17,686
Administrative Costs for Stimulus^g	0	0	0	0	25,000	25,000
Total Appropriations	2,291,279	2,191,364	710,193	2,376,131	500,000	2,876,131

a. Tribal Priority Allocations (TPA) are a subset of funds within OIP. The amounts in the TPA column are included in the "FY2009 Request—Total" column in the table. "N/A" is shown for accounts where TPA does not apply. Tribes may apply their own priorities to TPA programs, moving funds among programs without prior BIA approval and without triggering congressional Appropriation Committees' requirements for approval of reprogramming.

- b. BIA created new categories of funding for stimulus expenditures, which are similar to, but not included in, regular budget activities and classifications (BIA, telephone conversation, April 28, 2009). For purposes of comparison only, CRS has included stimulus funding within this table's usual budget items where possible.
- c. The Johnson O'Malley program is split between two budget activities, Tribal Government and Bureau of Indian Education.
- d. Welfare Assistance is split between two budget activities, Tribal Government and Human Services.
- e. The Housing Improvement Program is split between two budget activities, Tribal Government and Human Services.
- f. The stimulus appropriations law specified \$40.0 million for Operation of Indian Programs (OIP) and \$450.0 million for Construction, but directed an unspecified amount of Construction funding to go to Road Maintenance, which is an OIP program. Stimulus funding for Road Maintenance is reflected here under Construction. Total FY2009 Road Maintenance funding under OIP and Construction was \$168.5 million.
- g. DOI allocated 5% of BIA's total stimulus funding for administrative costs associated with control and transparency of stimulus spending, the maximum percentage allowed under the stimulus conference report (H.Rept. 111-16, p. 447).

Bureau of Indian Education (BIE) Programs

BIE funds an elementary-secondary school system and higher education programs. The BIE school system comprises 184 BIE-funded schools and peripheral dormitories, with over 2,000 structures, educating about 44,000 students in 23 states. In school year 2006-2007, tribes and tribal organizations, under grants for tribally controlled schools and self-determination contracts, operated 123 of these institutions; BIE operated the remainder. BIE also operates two postsecondary schools and provides grants to 26 tribally controlled colleges and two tribally controlled technical colleges. Key problems for the BIE-funded school system are low student achievement and the high proportion of schools failing to make adequate yearly progress (AYP). Key appropriations issues include initiatives to meet AYP, the Johnson-O'Malley (JOM) program, tribal technical colleges, and the large number of inadequate school facilities.

Indian Education Initiative

In school years 2003-2006, 69%-70% of BIE-funded schools failed to make AYP, according to BIE. In FY2008, under a new "education program enhancements" initiative, BIE's forward-funded elementary and secondary budget activity received \$12.1 million to improve instructional resources at BIE schools targeted for restructuring or corrective action to meet AYP goals. Among the activities funded are teacher development, principal training, intensive reading and math programs, and tutoring and mentoring for high school students. The same amount (\$12.1 million) was appropriated for education program enhancements for FY2009 under the omnibus appropriations act. The Bush Administration had proposed \$5.2 million for FY2009, a decrease of \$6.9 million (57%) from FY2008.

Johnson-O'Malley (JOM) Program

The JOM program provides supplementary education assistance grants for tribes and public schools to benefit Indian students who attend public schools (the majority of Indian students). JOM is funded in two budget activities, Tribal Government and BIE. For FY2009, the omnibus law appropriated a total of \$21.4 million for JOM for FY2009, an increase of \$15,000 (less than 1%) from FY2008's total of \$21.3 million, but an increase from the Bush Administration's proposal of no funding. JOM funding in the BIE budget activity for FY2009 was \$13.80 million,

up slightly from \$13.78 million in FY2008, and JOM funding in the Tribal Government budget activity for FY2009 was \$7.6 million, the same as FY2008. The Bush Administration had proposed no funding for the JOM program for several years (including FY2009), contending that JOM's funding of public school programs reduces BIE's commitment to its school system, that JOM does not address a focused academic achievement goal, and that Department of Education programs under Title VII (Indian education) of the Elementary and Secondary Education Act⁵⁸ provide funds for the same purposes. JOM proponents assert that JOM serves students in tribally operated as well as public schools and that Education Department programs cannot replace what they see as JOM's culturally relevant programs.

Tribal Technical Colleges

There are two tribal career and technical (or vocational) colleges, one in North Dakota (United Tribes Technical College, or UTTC) and one on the Navajo Reservation (Navajo Technical College, formerly Crownpoint Institute of Technology). Both colleges have been statutorily excluded from the basic BIE assistance program for tribal colleges and universities under the Tribally Controlled College or University Assistance Act,⁵⁹ but are the only colleges receiving grants under the Education Department's Carl Perkins Act program for tribally controlled vocational colleges.⁶⁰ The Bush Administration had for several years, including FY2009, sought to end funding for the two technical colleges, asserting that they receive adequate funding from the Perkins Act and other Education Department higher education programs and that the funds are needed more at the 26 tribal colleges and universities. Tribal technical college proponents disagree, asserting that they provide unique culturally appropriate career and technical education programs and campus services, and that BIE funding provides a very large proportion of their operating budgets (over half at UTTC, for instance).

The omnibus appropriations law appropriated \$6.0 million for the tribal technical colleges for FY2009, a slight (1.6%) increase from the FY2008 total of \$5.9 million, and an increase from the Bush Administration's proposal for no funding.

Education Construction

Many BIE school facilities are old and dilapidated, with health and safety deficiencies. BIA education construction covers replacement of all of a school's facilities, or replacement of individual facilities at schools, as well as improvement and repair of existing school facilities and repair of education employee housing. School facilities are replaced or repaired according to priority lists. Appropriations for BIA education construction under the omnibus appropriations law for FY2009 were \$128.8 million, a decrease of \$14.1 million (10%) from the FY2008 total of \$142.9 million and an increase of \$13.5 million (12%) from the Bush Administration's request. Under the stimulus law, however, BIA education construction received an additional \$277.7 million for education construction projects, for a total of \$406.5 million for education construction in FY2009. **Table 14** shows education construction funds for FY2008 and FY2009.

⁵⁸ This program is contained in 20 U.S.C. 7401 et seq.

⁵⁹ P.L. 95-471, act of Oct. 17, 1978, 92 Stat. 1325, as amended; 25 U.S.C., Chap. 20, §1801 *et seq.* The act limits the number of eligible tribally controlled colleges to one per tribe (25 U.S.C. 1801(a)(4)). Title 9, part D, §941(j) of the Higher Education Opportunity Act (P.L. 110-315, act of Aug. 14, 2008) added a new Title V to the TCCUAA that authorized operating grants to the two tribal technical colleges.

⁶⁰ The Perkins Act provision for tribally controlled career and technical institutions is codified at 20 U.S.C. 2327.

Law Enforcement and Courts Program

BIA and Justice Department figures show rising crime rates, methamphetamine use, and juvenile gang activity on some Indian reservations. The federal government has lead jurisdiction over major criminal offenses on most Indian reservations, although in some states federal law has transferred criminal jurisdiction to the state. Tribes share jurisdiction, although under federal law tribal courts have limited sentencing options. In general, tribes have fewer law enforcement resources than state and local jurisdictions. BIA funds most law enforcement, jails, and courts in Indian country, whether operated by tribes or by the BIA. A BIA “gap analysis” conducted in 2006 determined that there were 2,555 law enforcement officers on Indian lands but that 4,409 were needed, for a gap of 1,854 officers (42%).⁶¹ FY2008 appropriations for BIA law enforcement programs totaled \$228.1 million. Included was funding for the Bush Administration’s “Safe Indian Communities Initiative” to provide additional officers, equipment, and training; increase staffing at detention and corrections facilities (a need identified in a 2004 Interior Inspector General report); and provide specialized drug enforcement training, especially regarding methamphetamine. The House Appropriations Committee directed BIA to allocate the FY2008 funding increases for tribal law enforcement outside the usual methodology in order to serve areas with the greatest need, especially remote reservations (H.Rept. 110-187, p. 6).

The omnibus appropriations law contained a further increase for law enforcement, to \$255.1 million for FY2009. This was an increase of \$26.9 million (12%) over FY2008 and \$25.5 million (11%) over the Bush Administration’s proposal. Most of the increase over FY2008 — \$25.9 million — was for police services and criminal investigations. Operation of detention and corrections facilities received a slight increase of \$0.625 million (1%) over FY2008.

Tribal courts, whose BIA appropriations are separate from law enforcement, received \$14.5 million for FY2009 under the omnibus law, an increase of \$170,000 (1%) over FY2008 and \$2.5 million (20%) over the request. The Bush Administration had proposed a decrease in tribal courts funding for FY2009, to align the funding with the amount the Administration had proposed for FY2008. Proponents of tribal courts had opposed the reduction, asserting that tribal courts are underfunded and are necessary to law enforcement and justice on reservations.

Housing Improvement Program (HIP)

The major federal Indian housing program is the Indian Housing Block Grant administered by the Department of Housing and Urban Development (HUD), which funds all types of housing. BIA’s HIP, an older and much smaller program, focuses on urgently needed repairs, renovations, or modest new houses, on or near reservations, especially for the neediest families. BIA considers HIP a safety net for needy Indians who cannot meet criteria set by tribes administering the HUD program. Total HIP funding was \$13.7 million in FY2008, most in the Human Services budget activity (\$13.6 million) and a small amount in the Tribal Government activity (\$37,000).

The omnibus law appropriated \$13.6 million for HIP for FY2009, all in the Human Services budget activity, the same as the FY2008 appropriation under Human Services. In addition, the

⁶¹ Cited in testimony of Jefferson Keel, National Congress of American Indians, “NCAI Testimony on the Administration’s Fiscal Year 2008 Budget Request for Indian Programs,” in U.S. Congress, Senate Indian Affairs Committee, *Fiscal Year 2008 Budget*, hearings, 110th Cong., 1st sess., Feb. 15, 2007, S.Hrg. 110-48 (Washington: GPO, 2007), p. 121.

FY2009 stimulus law appropriated funds for HIP, and BIA has allocated \$19.0 million in stimulus funding to HIP for construction of new homes. Thus, total HIP funding for FY2009 was \$32.6 million (see **Table 14**). The Bush Administration had proposed eliminating HIP for FY2009 (as it had in FY2008), contending that HIP is not cost effective and serves a limited number of tribes, that the HUD program can meet the needs, that tribes administering the HUD program are not statutorily barred from altering criteria in order to serve HIP recipients, and that other BIA programs are of higher priority. Indian tribes and supporters had opposed the elimination of HIP, asserting that HIP meets a significant need for rehabilitation of substandard housing and questioning whether the HUD program could fill the need for urgent housing repairs.

Road Maintenance

BIA's Road Maintenance program is the primary source of funds to maintain BIA-owned roads and bridges, including those constructed under the Indian Reservation Roads (IRR) program funded through the Highway Trust Fund in the Department of Transportation. The IRR program (authorized at \$410 million in FY2008 and \$450 million in FY2009) is the largest source of federal funds for design and construction of public roads and bridges within, or providing access to, Indian reservations and trust lands and Alaska Native villages. IRR funds are jointly managed by the Transportation Department and BIA, and are allocated both to BIA, for allocation to tribal projects, and to tribes directly. BIA-owned roads account for about half the total mileage of IRR roads.

The omnibus law appropriated \$26.0 million for Road Maintenance for FY2009, an increase of \$0.5 million (2%) over the FY2008 appropriation of \$25.6 million and almost double the level proposed by the Bush Administration. The FY2009 stimulus law included Road Maintenance in its funding for BIA Construction activities, and BIA has allocated \$142.5 million in stimulus funds for Road Maintenance. Thus, total Road Maintenance funding for FY2009 was \$168.5 million. The Bush Administration had proposed to reduce BIA Road Maintenance appropriations by 49%, to \$13.0 million, asserting that tribes could use up to 25% of their IRR funds for maintenance activities. Tribes had opposed the reduction, contending that funding for maintaining roads was inadequate even with 25% of IRR funds.

Federal Tribal Acknowledgment Process

Federal recognition brings an Indian tribe unique benefits, including partial sovereignty, jurisdictional powers, and eligibility for federal Indian programs. Tribes have been acknowledged in many ways, but it was not until 1978 that the Interior Department established a regulatory process for acknowledgment decisions (25 CFR 83).⁶² First located within BIA, the recognition office is now in the office of the Assistant Secretary—Indian Affairs, as the Office of Federal Acknowledgment (OFA). OFA employs teams of expert ethnohistorians, genealogists, and anthropologists to consider recognition petitions. The OFA process has been criticized frequently for taking too long, one reason for which is a lack of resources.⁶³ The omnibus law appropriated

⁶² For further information on the BIA acknowledgment process, see CRS Report RS21109, *The Bureau of Indian Affairs's Process for Recognizing Groups as Indian Tribes*, by (name redacted).

⁶³ See U.S. General Accounting Office, *Indian Issues: Improvements Needed in Tribal Recognition Process* (GAO-02-49, November 2001), and U.S. Government Accountability Office, *Indian Issues: Timeliness of the Tribal Recognition Process Has Improved, But It Will Take Years to Clear the Existing Backlog of Petitions* (GAO-05-347T, February 2005).

\$2.61 million for OFA for FY2009 within the Executive Direction budget activity, which funds the Assistant Secretary's office. This was an increase of \$21,000 (1%) over FY2008 and the same as the Bush Administration's request.

For further information on the *Bureau of Indian Affairs*, see its website at <http://www.doi.gov/bia>.

For further information on education programs of the *Bureau of Indian Education*, see its website at <http://enan.bia.edu/home.aspx>.

Departmental Offices and Department-Wide Programs⁶⁴

Office of Insular Affairs⁶⁵

OIA provides financial assistance to four insular areas—American Samoa, the Commonwealth of the Northern Mariana Islands (CNMI), Guam, and the U.S. Virgin Islands (USVI)—as well as three freely associated states in the Western Pacific—the Federated States of Micronesia (FSM), the Republic of the Marshall Islands (RMI), and the Republic of Palau.⁶⁶ OIA staff manage relations between each jurisdiction and the federal government and work to build the fiscal and governmental capacity of local governments. OIA aid may be particularly important for American Samoa, CNMI, and the USVI, all of which have experienced recent fiscal challenges.⁶⁷

OIA funding consists of two parts: (1) permanent and indefinite appropriations, and (2) funds provided in the annual appropriations process (discretionary and current mandatory funds).⁶⁸ The latter comes from two accounts: Assistance to Territories (AT) and Compact of Free Association (CFA). AT funding provides grants for the operation of the government of American Samoa, infrastructure improvement projects on many of the insular area islands, and specified natural resource initiatives. The CFA account provides federal assistance to the freely associated states pursuant to compact agreements negotiated with the U.S. government. The AT and CFA accounts, however, provide a relatively small portion of the office's overall budget; permanent and indefinite funds provide the bulk of U.S. financial assistance to U.S. insular areas, FSM, RMI, and Palau.

Of the total appropriation for FY2009 of \$405.7 million, approximately 80% (\$321.7 million) is required through statutes, as follows:

- \$208.7 million under conditions set forth in the respective Compacts of Free Association;⁶⁹ and

⁶⁴ This section addresses selected activities/offices that fall under *Departmental Offices* or *Department-Wide Programs*. Total funding for these entities is identified in **Table 29** at the end of this report.

⁶⁵ For more information on OIA funding, contact (name redacted) at 7-.....

⁶⁶ On behalf of the United Nations, the U.S. government formerly administered these areas as the Trust Territories of the Pacific Islands (TTPI).

⁶⁷ U.S. Dept. of the Interior, *Budget Justifications and Performance Information, Fiscal Year 2009, Office of Insular Affairs*, p. 1. Hereafter referred to as OIA Budget Justification.

⁶⁸ On permanent funding, see U.S. Dept. of the Interior, *Fiscal Year FY2009: The Interior Budget in Brief*, February 2008, p. BH-91.

⁶⁹ Legislation to approve the amended compacts was enacted in the 108th Congress (P.L. 108-188). For additional information, see CRS Report RL31737, *The Marshall Islands and Micronesia: Amendments to the Compact of Free* (continued...)

- \$113.0 million in fiscal assistance through payments to territories, divided between the USVI for estimated rum excise and income tax collections, and Guam for income tax collections.

The remaining 20% of the OIA budget is delivered via annual appropriations. For FY2009, those appropriations accounted for an additional \$84.0 million in combined AT and CFA funding. This was an increase of \$0.9 million (1%) over the FY2008 level of \$83.1 million, and of \$4.1 million (5%) over the FY2009 Bush Administration's request of \$79.9 million. Specifically, the FY2009 omnibus appropriations law provided \$78.7 million in AT funding and \$5.3 million in CFA funds. Of the \$78.7 in AT funding, \$69.8 million was designated for various technical projects, such as judiciary grants in American Samoa, brown tree snake control, and disaster assistance; \$8.9 million was reserved for OIA staff salaries. The AT appropriation was 5% above the Administration's requested level of \$75.1 million. The explanatory statement accompanying the FY2009 omnibus bill urged the Interior Secretary to "consider using some of the [AT] funding increase to staff an office in Guam to help deal with the upcoming military build-up and other Guam issues."⁷⁰ The CFA appropriation of \$5.3 million was 10% higher than the FY2009 Bush Administration's request of \$4.8 million.

OIA received no additional funding in the FY2009 stimulus law. Although the Senate-passed version of the bill would have provided another \$62.0 million in AT funding, that provision was neither included in the version of the bill passed by the House nor enacted into law.

For additional information on *Insular Affairs*, see its website at <http://www.doi.gov/oia/index.html>.

Payments in Lieu of Taxes Program (PILT)⁷¹

The PILT program compensates local governments for federal land within their jurisdictions which cannot be taxed. For FY2009, President Bush had requested an appropriation of \$195.0 million for PILT. This would have been a decrease of 15% from the FY2008 enacted level of \$228.9 million, and would have constituted roughly 52% of the authorized amount. However, neither the omnibus appropriations law nor the stimulus law contained funding for PILT for FY2009, because the 110th Congress had earlier provided⁷² for mandatory spending of the authorized full amount for five years—FY2008-FY2012. For FY2008, this meant that an additional payment was to be made to raise the level to the authorized full amount. Therefore, the table below shows the FY2009 enacted appropriation at the estimated authorized amount for that year. See **Table 15**.

(...continued)

Association with the United States, by (name redacted).

⁷⁰ *Congressional Record*, February 23, 2009, p. H2096.

⁷¹ For more information on PILT funding, contact (name redacted) at 7-.....

⁷² See §601(c) of Division C of P.L. 110-343, the Emergency Economic Stabilization Act of 2008.

Table 15. Authorized and Appropriated Levels for Payments in Lieu of Taxes (PILT), FY2000-FY2009

(\$ in millions)

Fiscal Year	Authorized Amount	Appropriated Amount	% of Authorized Amount
2000	317.6	134.0	42.2
2001	338.6	199.2	58.8
2002	350.8	210.0	59.9
2003	324.1	218.2	67.3
2004	331.3	224.3	67.7
2005	332.0	226.8	68.3
2006	344.4	232.5	67.5
2007	358.3	232.5	64.9
2008	367.2	228.9	62.3
2009 ^a	374.2	374.2	100.0

Note: The FY2009 levels are estimates. The actual amounts depend on (1) revenues from other payment programs that offset PILT payments; (2) the number of acres eligible for PILT payments; (3) the counties' populations; (4) state "pass-through" laws for granting federal funds to counties; and (5) changes in the Consumer Price Index. (See CRS Report RL31392, *PILT (Payments in Lieu of Taxes): Somewhat Simplified*, by (name redacted).)

a. This figure represents enacted appropriations at the estimated authorized amount.

Since the beginning of the program in 1976, payments of more than \$3.8 billion have been made. The PILT program has been controversial, because the payment formula, which was indexed for inflation (as measured by the Consumer Price Index) in 1994, has increased authorization levels. However, in recent years annual appropriations were substantially less than the authorized amounts, ranging from 42% to 68% of authorized levels between FY2000 and FY2008.⁷³ See **Table 15**. County governments have claimed that the program as a whole does not provide funding comparable to property taxes, and that rural areas in particular have needed additional PILT funds to provide the kinds of services that counties with more private land are able to provide. In response to these concerns, mandatory spending of the full authorized amount was enacted for FY2008-FY2012. As a result, PILT is not expected to receive annual appropriations during these years.

CRS Report RL31392, *PILT (Payments in Lieu of Taxes): Somewhat Simplified*, by (name redacted).

CRS Report RL33822, *The Secure Rural Schools and Community Self-Determination Act of 2000: Forest Service Payments to Counties*, by (name redacted).

For further information on the *Payments in Lieu of Taxes* program, see the DOI website at <http://www.doi.gov/pilt/>.

⁷³ Where appropriations were not sufficient to cover the authorization, each county received a pro rata share of the authorized amount.

Office of Special Trustee for American Indians ⁷⁴

The Office of Special Trustee for American Indians (OST), in the Secretary of the Interior's office, was authorized by Title III of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. §§4001, et seq.). The OST generally oversees the reform of Interior Department management of Indian trust assets, establishment of an adequate trust fund management system, and support of department claims settlement activities related to the trust funds. OST also manages Indian funds directly, including operating the software systems and managing and archiving trust records (paper and electronic).⁷⁵ Formerly, Indian trust funds were managed by the BIA, but in 1996 the Secretary transferred trust fund management to the OST.

Indian trust funds managed by OST comprise two sets of funds: (1) tribal funds owned by about 300 tribes in approximately 1,800 accounts, with a total asset value over \$2.9 billion; and (2) individual Indians' funds, known as Individual Indian Money (IIM) accounts, in about 370,000 accounts with a current total asset value over \$420 million.⁷⁶ The funds include monies received from claims awards, land or water rights settlements, and other one-time payments, and from income from land-based trust assets (e.g., land, timber, minerals), as well as from investment income.

The FY2009 omnibus appropriations act provided \$181.6 million for OST for FY2009, a reduction of \$7.7 million (4%) from FY2008 and the same as the Bush Administration request. See **Table 16**. Key issues for OST are a historical accounting for tribal and IIM accounts, litigation involving IIM and tribal accounts, and continuation of the Indian land consolidation program.

Table 16. Appropriations for the Office of Special Trustee for American Indians (OST), FY2008-FY2009

(\$ in thousands)

Office of Special Trustee for American Indians	FY2008 Approp.	FY2009 Request	FY2009 Omnibus	Percent Change FY08-FY09
Federal Trust Programs	179,487	181,648	181,648	1%
—Historical Accounting Office	55,504	56,445	56,445	2%
Indian Land Consolidation	9,844	0	0	-100%
Total Appropriations	189,331	181,648	181,648	-4%

Historical Accounting

The historical accounting effort seeks to assign correct balances to all tribal and IIM accounts. Historical accounting activities are carried out through the Office of Historical Trust Accounting, which was transferred from the Interior Secretary's office to OST in July 2007. Appropriations for

⁷⁴ For more information on OST funding, contact (name redacted) at 7-.....

⁷⁵ The OST has nearly completed indexing and digitizing the backlog of historical trust records and in FY2009 is reducing these operations, to handle the remaining backlog and ongoing trust records.

⁷⁶ Figures were taken from: U.S. Dept. of the Interior, *Budget Justifications and Performance Information, Fiscal Year 2009, Office of the Special Trustee for American Indians*.

historical accounting usually have been made through OST. For FY2009, the omnibus appropriations law limited the appropriations for historical accounting to no more than \$56.4 million, an increase (2%) over the FY2008 amount of \$55.5 million, and the same as the Bush Administration's request. In the past, the House Appropriations Committee has expressed its intent to limit expenditures for historical accounting, asserting it reduces spending on other Indian programs.

Historical accounting based on every single account transaction is expected to be large and time-consuming, because of the large number of IIM accounts, the long historical period to be covered (some accounts date well back into the 19th century), and the large number of missing account documents. IIM accounts are of three types: land-based (i.e., derived from real assets), judgment and per-capita accounts, and temporary special deposit accounts. In 2003, DOI proposed an extensive, five-year, \$335-million project to reconcile IIM accounts within the time period 1938-2000. The 2003 plan was to reconcile all transactions for the judgment and per-capita accounts, reconcile all transactions of \$5,000 and over for land-based accounts, and use statistical sampling techniques to reconcile land-based transactions of less than \$5,000. The plan was revised in 2007 to reflect ongoing experience (including a large increase in the estimated cost), reduce the number of transactions reconciled, and change sampling strategies. In addition, special deposit accounts were no longer included in the plan because they are being distributed to other accounts.

OST continues to follow its 2007 historical accounting plan, subject to court rulings (see the "Litigation" section, below) and congressional actions, and now estimates a total cost of \$271 million and completion in FY2011. Plaintiffs in the IIM litigation (discussed below) considered the statistical sampling technique invalid and the time period too short. On January 30, 2008, the judge in the IIM litigation rejected the OST historical accounting plan, but ordered neither a new or revised historical accounting process nor a cessation of historical accounting. At an April 3, 2008, hearing on BIA and OST appropriations, the chair of the House Interior Appropriations Subcommittee questioned why, in light of the judge's rejection, the historical accounting should continue.⁷⁷ The Bush Administration had asserted that historical accounting should continue, for purposes of tribal suits and other possible claims, as well as for its utility in IIM settlement discussions.⁷⁸

Tribal trust fund and accounting suits have been filed by over 100 tribes, in addition to the IIM suit. Further, one tribal suit seeks certification as a class action suit for over 250 tribes, according to OST. Of the \$56.4 million for historical accounting for FY2009, OST proposed to continue allocating about \$40 million to IIM accounts and the remainder to tribal accounts.

Litigation

An IIM trust funds class-action lawsuit (*Cobell v. Salazar*) was filed against the federal government in 1996, by IIM account holders, in the Federal District Court for the District of Columbia.⁷⁹ Many OST activities are related to the *Cobell* case, including litigation support

⁷⁷ Comments of Rep. Norm Dicks, April 3, 2008, in U.S. Congress, House Appropriations Committee, Subcommittee on Interior, Environment, and Related Agencies, *Interior, Environment, and Related Agencies Appropriations for 2009*, hearings, 110th Cong., 2nd sess., Feb. 7, April 3, 2008 (Washington: GPO, 2008).

⁷⁸ Testimony of Ross Swimmer, Special Trustee for American Indians, U.S. Dept. of the Interior, April 3, 2008, in *Ibid.*

⁷⁹ *Cobell v. Salazar* (Civil No. 96-1285) (D.D.C.). Updated information is available on the websites of the plaintiffs at <http://www.indiantrust.com>, of the DOI at <http://www.doi.gov/indiantrust/>, and of the Justice Department at (continued...)

activities. The most significant issues for appropriations concern the methods for a historical accounting to estimate IIM accounts' proper balances, and the amount the federal government would need to pay to settle the litigation and bring IIM accounts to their proper balances. As mentioned above, in January 2003 DOI submitted a proposed historical accounting plan to the district court handling the *Cobell* case, and estimated it would cost \$335 million over five years. After the 2007 changes in methods (described above), DOI estimated the revised plan would cost \$271 million overall and be finished by the end of FY2011. DOI expected a historical accounting to show the total owed to IIM accounts to be in the low millions. The plaintiffs have advocated different methods, based on estimates of revenues produced from IIM lands, or on applying estimated error rates to an estimate for IIM throughput (i.e., the total amount that has passed through IIM accounts). Different methods produced varying estimates of a total owed to IIM accounts, the highest of which was \$176 billion.⁸⁰

The *Cobell* district court held a lengthy trial on the question of correct historical accounting methods. The court in its September 2003 decision rejected both plaintiffs' and DOI's historical accounting plans and instead ordered DOI to account for all trust fund and asset transactions since 1887, without using statistical sampling. DOI estimated then that the court's order for historical accounting would cost \$6-\$12 billion and appealed the order. Following a stay and an appeals court ruling, the district court in February 2005 issued a new historical accounting order again requiring that the historical accounting cover all trust fund and asset transactions since 1887 and not use statistical sampling. DOI, which estimated that compliance with the new order would cost \$12-\$13 billion,⁸¹ again appealed. The Appeals Court for the D.C. Circuit in November 2005 vacated the district court's February 2005 order, and in 2006 the Appeals Court assigned a new judge to the *Cobell* case. OST meanwhile continued its historical accounting under its 2003 (now 2007) plan. In October 2007 the new district court judge held hearings on DOI's historical accounting obligations, methodology, and results. On January 30, 2008, the district court rejected the OST historical accounting plan. The court found that the DOI was unable to perform an adequate historical accounting and that such an accounting was impossible, given the great expense and past congressional funding. Instead of ordering a new or revised historical accounting process, the district court ordered hearings on an appropriate remedy. On August 7, 2008, the court ruled that the remedy should be \$455.6 million in restitution to the plaintiffs. The plaintiffs, who had sought \$27-\$100 billion, appealed the decision on September 9, 2008.

Congress has long been concerned that the current and potential costs of the *Cobell* lawsuit may jeopardize DOI trust reform implementation, reduce spending on other Indian programs, and be difficult to fund. Besides the ongoing expenses of the litigation and of the historical accounting, possible costs for a *Cobell* settlement now might be as much as (1) the more than \$100 billion that *Cobell* plaintiffs have in the past estimated their IIM accounts are owed, (2) the \$27.5 billion that the *Cobell* plaintiffs proposed as a settlement amount in 2005, (3) the \$8 billion proposed by Members of Congress in the 109th Congress, (4) the \$58 billion that the plaintiffs asked from the district court in March 2008,⁸² or (5) the \$46 billion plaintiffs sought in June 2008.⁸³ The addition

(...continued)

<http://www.usdoj.gov/civil/cases/cobell/index.htm>. Note that the name of the defendant changes to match the current Secretary of the Interior.

⁸⁰ Testimony of Eloise Cobell, in U.S. Congress, House Resources Committee, *H.R. 4322, the Indian Trust Reform Act of 2005*, hearing, 109th Congress, 1st session, Dec. 8, 2005, Serial No. 109-38 (Washington: GPO, 2006), p. 39.

⁸¹ See James Cason, Associate Deputy Secretary, U.S. Dept. of the Interior, Statement before the House Committee on Appropriations, Subcommittee on Interior, Environment, and Related Agencies, March 17, 2005.

⁸² "Cobell Plaintiffs Seek \$58B for Indian Trust Beneficiaries," *Indians.com* (March 21, 2008), available at (continued...)

of tribal trust fund and accounting suits may greatly enlarge the potential costs of a settlement, since tribes' funds are far larger in size than individuals' funds.

Also of concern to Congress at times is the source of funds for any large federal payments that might have to be made to IIM accounts. Among the funding sources for these costs discussed in a 2005 House Interior Appropriations Subcommittee hearing were discretionary appropriations and the Treasury Department's "Judgment Fund,"⁸⁴ but some senior appropriators considered the Judgment Fund insufficient for a settlement in the \$6-\$13 billion range.⁸⁵

The House Appropriations Committee has urged the parties to the litigation, and Congress, to settle trust litigation in its entirety (H.Rept. 110-187, p. 80). Settlement bills were introduced in the 109th Congress, and the Bush Administration in March 2007 proposed a comprehensive settlement, but tribes and *Cobell* plaintiffs opposed the proposals.⁸⁶ No trust fund settlement legislation was introduced in the 110th Congress, and none has been introduced thus far in the 111th Congress.

Indian Land Consolidation

The purpose of the Indian land consolidation program, first funded by Congress in FY1999, is to reduce the fractionation of ownership of individual Indian trust lands—and the consequent multiplication of IIM accounts that OST must administer—by purchasing small ownership interests in individual trust lands and transferring the interest to the relevant Indian tribe (or to a holder of a large interest in the land).⁸⁷ The omnibus appropriations law did not provide funds for Indian land consolidation for FY2009, a reduction of \$9.8 million (100%) from FY2008, and the same as the Bush Administration's request (see **Table 16**).

The Bush Administration contended that the land consolidation program has reduced neither the fractionation of ownership nor the costs of trust management. Even though over 360,000 interests have been acquired since 1999, about 1.5 million new fractionated interests were created during the same time period, the Administration claimed.⁸⁸ The Administration said it was establishing a working group to explore other options for land consolidation. Opponents of the cut asserted that the land consolidation program remained necessary.

(...continued)

<http://www.indianz.com/News/2008/007757.asp>.

⁸³ "Cobell Headed to Resolution in Appeals Court," Indianz.com (Aug. 29, 2008), available at <http://www.indianz.com/News/2008/010577.asp>.

⁸⁴ The Judgment Fund is a permanent, indefinite appropriation for paying judgments against, and settlements by, the U.S. government. (See 31 U.S.C. §1304.)

⁸⁵ Matt Spangler, "Treasury Fund May Be Short of Cash Needed to Settle Indian Royalty Case," *Inside Energy with Federal Lands* (March 21, 2005), p. 6.

⁸⁶ "Bush Administration Won't Admit Liability on Indian Trust," Indianz.com (March 30, 2007), available at <http://www.indianz.com/News/2007/002150.asp>.

⁸⁷ Fractionation of Indian lands results most frequently from the death of a holder of an ownership interest and inheritance of the interest by multiple heirs. The lands involved were allotted in trust to individual Indians, pursuant to various federal laws or treaties (mostly under the General Allotment Act of 1887), and have stayed in trust. At inheritance, the ownership interest, not the plot of allotted land, is subdivided (i.e., fractionated).

⁸⁸ "Bush Administration Seeks Another Cut in BIA Budget," Indianz.com (Feb. 5, 2008), available at <http://www.indianz.com/News/2008/006991.asp>.

CRS Report RL34628, *The Indian Trust Fund Litigation: An Overview of Cobell v. Kempthorne*, by (name redacted).

For further information on the *Office of Special Trustee for American Indians*, see its website at <http://www.ost.doi.gov/>.

National Indian Gaming Commission⁸⁹

The National Indian Gaming Commission (NIGC) was established by the Indian Gaming Regulatory Act (IGRA) of 1988 (25 U.S.C. §§2701, et seq.) to oversee Indian tribal regulation of tribal Class II operations, as well as aspects of Class III games.⁹⁰ The primary appropriations issue for NIGC is whether its funding is adequate for its regulatory responsibilities.

The NIGC is authorized to receive annual appropriations of \$2 million, but its budget authority consists chiefly of annual fees assessed on tribes' Class II and III operations. During FY1999-FY2008, all NIGC activities were funded from fees, with no direct appropriations. Similarly, the omnibus appropriations law also did not include direct appropriations for FY2009, nor had the Bush Administration proposed a direct appropriation for the NIGC for FY2009.

IGRA as enacted in 1988 capped NIGC fees at \$1.5 million per year. In the 1990s, as Indian gaming grew rapidly, the NIGC began to express a need for additional funding because it was experiencing increased demand for its oversight resources, especially audits and field investigations. In 1998 Congress amended IGRA to raise the fee cap to \$8 million. For FY2004-FY2007, annual appropriations acts raised the ceiling for each fiscal year to \$12 million. Then, in the Native American Technical Corrections Act of 2006 (P.L. 109-221), Congress amended IGRA to create a formula-based fee ceiling—0.08% of the gross gaming revenues of all gaming operations subject to regulation under IGRA. This new fee ceiling applied to FY2007 and subsequent fiscal years. The NIGC sets an annual fee rate, which can be less than the ceiling rate.

For FY2008, based on the preliminary fee rate for calendar year 2008 of 0.057%, NIGC anticipated fee revenues of \$15.5 million. This would be a 19% increase from its FY2007 fee revenues of \$13 million. NIGC anticipates FY2009 fee revenues of about \$17 million.

For further information on the *National Indian Gaming Commission*, see its website at <http://www.nigc.gov>.

Title II: Environmental Protection Agency⁹¹

The EPA's primary responsibilities are the regulation of air quality, water quality, pesticides, and toxic substances; the management and disposal of solid and hazardous wastes; and the cleanup of

⁸⁹ For more information on NIGC funding, contact (name redacted) at 7-.....

⁹⁰ Classes of Indian gaming were established by the IGRA. Class I covers Indian traditional and social games of no economic import. Class II covers bingo, certain other games if played in the same location as bingo (e.g., pull-tabs), and non-banked card games (i.e., games that are not played against the house) if not prohibited by the state. Class III covers all other forms of gaming, including (but not limited to) casinos, slot machines, lotteries, and betting on races and sports. NIGC has different but overlapping regulatory responsibilities for each class.

⁹¹ For more information on EPA funding, contact David Bearden at 7-.... or (name redacted) at 7-.....

environmental contamination. EPA also awards grants to assist states and local governments in complying with federal requirements to control pollution.

EPA's funding over time generally has reflected an increase in overall appropriations to fulfill a rising number of statutory responsibilities.⁹² The FY2009 omnibus appropriations law provided a total of \$7.64 billion for EPA. This was an increase above President Bush's request of \$7.18 billion,⁹³ and the \$7.46 billion enacted for FY2008. Although EPA's appropriations increased overall, Congress reduced funding for certain programs and activities within various accounts.

The stimulus law provided an additional \$7.22 billion in FY2009 emergency supplemental appropriations for EPA. As discussed earlier in this report, the stimulus funds that EPA and other agencies received in this act are subject to certain timing limitations, requirements, and conditions. Notably, EPA must obligate the funds by the end of FY2010 (September 30, 2010) to speed the delivery of the funds for individual projects as a means to stimulate the economy, whereas appropriations for EPA are usually available until expended by the agency.⁹⁴ Including both the \$7.64 billion in omnibus funds and the \$7.22 billion in stimulus funds, Congress appropriated a total of \$14.86 billion for EPA in FY2009, doubling the funding that the agency has received in annual appropriations in recent years.

Of the \$7.22 billion, \$6.00 billion was for grants to help states support their State Revolving Funds (SRFs) that finance local water infrastructure projects. The stimulus law provided \$4.00 billion for the Clean Water SRFs that finance wastewater infrastructure projects, such as municipal sewage treatment plant upgrades, and \$2.00 billion for the Drinking Water SRFs that finance drinking water treatment infrastructure projects. These funds are in addition to the \$689.1 million and \$829.0 million in FY2009 omnibus appropriations provided for these SRF grants, respectively.

Congress appropriated the remaining \$1.22 billion in stimulus funds for EPA to pay for cleanup "remedial" projects at Superfund sites (\$600.0 million); to award grants for the cleanup of brownfields sites (\$100.0 million), the cleanup of leaking underground storage tanks (\$200.0 million), and projects to reduce emissions from diesel-powered vehicles, engines, and equipment (\$300.0 million); and to support the agency's Office of Inspector General (\$20.0 million).

Table 17 lists the eight statutory accounts that fund EPA.⁹⁵ The table presents the FY2009 omnibus and stimulus appropriations enacted for each account, compared with President Bush's

⁹² EPA's funding was moved to the jurisdiction of the Interior Appropriations Subcommittees beginning with the FY2006 appropriations. In the beginning of the first session of the 109th Congress, the House and Senate Appropriations Committees abolished their respective Subcommittees on Veterans Affairs, Housing and Urban Development, and Independent Agencies, which previously had jurisdiction over EPA.

⁹³ The total FY2009 request includes the August 1, 2008, amendments President Bush submitted to his original request affecting multiple agencies. Specific to EPA, the budget amendments proposed an additional \$10.6 million within the agency's Science and Technology account and a \$24.2 million increase within its Hazardous Substance Superfund account. See White House, Office of Management and Budget, *Estimate #7—FY 2009 Budget Amendments: Departments of Agriculture, Commerce, Education, Health and Human Services, Homeland Security, the Interior, Labor, and State, and the Environmental Protection Agency* at <http://www.whitehouse.gov/omb/budget/amendments.htm>.

⁹⁴ For information on EPA's progress in obligating the Recovery Act funds, see the agency's website at <http://www.epa.gov/recovery>.

⁹⁵ Congress established these accounts in FY1996 as part of a restructuring of EPA's budget to more closely align the accounts with the purposes of the activities funded within them.

FY2009 request, and appropriations enacted for FY2008. A breakout of these funds is provided for transfers between various EPA accounts, and for selected grants within the State and Tribal Grants (STAG) account in which there has been broad interest within Congress.

**Table 17. Appropriations for the Environmental Protection Agency (EPA),
FY2008-FY2009**
(\$ in millions)

EPA Accounts	FY2008 Approp.	FY2009 Request	FY2009 Omnibus	FY2009 Stimulus	FY2009 Total
Science and Technology ^a					
—Base Appropriations	760.1	774.1	790.1	0	790.1
—Transfer in from Superfund	25.7	26.4	26.4	0	26.4
Science and Technology Total	785.8	800.5	816.5	0	816.5
Environmental Programs and Management	2,328.0	2,338.4	2,392.1	0	2,392.1
Office of Inspector General					
—Base Appropriations	41.1	39.5	44.8	20.0	64.8
—Transfer in from Superfund	11.5	7.2	10.0	0	10.0
Office of Inspector General Total	52.6	46.7	54.8	20.0	74.8
Buildings & Facilities	34.3	35.0	35.0	0	35.0
Hazardous Substance Superfund (before transfers)^a	1,254.0	1,288.4	1,285.0	600.0	1,885.0
—Transfer out to Office of Inspector General	11.5	7.2	10.0	0	10.0
—Transfer out to Science and Technology	25.7	26.4	26.4	0	26.4
Hazardous Substance Superfund (after transfers)	1,216.8	1,254.8	1,248.6	600.0	1,848.6
Leaking Underground Storage Tank Program^b	105.8	92.6	112.6	200.0	312.6
Oil Spill Response	17.1	17.7	17.7	0	17.7
State and Tribal Assistance Grants					
—Clean Water State Revolving Fund	689.1	555.0	689.1	4,000.0	4,689.1
—Drinking Water State Revolving Fund	829.0	842.2	829.0	2,000.0	2,829.0
—Special Project Grants	132.9	0	145.0	0	145.0
—Categorical Grants ^b	1,078.3	1,036.2	1,094.9	0	1,094.9
—Brownfields Section 104(k) Grants	93.5	93.6	97.0	100.0	197.0
—Diesel Emission Reduction Grants	49.2	49.2	60.0	300.0	360.0
—Other STAG Grants	54.2	25.5	53.5	0	53.5
State and Tribal Assistance Grants Total	2,926.2	2,601.7	2,968.5	6,400.0	9,368.5
Rescissions (various EPA accounts)^c	5.0	10.0	10.0	0	10.0
Total Appropriations	7,461.5	7,177.3	7,635.7	7,220.0	14,855.7

Source: Prepared by the Congressional Research Service. Amounts for the FY2008 enacted appropriation, FY2009 request, and FY2009 omnibus appropriation are from the explanatory statement presented in the House Appropriations Committee Print (unnumbered) on the Omnibus Appropriations Act, 2009, H.R. 1105/P.L. 111-8, p. 1256-1259. FY2009 “stimulus” amounts are as specified in Title VII of Division A of P.L. 111-5.

- a. FY2009 request reflects increases to the Science and Technology (\$10.6 million) and Superfund (\$24.2 million) accounts included in President Bush's August 1, 2008 amendments to his original FY2009 request.
- b. The \$92.6 million indicated for President Bush's FY2009 request for the Leaking Underground Storage Tank (LUST) Trust Fund Program account reflects an accounting adjustment by the House Appropriations Committee. President Bush's original request had specified \$72.3 million for this account, due to a difference in the accounting of funds for certain activities authorized in the Energy Policy Act of 2005 (P.L. 109-58). President Bush's request reflected funding for these activities within the amount for Underground Storage Tank Categorical Grants under the STAG account. Consistent with the enactment of appropriations for FY2008, the House Appropriations Committee included these requested funds within the LUST Trust Fund Program account and adjusted the President's request to \$92.6 million for comparison. Accordingly, the Committee also adjusted the President's request for the categorical grants to reflect this accounting difference.
- c. The rescissions are from unobligated balances from funds appropriated in prior years, and made available for expenditure in a later year. They include \$5.0 million rescinded from prior years and made available in FY2008. President Bush's budget request and the omnibus appropriations law included \$10.0 million rescinded from prior years and made available in FY2009. In effect, these "rescissions" increase the availability of funds for expenditure by the agency in the years in which they are applied, functioning as an offset to new appropriations by Congress.

Key Funding Issues

Much of the attention on appropriations for FY2009 focused on federal assistance for wastewater and drinking water infrastructure projects, environmental cleanup, and air quality. Congress also addressed certain policy matters in the FY2009 omnibus appropriations act through directing or restricting EPA's use of appropriated funds. These matters include the reporting of greenhouse gas emissions, implementation of an executive order regarding environmental justice in minority and low-income populations, regulation of hazardous air pollutants, and the reporting of releases of toxic substances. The omnibus law also directed EPA to re-evaluate a Bush Administration decision to deny a waiver under the Clean Air Act that would have allowed California to regulate greenhouse gas emissions from new motor vehicles. Each of these funding and policy issues is discussed below.

Wastewater and Drinking Water Infrastructure

EPA appropriations for wastewater and drinking water infrastructure projects are allocated within the State and Tribal Assistance Grants account.⁹⁶ The vast majority of these funds are used to award grants to help states support their State Revolving Funds (SRFs). The Clean Water SRFs fund local wastewater infrastructure projects, such as upgrades to municipal sewage treatment plants that are needed to comply with federal wastewater discharge requirements under the Clean Water Act. The Drinking Water SRFs fund local drinking water infrastructure projects, such as upgrades or modifications to municipal drinking water treatment plants that are needed to comply with federal drinking water standards under the Safe Drinking Water Act.

Both of these laws authorize financial assistance to meet federal water quality requirements through the awarding of grants to help states capitalize their SRFs. EPA allocates annual appropriations for these grants among the states based on established formulas that are authorized in the Clean Water Act and the Safe Drinking Water Act.⁹⁷ However, each state must provide

⁹⁶ For further information, see CRS Report 96-647, *Water Infrastructure Financing: History of EPA Appropriations*, by (name redacted).

⁹⁷ EPA must allocate the Clean Water SRF grants among the states according to a formula specified in the Clean Water (continued...)

matching funds equal to 20% of its SRF grant in order to receive the federal funds. States combine their matching funds with the federal grant monies to capitalize their SRFs, which they use to issue low-interest loans to finance local water infrastructure projects in communities. The recipients generally must repay the loan to the issuing state, with certain exceptions.⁹⁸

Monies that states collect from the repayment of these loans help to maintain the SRFs, as the proceeds are deposited back into the SRFs to provide capital for issuing new loans for other projects in the future. In this sense, the SRFs are intended to be “revolving” and eventually self-sustaining over the long-term. However, the extent to which federal assistance is still needed to help states maintain sufficient capital in their SRFs to finance needed projects has been an ongoing issue. Some have cited estimates of hundreds of billions of dollars in long-term needs among communities, and the tightening of federal water quality requirements over time, as reasons for maintaining or increasing the level of federal assistance.⁹⁹

The FY2009 omnibus appropriations law provided \$689.1 million for EPA to award Clean Water SRF grants to states, the same as the FY2008 enacted appropriation. President Bush had requested \$555.0 million. Funding for these grants has been declining since FY2005. Prior to that time, annual appropriations had been fairly steady at about \$1.3 billion for several years. The omnibus law also provided \$829.0 million in FY2009 for the Drinking Water SRF grants to states, the same as the FY2008 enacted appropriation. President Bush had requested \$842.2 million. Funding levels for these grants have remained higher than the Clean Water SRF grants over the past several years, consistently remaining at levels in excess of \$800 million.

The stimulus law increased funding for the SRF grants in FY2009 by several fold. The act appropriated \$4.00 billion in supplemental funds for the Clean Water SRF grants and \$2.00 billion in supplemental funds for the Drinking Water SRF grants. As with the omnibus appropriations, EPA is to use the existing formulas under the Clean Water Act and the Safe Drinking Water Act to allocate these supplemental funds among the states. However, the stimulus law waived the 20% matching funds requirement that otherwise would apply. To assist communities, the law also allowed states to issue negative interest loans, forgive loan principal, award grants rather than loans, or a combination of these alternatives. The use of the stimulus SRF funds to construct local water infrastructure was expected to create jobs, and thereby was intended to stimulate the economy while increasing financial assistance to meet outstanding water quality needs.¹⁰⁰

Although the SRF grants represent the vast majority of EPA funding for water infrastructure, Congress also has supported these needs through congressionally directed funding for “special project grants” within the State and Tribal Assistance Grants account. The FY2009 omnibus appropriations law provided \$145.0 million for 301 special project grants across the United States. Congress identified the recipients of these grants in the explanatory statement

(...continued)

Act itself, whereas the Safe Drinking Water Act authorizes EPA to develop a formula for allocating the Drinking Water SRF grants among the states that is to reflect the proportional share of each state’s funding needs.

⁹⁸ The Safe Drinking Water Act allows forgiveness of principal to assist economically disadvantaged communities.

⁹⁹ For further information, see CRS Report RL31116, *Water Infrastructure Needs and Investment: Review and Analysis of Key Issues*, by (name redacted) and (name redacted).

¹⁰⁰ For further information, see CRS Report R40216, *Water Infrastructure Funding in the American Recovery and Reinvestment Act of 2009*, by (name redacted) and (name redacted).

accompanying the act.¹⁰¹ As in past years, the law required each recipient to provide 45% of a project's cost in matching funds, with some exceptions allowed in the case of financial hardship. The \$145.0 million appropriated in FY2009 was an increase above the \$132.9 million provided for 280 projects in FY2008. Past Administrations have not requested any funding for these special projects in their annual budget requests for EPA, as Administrations have viewed these projects solely to be the priorities of Congress.

Superfund

As amended, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA, P.L. 96-510) established the Superfund program to require responsible parties to pay for the cleanup of environmental contamination that they caused or to which they otherwise contributed. Intended to ensure the protection of human health and the environment, the program pays for the cleanup when the responsible parties cannot be found or cannot pay. The Hazardous Substance Superfund account supports the assessment and cleanup of contaminated sites administered under EPA's Superfund program.¹⁰² Most of the program's funding is allocated to sites that EPA has placed on the National Priorities List (NPL) of the most hazardous sites in the United States.¹⁰³

Not all of the funding for the Superfund account is spent on actual (i.e., physical) cleanup of contaminated sites by EPA. Some of the funding supports related activities that also are needed to support cleanup efforts, including enforcement against responsible parties to compel them to perform or pay for cleanup actions, and research of more effective cleanup methods. In annual appropriations, Congress typically directs EPA to transfer funds from the Superfund account to the agency's Science and Technology account to carry out this research. Although not explicitly authorized in CERCLA, the Superfund program also funds homeland security activities to prepare for emergency response in the event of a terrorist attack involving the intentional release of a hazardous substance.¹⁰⁴ Funding has been appropriated for this activity primarily in response to the terrorist attacks on the United States on September 11, 2001.

Funding levels for the Superfund account have remained nominally steady over the past several years at around \$1.25 billion annually. Some Members of Congress have maintained that a steady level of federal funding allows for a constant pace and adequate degree of cleanup, and have emphasized that contributions from responsible parties augment federal monies to meet overall cleanup needs. Other Members have countered that more federal funds could help to improve the pace and quality of cleanup at sites where there are no viable parties to pay the costs, and could allow the listing of more sites on the NPL that may warrant cleanup. There also has

¹⁰¹ See, U.S. House of Representatives, Committee on Appropriations, Committee Print (unnumbered) on the Omnibus Appropriations Act, 2009, H.R. 1105/Public Law 111-8, p. 1133 – 1142.

¹⁰² The cleanup of federal facilities is not funded by EPA's Superfund account, but with funds appropriated to the agencies that are responsible for administering those facilities. The Department of Defense and the Department of Energy administer the vast majority of federal facilities where cleanup is performed. EPA and the states play a role at these facilities in overseeing cleanup actions, but do not perform or pay for the cleanup.

¹⁰³ For further information, see CRS Report RL33426, *Superfund: Implementation and Selected Issues*, by (name redacted).

¹⁰⁴ Section 104(a) of CERCLA authorizes the President to respond not only to an actual release of a hazardous substance into the environment, but also to a substantial threat of such release. EPA has interpreted this authority to allow the agency to engage in homeland security activities to respond to the threat of a terrorist attack that could involve the intentional release of a hazardous substance into the environment.

been some concern that steady funding over time is actually a reduction in real dollar values as a result of inflation, and that consequently, the amount of funding today cannot accomplish as much cleanup as that same amount in the past.

Concern about the availability of resources has renewed interest as to whether Superfund taxes on industry should be reinstated to help support the Hazardous Substance Superfund Trust Fund.¹⁰⁵ Congress appropriates monies out of this trust fund to finance the Superfund account that funds EPA's Superfund program. The authority to collect these taxes expired on December 31, 1995. As the remaining revenues were expended over time, Congress has increased the amount of revenues from the General Fund of the U.S. Treasury that historically have contributed to the Superfund Trust Fund, in an effort to make up for the shortfall from the expired industry taxes.¹⁰⁶ Congress now supports the Superfund Trust Fund mostly with general Treasury revenues, but other sources do contribute some revenue.¹⁰⁷ Although the special taxes on industry have expired, industry continues to support the Superfund Trust Fund through corporate income taxes that contribute to general Treasury revenues, along with individual income taxes and other federal receipts and collections.

The FY2009 omnibus appropriations law provided nearly \$1.29 billion for the Superfund account. This was the total appropriation for the account, prior to a transfer of \$26.4 million to the Science and Technology account for cleanup research, and a transfer of \$10.0 million to EPA's Office of the Inspector General account for investigation, audit, and evaluation of the Superfund program's performance. See **Table 17**. The FY2009 omnibus appropriation of nearly \$1.29 billion was an increase above the FY2008 appropriation of \$1.25 billion, but was \$3.4 million less than the amount that President Bush had requested for FY2009.

The stimulus law provided an additional \$600.0 million for the Superfund account. Congress appropriated these funds exclusively for "remedial" cleanup projects. The law limited EPA to using no more than 3% of these funds for management and oversight expenses, in order to maximize the availability of the funds to pay for individual project costs. The \$1.29 billion in omnibus appropriations for the Superfund account included \$605.0 million for remedial cleanup projects. The extra \$600.0 million in supplemental funds nearly doubles the appropriation for these types of projects in FY2009.

Remedial projects are long-term cleanup actions that are intended to provide a more permanent solution to address potential risks to human health and the environment, as opposed to "removal" actions that typically are shorter term actions intended to address more immediate risks. CERCLA generally limits EPA to spending Superfund monies on remedial projects only at NPL sites. Like regular Superfund appropriations, the stimulus funds will be used to award contracts to private companies to carry out the remedial projects that EPA selects at NPL sites across the United

¹⁰⁵ The Superfund tax consisted of two excise taxes, one on petroleum and one on chemical feedstocks, and a special environmental tax on corporate income.

¹⁰⁶ Historically, both Superfund taxes on industry and general Treasury revenues have contributed to the Hazardous Substance Superfund Trust Fund. As the remaining revenues from the expired industry taxes were expended, Congress increased the general Treasury revenue contributions to maintain the trust fund at a balance that would be sufficient to support the annual appropriation.

¹⁰⁷ Interest on the remaining balance of the Hazardous Substance Superfund Trust Fund, fines and penalties collected for violations of cleanup requirements, and recovery of cleanup costs from responsible parties still generate revenues to the trust fund. These revenues are available for appropriation by Congress to supplement general Treasury revenues to fund the Superfund Program.

States. These projects usually involve some form of physical construction or installation of equipment that necessitates the hiring of workers by the contractors, thereby creating jobs in the private sector as a means to stimulate the economy.

Brownfields

Title II of the Small Business Liability Relief and Brownfields Revitalization Act of 2002 (P.L. 107-118) amended CERCLA to establish a program dedicated to the cleanup of contaminated “brownfields,” and to assess brownfields where contamination is suspected because of the nature of past activities.¹⁰⁸ Typically, brownfields are abandoned, idled, or underutilized commercial and industrial properties with levels of contamination less hazardous than an NPL site, but for which cleanup still may be needed to make the land suitable for reuse. The desire among communities to redevelop these unproductive properties for economic benefit generated interest in federal funding to aid in the assessment and cleanup of contamination. Prior to the 2002 amendments, EPA had spent Superfund monies on the cleanup of brownfields using its general authority in Section 104 of CERCLA to respond to the release of hazardous substances.

Although Congress broadly supported EPA’s initial efforts, some Members perceived the funding of brownfields as a drain on Superfund resources that were intended to address the more hazardous sites on the NPL. The 2002 amendments to CERCLA established a separate Brownfields grant program within EPA to aid states and communities with site assessment and cleanup activities. As added by the 2002 amendments, Section 104(k) of CERCLA authorizes EPA to award competitive grants directly for the assessment and cleanup of individual brownfields, and Section 128 authorizes EPA to award grants to the states (and territories) to establish or enhance their own brownfields programs. These state programs complement the federal program, as they in turn also aid communities with the cleanup of individual brownfields. Congress appropriates funding for both of these grants within the State and Tribal Assistance Grants account, and appropriates funding for EPA’s expenses to administer these grants within the Environmental Programs and Management account.¹⁰⁹

The FY2009 omnibus appropriations law provided a total of \$169.7 million for EPA’s Brownfields program within the two above accounts. This funding level was an increase above the FY2008 enacted appropriation of \$165.6 million and President Bush’s request of \$165.8 million. Most of the FY2009 omnibus appropriation, \$97.0 million, is for awarding competitive Section 104(k) grants to communities for the assessment and cleanup of individual sites. The stimulus law provided an additional \$100.0 million for these Section 104(k) grants, doubling the total appropriation for FY2009. The recipients will be responsible for hiring private contractors to assess or clean up brownfields sites, thereby creating jobs in the private sector much like the private contracts awarded by EPA to carry out remedial projects at NPL sites, discussed above.

Table 18 presents the FY2009 omnibus and stimulus appropriations for EPA’s Brownfields program by account, compared with President Bush’s FY2009 request, and appropriations enacted for FY2008.

¹⁰⁸ Under other authorities, the Department of Housing and Urban Development also has awarded grants to assist communities in redeveloping brownfields sites, once they are cleaned up for their intended land use.

¹⁰⁹ For further information, see CRS Report RS22965, *The Environmental Protection Agency's Brownfields Program: Scope, Authorities, and Implementation*, by (name redacted).

**Table 18. Appropriations for the Environmental Protection Agency (EPA):
Brownfields Program, FY2008-FY2009**

(\$ in millions)

Account and Activity	FY2008 Approp.	FY2009 Request	FY2009 Omnibus	FY2009 Stimulus	FY2009 Total
State and Tribal Assistance Grants Account					
—Section 104(k) Project Grants	93.5	93.6	97.0	100.0	197.0
—Section 128 State Categorical Grants	48.7	49.5	49.5	0	49.5
State and Tribal Assistance Grants Total	142.2	143.1	146.5	100.0	246.5
Environmental Programs and Management Account					
—Administrative Expenses	23.4	22.7	23.2	0	23.2
Total Appropriations	165.6	165.8	169.7	100.0	269.7

Source: Prepared by the Congressional Research Service. Amounts for the FY2008 enacted appropriation, FY2009 request, and FY2009 omnibus appropriation are from the explanatory statement presented in the House Appropriations Committee Print (unnumbered) on the Omnibus Appropriations Act, 2009, H.R. 1105/P.L. 111-8, p. 1256-1259. FY2009 “stimulus” amounts are as specified in Title VII of Division of P.L. 111-5.

Leaking Underground Storage Tanks

Title V of the Superfund Amendments and Reauthorization Act of 1986 (SARA, P.L. 99-499) established the Leaking Underground Storage Tank (LUST) Trust Fund to support the cleanup of petroleum released into the environment from leaking underground storage tanks. The trust fund is financed by a tax of 0.1 cents per gallon on motor fuels, currently authorized through 2011. Congress appropriates monies out of this trust fund to the LUST Trust Fund Program account. Most of the appropriated funds are used to enforce and oversee cleanup actions by the parties responsible for the contamination (i.e., the owners and operators of the tanks). Appropriated funds may be used to perform the cleanup if the responsible party cannot pay, cannot be found, or fails to comply with a cleanup order, or in the event of an emergency that may warrant prompt action to protect human health and the environment. Appropriated funds used to conduct or enforce cleanup actions can be recovered from financially viable responsible parties.

As added by Section 205(d) of SARA, Section 9003(h) of the Solid Waste Disposal Act authorizes EPA to enter into cooperative grant agreements with the states and territories to carry out these cleanup and enforcement activities, using appropriated trust fund monies. The Underground Storage Tank Compliance Act — Subtitle B of Title XV of the Energy Policy Act of 2005 (P.L. 109-58) — added several other provisions to the Solid Waste Disposal Act to expand the use of appropriated trust fund monies for regulating the operation of underground storage tanks in order to prevent leaks from occurring. EPA also carries out these prevention efforts through cooperative grant agreements with the states and territories.¹¹⁰

The FY2009 omnibus appropriations law provided \$112.6 million for the LUST Trust Fund Program account, an increase above the FY2008 enacted appropriation of \$105.8 million and

¹¹⁰ For further information, see CRS Report RS21201, *Leaking Underground Storage Tanks (USTs): Prevention and Cleanup*, by (name redacted).

President Bush's request of \$92.6 million.¹¹¹ Of the \$112.6 million in omnibus appropriations for FY2009, \$77.1 million is for carrying out cleanup and enforcement actions under Section 9003(h) of the Solid Waste Disposal Act, and \$35.5 million is for carrying out leak prevention efforts under other provisions of the Solid Waste Disposal Act added by the Energy Policy Act. The stimulus law provided an additional \$200.0 million in supplemental funds for FY2009 to support cleanup and enforcement actions under Section 9003(h). The law also waived the usual 10% matching funds requirement for cooperative grant agreements to carry out these activities, and restricted EPA from using no more than 1.5% of the \$200.0 million for its management and oversight costs, in order to maximize the funding available for the grant agreements.

Air Quality

EPA's implementation of several provisions of the Clean Air Act, proposed changes to this law and its regulations, and efforts to address climate change have elevated interest within Congress in funding for the agency's air quality programs and activities.¹¹² Most of this funding is allocated among the accounts for State and Tribal Assistance Grants, Environmental Programs and Management, and Science and Technology. Funding within these accounts supports the implementation of a variety of regulatory and grant programs, scientific research, and monitoring activities related to air quality. The Superfund account also includes a small amount of funding, relative to the above accounts, to address the potential risks of exposure to radiation released into ambient air from hazardous waste sites where radiological contamination is present.

The FY2009 omnibus appropriations act increased funding above President Bush's FY2009 request and the FY2008 enacted appropriation for air quality program areas that address "Air Toxics and Quality" and "Climate Change Protection;" grants for projects to reduce diesel emissions; and state and local air quality management "categorical" grants. See **Table 19**. These latter categorical grants support the day-to-day implementation of the Clean Air Act by state and local air quality agencies. Activities include monitoring air quality, issuing permits and setting standards for sources of emissions, training, and other air pollution control and prevention activities. The increase for these categorical grants was provided in response to concerns by some Members and state and local air quality agencies that more funding was needed for these grants, to meet increasing Clean Air Act responsibilities imposed upon state and local governments to regulate air pollution.

The stimulus law provided an additional \$300.0 million in supplemental funds for FY2009 to award grants that would reduce diesel emissions, mentioned above. The omnibus appropriations law provided \$60.0 million for these grants, for a total of \$360.0 million in FY2009. Subtitle G of Title VII of the Energy Policy Act of 2005 (P.L. 109-58) authorized \$200.0 million annually for these grants from FY2007 through FY2011. EPA is authorized to award these grants on a competitive basis to assist regional, state, and local governments, tribes, and non-profit organizations in funding projects that would reduce emissions from diesel-powered vehicles, engines, and equipment.

¹¹¹ President Bush's FY2009 request of \$92.6 million reflects an adjustment by the House Appropriations Committee to account for activities authorized in the Energy Policy Act of 2005. See the notes to **Table 17** in this report.

¹¹² See CRS Report R40145, *Clean Air Issues in the 111th Congress*, by (name redacted).

Table 19 presents the FY2009 omnibus and stimulus appropriations for the above air quality program areas and activities by account, compared with President Bush’s FY2009 request, and appropriations enacted for FY2008.

**Table 19. Appropriations for the Environmental Protection Agency (EPA):
Selected Air Quality Programs and Activities, FY2008-FY2009**

(\$ in millions)

Program Area or Activity by Account	FY2008 Approp.	FY2009 Request	FY2009 Omnibus	FY2009 Stimulus	FY2009 Total
Air Toxics and (Air) Quality Programs					
—Environmental Programs and Management Account	186.9	193.0	194.0	0	194.0
—Science and Technology Account	96.9	97.3	106.3	0	106.3
—Hazardous Substance Superfund Account	2.2	2.4	2.4	0	2.4
Air Toxics and (Air) Quality Programs Total	286.0	292.7	302.7	0	302.7
Climate Protection Programs					
—Environmental Programs and Management Account	90.6	87.0	94.3	0	94.3
—Science and Technology Account	18.5	11.4	16.9	0	16.9
Climate Protection Programs Total	109.1	98.4	111.2	0	111.2
State and Local Air Quality Management Grants					
—State and Tribal Assistance Grants Account	216.8	185.6	224.1	0	224.1
Diesel Emission Reduction Grants					
—State and Tribal Assistance Grants Account	49.2	49.2	60.0	300.0	360.0
Total Appropriations for Selected Air Quality Programs and Activities	661.1	625.9	697.9	300.0	997.9

Source: Prepared by the Congressional Research Service. Amounts for the FY2008 enacted appropriation, FY2009 request, and FY2009 omnibus appropriation are from the explanatory statement presented in the House Appropriations Committee Print (unnumbered) on the Omnibus Appropriations Act, 2009, H.R. 1105/Public Law 111-8, p. 1256-1259. FY2009 “stimulus” amounts are as specified in Title VII of Division A of P.L. 111-5.

The FY2009 omnibus appropriations law also included an “Administrative” provision in Title II of Division E that required EPA to reserve at least \$6.5 million of the funds within the Environmental Programs and Management account to develop and publish a final rule, by June 26, 2009, to require mandatory reporting of greenhouse gas emissions. These funds also are to be made available to begin implementation of the rule once it is finalized. The FY2008 Consolidated Appropriations Act (P.L. 110-161) provided \$3.5 million for EPA to develop and publish a draft rule no later than 9 months after enactment (September 26, 2008) and a final rule no later than 18 months after enactment (June 26, 2009). EPA did not issue a draft rule prior to the end of the Bush Administration.¹¹³ Under the Obama Administration, EPA released a proposed rule on March 10, 2009.¹¹⁴

¹¹³ EPA sent a draft to the White House Office of Management and Budget for review in October 2008, but the proposal was not approved for release before the end of the Bush Administration.

¹¹⁴ The EPA Administrator signed the draft rule on March 10, 2009, and it was published in the Federal Register on April 10, 2009. For further information, see EPA’s website at (continued...)

Policy Provisions

In addition to providing funds, the FY2009 omnibus appropriation law included several policy provisions. One “Administrative” provision in Title II of Division E prohibited EPA from using any funds made available under the omnibus law to prevent or delay the implementation of a 1994 Clinton Administration Executive Order (No. 12898) directing federal agencies to address environmental justice in minority and low-income populations.

The “General Provisions” in Title IV of Division E prohibited EPA from expending funds for two purposes. First, Section 416 prohibited EPA from expending any funds made available under the omnibus law to promulgate or implement regulations that the Bush Administration proposed in 2007 to alter the applicability of requirements to control emissions of hazardous air pollutants under the Clean Air Act.¹¹⁵ Second, Section 425 prohibited EPA from expending any funds made available under the omnibus law, or any other act, to implement a Bush Administration rule finalized in 2006 that altered the threshold for reporting releases of toxic substances and thereby reduced the number of facilities required to disclose a release.¹¹⁶ Section 425 further stated that the Bush Administration rule “shall have no force or effect” and reversed any changes in federal regulation made to carry out the rule.¹¹⁷

Section 424 required the current EPA Administrator to “reconsider, and confirm or reverse,” the decision that the Bush Administration made in 2008 to deny the request of the State of California to regulate greenhouse gas emissions from new motor vehicles.¹¹⁸ The current EPA Administrator is required to re-evaluate this decision no later than June 30, 2009. The State of California has submitted a formal request to the Obama Administration for reconsideration of the Bush Administration’s denial of the waiver. The Clean Air Act generally preempts states from adopting their own emission standards for mobile sources. However, the act allows such standards in California, if the state obtains a waiver from EPA.¹¹⁹

CRS Product MM70108, *EPA: President's FY2009 Budget Request. Online Video. DVD.*, by (name redacted) and (name redacted).

CRS Report RL34448, *Federal Research and Development Funding: FY2009*, “Environmental Protection Agency” section, coordinated by (name redacted)

(...continued)

<http://www.epa.gov/climatechange/emissions/ghgrulemaking.html>.

¹¹⁵ Environmental Protection Agency, "National Emission Standards for Hazardous Air Pollutants: General Provisions," *72 Federal Register* 69, January 3, 2007.

¹¹⁶ Environmental Protection Agency, "Toxics Release Inventory Burden Reduction Final Rule," *71 Federal Register* 76932, December 22, 2006.

¹¹⁷ For further information, see GAO Report, *Environmental Information: EPA Actions Could Reduce the Availability of Environmental Information to the Public*, GAO-07-464T February 6, 2007, <http://www.gao.gov/products/GAO-07-464T>.

¹¹⁸ Environmental Protection Agency, "California State Motor Vehicle Pollution Control Standards; Notice of Decision Denying a Waiver of Clean Air Act Preemption for California’s 2009 and Subsequent Model Year Greenhouse Gas Emission Standards for New Motor Vehicles," *73 Federal Register* 12156, March 6, 2008.

¹¹⁹ See CRS Report RL34099, *California’s Waiver Request Under the Clean Air Act to Control Greenhouse Gases From Motor Vehicles*, by (name redacted) and (name redacted).

For more information on the budget and activities of the *Environmental Protection Agency*, see its websites, <http://www.epa.gov> and <http://www.epa.gov/ocfo/budget>.

Title III: Related Agencies

Department of Agriculture: Forest Service¹²⁰

The omnibus appropriations law provided \$4.75 billion for FY2009 for the USDA Forest Service (FS). This was \$631.4 million (15%) more than the Bush Administration request, with increases in every line item. It was also \$1.06 billion (18%) less than the FY2008 level; much of this difference from the FY2008 level was due to differences in funding for wildfire management, particularly the \$1.36 billion in emergency appropriations for FY2008. The stimulus law provided an additional \$1.15 billion for the Forest Service for FY2009, comprised of \$650.0 million for Capital Improvement and Maintenance and \$500.0 million for Wildland Fire Management.

As shown in **Figure 1** and **Table 20**, FS appropriations are provided in several major accounts: Forest and Rangeland Research (FS Research); State and Private Forestry; National Forest System; Wildland Fire Management; Capital Improvement and Maintenance (Capital); Land Acquisition; and Other programs. Wildland fire management, nearly half of the FS budget request, is discussed with DOI wildland fire management under “Cross-Cutting Topics,” below.

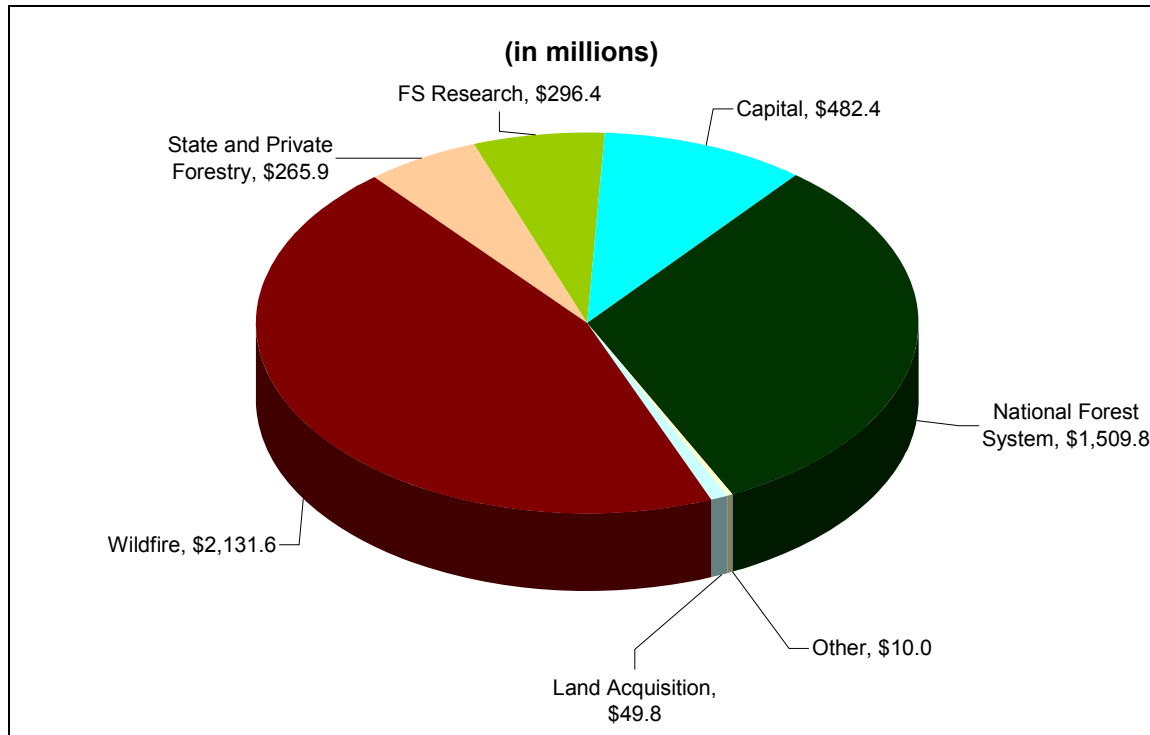
Major FS Issues in Appropriations

Significant FS issues have been raised during consideration of the annual appropriations. For FY2009, one issue was the Administration’s proposed decline in State and Private Forestry (described below)—58% below FY2008 appropriations. Most FS programs were proposed to be cut for FY2009, but none as much as the State and Private Forestry programs. Congress rejected these proposed cuts.

Table 20. Appropriations for the Forest Service (FS), FY2008-FY2009
(\$ in millions)

	FY2008 Approp.	FY2009 Request	FY2009 Omnibus	FY2009 Stimulus	FY2009 Total
FS Research	285.9	263.0	296.4	0	296.4
State and Private Forestry	262.8	109.5	265.9	0	265.9
National Forest System	1,469.6	1,349.5	1,509.8	0	1,509.8
Wildland Fire Management	3,269.5	1,976.6	2,131.6	500.0	2,631.6
Capital Improve. & Maint.	464.8	405.8	482.4	650.0	1,132.4
Land Acquisition	41.8	5.0	49.8	0	49.8
Other	10.0	5.0	10.0	0	10.0
Total Appropriations	5,804.4	4,114.4	4,745.8	1,150.0	5,895.8

¹²⁰ For more information on FS funding, contact (name redacted) at 7-.....

Figure I. FS FY2009 Appropriations Excluding Stimulus Funding

FS Payments to States also have been an issue in the appropriations debates. Payments under the Secure Rural Schools and Community Self-Determination Act of 2000 (P.L. 106-393) expired at the end of FY2006, and were extended for FY2007 in the emergency supplemental appropriations act (P.L. 110-28). In the FS budget proposals for FY2007 and FY2008, President Bush had proposed selling about 300,000 acres of national forest lands to extend payments under the program, but legislation necessary to authorize FS land sales was not introduced. The FY2009 request noted that the Bush Administration intended to propose legislation on the issue, with \$200 million above the baseline for a four-year extension targeted to the most affected areas, capped, adjusted downward annually, and phased out. No such legislation was introduced. The program was modified and extended for four years (FY2008-FY2011), with declining payments, in the Emergency Economic Stabilization Act of 2008 (P.L. 110-343, Title VI of Division C).

State and Private Forestry

State and Private Forestry (S&PF) programs provide financial and technical assistance to states and to private forest owners. For FY2009, the omnibus appropriations law provided \$265.9 million, \$156.4 million (143%) more than the Bush Administration request and a 1% increase over the FY2008 level. President Bush had requested a significant decrease—\$153.3 million (58%)—for S&PF from FY2008. See **Table 21**. The request included relatively large cuts for cooperative lands forest health management, forest stewardship, forest legacy, and urban and community forestry, and no funds for economic action program and forest resource information and analysis. Congress rejected the proposed cuts, enacting FY2009 funding levels comparable to the FY2008 appropriations.

**Table 21. Appropriations for the Forest Service (FS):
State and Private Forestry, FY2008-FY2009**

(\$ in millions)

State and Private Forestry	FY2008 Enacted	FY2009 Request	FY2009 Omnibus	FY2009 Stimulus	FY2009 Total
Forest Health Management	98.7	55.0	100.4	0	100.4
—Federal Lands	54.1	45.0	54.1	0	54.1
—Cooperative Lands	44.5	10.0	46.3	0	46.3
Cooperative Fire Assistance	38.5	30.0	41.0	0 ^a	41.0
—State Assistance	32.6	25.0	35.0	0	35.0
—Volunteer Assistance.	5.9	5.0	6.0	0	6.0
Cooperative Forestry	118.3	22.5	116.0	0	116.0
—Forest Stewardship	29.5	5.0	27.0	0	27.0
—Forest Legacy	52.3	12.5	49.4 ^b	0	49.4
—Urban & Comm. Forestry	27.7	5.0	29.5	0	29.5
—Economic Action Program	4.2	0	5.0	0	5.0
—Forest Res. Info. & Analysis	4.5	0	5.0	0	5.0
International Programs	7.4	2.0	8.5	0	8.5
Total Appropriations	262.8	109.5	265.9	0	265.9

- a. Excludes funds appropriated to Wildland Fire Management for state and private forestry activities. Specifically, the stimulus law provided \$500.0 million for Wildland Fire Management, of which \$250.0 million was for state and private forestry activities including hazardous fuels reduction, forest health, and ecosystem improvement activities on state and private lands.
- b. Total funding was \$57.4 million, offset by \$8.0 million from use of prior year balances.

Forest health management programs provide insect and disease control on federal and cooperative (nonfederal) lands. The omnibus appropriations law provided \$45.4 million (83%) more than the Bush Administration request and about equal to the FY2008 levels. Forest health programs are to receive additional funds for FY2009 under the stimulus law, although the amount was not specified. Cooperative fire programs had been proposed to decline by 23% for state fire assistance and 15% for volunteer fire assistance, but instead were funded at levels 40% and 20% higher than the FY2009 request and higher than the FY2008 appropriation.

The FY2009 request included substantial declines in all the cooperative forestry programs. For forest stewardship, which assists private landowners through state agencies, the omnibus appropriations law contained \$27.0 million, which was \$22.0 million (440%) more than the FY2009 request but below the FY2008 level of \$29.5 million. The law provided the forest legacy program, which purchases title or easements for lands threatened with conversion to nonforest uses (such as for residences), with \$49.4 million in appropriations and \$8.0 million in prior year funds, for a total of \$57.4 million. This total was \$44.9 million (360%) more than the requested amount and \$5.1 million (10%) more than the FY2008 level. The Bush Administration had proposed to cut urban and community forestry, which provides financial and technical assistance to localities, by \$22.7 million (82%), but the omnibus appropriations law provided \$24.5 million (491%) more than was requested and 7% more than FY2008 level. The Administration had

proposed to eliminate two other cooperative forestry programs—economic action (for assisting economic diversification in forest-dependent communities) and forest resource information and analysis—but the law instead provided, respectively, 18% and 11% more than FY2008 levels. Finally, the Administration had sought to reduce international forestry by \$5.4 million (73%), but the omnibus appropriations law provided \$6.5 million (325%) more than the Bush Administration’s request and \$1.1 million (15%) more than the FY2008 level.

FS Research

The omnibus appropriations law provided \$296.4 million for FS Research, an increase of \$33.4 million (13%) from the Bush Administration request and of \$10.5 million (4%) from FY2008. However, this understates the proposed decline for research, because the request also proposed no funding for forest resource information and analysis under S&PF. The omnibus law provided \$5.0 million for forest resource information and analysis under S&PF. In addition, it included \$23.9 million for fire plan research and development and \$8.0 million for the joint fire sciences program, under Wildland Fire Management (see “Wildland Fire Management,” below). Thus, the omnibus appropriations law effectively provided \$333.3 million for all forestry research and development programs for FY2009, \$40.3 million (14%) more than requested and \$11.5 million (4%) more than the FY2008 level.

National Forest System

The FY2009 omnibus appropriations law contained National Forest System (NFS) funding of \$1.51 billion, which was \$40.2 million (3%) above FY2008 appropriations. The omnibus law increased most sub-accounts by a modest amount, ranging from flat funding for land management planning to an 8% increase in funds for the Valles Caldera National Preserve. This contrasts with the Bush Administration request that would have cut funding for most programs. The total proposed cut was \$120.0 million (8%), with reductions ranging from 18% for landowner management to 2% for grazing management, and increases of 1% for forest products and 8% for land management planning.

Capital Improvement and Maintenance

This account includes funding for the construction and maintenance of facilities, roads, and trails, as well as for deferred maintenance (i.e., the maintenance backlog). For FY2009, the omnibus appropriations law provided \$482.4 million for Capital Improvement and Maintenance, \$76.6 million (19%) more than the Bush Administration request and \$17.6 million (4%) more than the FY2008 level. The FY2009 request had sought to increase some sub-accounts (facilities maintenance, road construction, and deferred maintenance) while reducing funding for the others. However, the omnibus law included increases in most accounts from FY2008, with decreases only for facilities construction and road construction.

One sub-account of particular interest to Congress is the maintenance backlog. The Bush Administration had proposed \$9.1 million for deferred maintenance, a small increase of \$0.1 million (2%). However, the Administration had proposed terminating a related program — legacy road remediation. This program, to decommission roads, repair and maintain roads and trails, remove fish passage barriers, and protect community water resources, was funded at \$39.8 million in FY2008. Thus, in total, the Administration sought to reduce deferred maintenance to address the agency’s backlog (estimated at \$5.15 billion as of September 30, 2008) by \$39.6

million (81%) from the FY2008 total of \$48.7 million to \$9.1 million. The omnibus appropriations law included the small proposed increase for deferred maintenance, but also increased funds for legacy road remediation to \$50.0 million. Thus, total funding to address the maintenance backlog was \$59.1 million, \$50.0 million above the request and \$10.4 million (21%) above FY2008.

In addition, the stimulus law included \$650.0 million for Capital Improvement and Maintenance for FY2009. The law provided these funds for “priority road, bridge and trail maintenance and decommissioning, including related watershed restoration and ecosystem enhancement projects; facilities improvement, maintenance and renovation; remediation of abandoned mine sites; and support costs ...” Thus, these funds will likely be used in part to address the agency’s maintenance backlog.

Land Acquisition

The omnibus appropriations law provided \$49.8 million for land acquisition in FY2009. This was \$44.8 million (nearly 9 times) more than the Bush Administration’s request, and \$7.9 million (19%) more than the FY2008 level. Most of the increase was provided for new acquisitions.

CRS Report R40237, *Federal Lands Managed by the Bureau of Land Management (BLM) and the Forest Service (FS): Issues for the 111th Congress*, coordinated by (name redacted), (name redacted), (name redacted), and (name redacted).

CRS Report RL34772, *Proposals to Merge the Forest Service and the Bureau of Land Management: Issues and Approaches*, by (name redacted).

CRS Report RL33822, *The Secure Rural Schools and Community Self-Determination Act of 2000: Forest Service Payments to Counties*, by (name redacted).

For information on the *Department of Agriculture*, see its website at <http://www.usda.gov/wps/portal/usdahome>.

For further information on the *U.S. Forest Service*, see its website at <http://www.fs.fed.us/>.

Department of Health and Human Services: Indian Health Service¹²¹

The Indian Health Service (IHS) in the Department of Health and Human Services (HHS) is responsible for providing comprehensive medical and environmental health services for approximately 1.9 million American Indians and Alaska Natives (AI/AN) who belong to 562 federally recognized tribes located in 35 states. Health care is provided through a system of federal, tribal, and urban Indian-operated programs and facilities. IHS provides direct health care services through 31 hospitals, 50 health centers, 2 school health centers, and 31 health stations. Tribes and tribal groups, through IHS contracts and compacts, operate another 15 hospitals, 254 health centers, 18 school health centers, 112 health stations, and 166 Alaska Native village

¹²¹ For more information on IHS funding, contact (name redacted) at 7-.....

clinics. IHS, tribes, and tribal groups also operate 12 regional youth substance abuse treatment centers and over 2,200 units of residential quarters for staff working in the clinics.

The omnibus appropriations law contained \$3.58 billion for IHS for FY2009, an increase of \$235.0 million (7%) from the FY2008 total of \$3.35 billion, and an increase of \$256.3 million (8%) from the Bush Administration’s request. From the stimulus law, IHS received an additional \$500.0 million, chiefly for facilities construction and improvement. IHS also receives funding through third-party reimbursements and from a special Indian diabetes program (see the “Health Services” section below). The sum of direct appropriations, reimbursements, and diabetes is IHS’s “program level” total. See **Table 22**.

Table 22. Appropriations for the Indian Health Service (IHS), FY2008-FY2009
(\$ millions)

Indian Health Service	FY2008 Approp.	FY2009 Request	FY2009 Omnibus	FY2009 Stimulus ^a	FY2009 Total
Indian Health Services					
Clinical Services	2,433.8	2,475.9	2,625.7	85.0	2,710.7
—Hospital and Health Clinics	1,484.0	1,521.9	1,597.8	85.0	1,682.8
—Indian Health Care Improvement Fund	13.8	10.0	15.0	0	15.0
—Dental Health	133.6	137.9	141.9	0	141.9
—Mental Health	63.5	65.8	67.7	0	67.7
—Alcohol and Substance Abuse	173.2	162.0	183.8	0	183.8
—Methamphetamine treatment and prevention	13.8	0	16.4	0	16.4
—Contract Health Services	579.3	588.2	634.5	0	634.5
—Catastrophic Health Emergency Fund	26.6	25.0	31.0	0	31.0
Preventive Health Services	127.6	131.1	135.2	0	135.2
—Public Health Nursing	55.9	58.3	59.9	0	59.9
—Health Education	15.0	15.2	15.7	0	15.7
—Community Health Representatives	54.9	55.8	57.8	0	57.8
—Immunization (Alaska)	1.7	1.8	1.8	0	1.8
Other Services	410.2	364.6	430.0	0	430.0
—Urban Health Projects	34.5	0	36.2	0	36.2
—Indian Health Professions	36.3	21.9	37.5	0	37.5
—Tribal Management	2.5	2.5	2.6	0	2.6
—Direct Operations	63.6	62.6	65.3	0	65.3
—Self-Governance	5.8	5.9	6.0	0	6.0
—Contract Support Costs	267.4	271.6	282.4	0	282.4
Subtotal, Indian Health Services	2,971.5	2,971.5	3,191.0	85.0	3,276.0
Indian Health Facilities					
—Maintenance and Improvement	52.9	52.9	53.9	100.0	153.9
—Sanitation Facilities Construction	94.3	94.3	95.9	68.0	163.9

Indian Health Service	FY2008 Approp.	FY2009 Request	FY2009 Omnibus	FY2009 Stimulus^a	FY2009 Total
—Health Care Facilities Construction	36.6	15.8	40.0	227.0	267.0
—Facilities and Environmental Health Support	169.6	169.1	178.3	0	178.3
—Equipment	21.3	21.3	22.1	20.0	42.1
Subtotal, Indian Health Facilities	374.6	353.3	390.2	415.0	805.2
Total Appropriations	3,346.2	3,324.9	3,581.1	500.0	4,081.1
Medicare/Medicaid Reimbursements and Other Collections	779.7	779.7	n/a	n/a	n/a
Special Diabetes Program for Indians ^b	150.0	150.0	150.0	0	150.0
Total Program Level	4,275.9	4,254.6	n/a	n/a	n/a

a. The stimulus appropriations law specified \$85.0 million for IHS health information technology (HIT), to be distributed by the IHS director. HIT funds may benefit many IHS budget activities and sub-activities but usually are assigned to the Hospital and Health Clinics budget sub-activity under Health Services. However, the stimulus law allowed use of the funds for HIT infrastructure under Facilities. IHS has not reported detailed allocations for the HIT stimulus funds, but it estimates about 20% of the HIT funds may be spent for infrastructure.

b. The Special Diabetes Program for Indians has a direct appropriation of \$150 million for each of fiscal years FY2004 through FY2009 (P.L. 110-173). Funded through the General Treasury, this program cost is not a part of IHS appropriations.

IHS funding is separated into two budget categories: Health Services, and Facilities. Of IHS appropriations enacted for FY2009 omnibus, 89% will be used for Health Services and 11% for the Facilities program. If IHS appropriations under the stimulus law are included, the proportion for Facilities jumps to 20% and the proportion for Health Services falls to 80%.

The most significant issues in the FY2009 IHS budget concern the urban Indian health and Indian health professions programs, in Health Services, and the health care facilities construction program in Facilities.

Health Services

The omnibus appropriations law contained \$3.19 billion for IHS Health Services for FY2009, which was \$219.4 million (7%) more than both the FY2008 level and the Bush Administration proposal for FY2009 — \$2.97 billion. IHS Health Services are funded not only through congressional appropriations but also from money reimbursed from private health insurance and federal programs such as Medicare, Medicaid, and the State Children’s Health Insurance Program (SCHIP). Estimated total reimbursements were expected to be \$779.7 million in FY2009. Another \$150.0 million per year is expended through IHS for the Special Diabetes Program for Indians, under a separate appropriation that expires at the end of FY2009.

The IHS Health Services budget has three subcategories: clinical services, preventive health services, and other services.

Clinical Services

The clinical services budget includes most of IHS Health Services funding. Under the omnibus appropriations law, clinical services received \$2.63 billion for FY2009, an increase of \$191.9 million (8%) over FY2008 and \$149.9 million (6%) over the Bush Administration's request.

Clinical services include primary care at hospitals and health clinics run by IHS and tribes. For hospital and health clinic programs, which make up 61% of the FY2009 clinical services budget, the FY2009 appropriation was \$1.60 billion. This was \$113.8 million (8%) more than FY2008 and \$75.8 million (5%) more than the Bush Administration's request. IHS places in the hospitals and health clinics budget sub-activity its HIT spending for both personal health services and public health initiatives across the Health Services budget.¹²² HIT funds appropriated to IHS in the stimulus law totaled \$85.0 million. Including these funds in the hospitals and health clinics budget increases that activity's total FY2009 appropriations to \$1.68 billion, or \$198.8 million (13%) more than FY2008.

Within the hospitals and health clinics budget activity is the Indian Health Care Improvement Fund (IHCIF), which is authorized to be allocated among IHS service units to reduce health status and resources deficiencies and shortfalls. IHCIF is allocated according to a formula that measures the percentage of health care funding needs met in each operating unit. IHCIF appropriations for FY2009 were \$15.0 million, which was \$1.2 million (9%) more than FY2008 and \$5.0 million (50%) more than the Bush Administration's FY2009 request. The explanatory statement for the omnibus appropriations act directed that IHCIF funds were to be allocated first to operating units with the greatest level of health care funding needs so as to bring their funding up to 40% of the funding needed (as measured by the formula).

Contract Health Services (CHS) is a program that funds the purchase of health services from local and community health care providers when IHS cannot provide medical care and specific services through its own system. CHS is especially important in IHS regions that have fewer direct-care facilities or no inpatient facilities. Included in the CHS program is the Catastrophic Health Emergency Fund (CHEF), which is used to pay contract health care costs in critical, high-cost cases (above \$25,000), such as disaster victims or catastrophic illnesses. The omnibus appropriations law contained \$634.5 million for CHS for FY2009, an increase of \$55.2 million (10%) over FY2008 appropriations and \$46.3 million (8%) over the Bush Administration's proposal. Included in the omnibus law was \$31.0 million for CHEF, an increase of \$4.4 million (17%) over FY2008 and of \$6.0 million (24%) over the FY2009 request.

For other programs within clinical services, the FY2009 omnibus appropriations were \$141.9 million for dental programs (6% increase from FY2008 and 3% increase from FY2009 request); \$67.7 million for mental health (7% increase from FY2008 and 3% increase from FY2009 request); and \$183.8 million for alcohol and substance abuse (6% increase from FY2008 and 13% increase from FY2009 request), which included \$16.4 million for methamphetamine treatment and prevention (19% increase from FY2008; FY2009 request was for no funding).

¹²² U.S. Department of Health and Human Services, Indian Health Service, *Justification of Estimates for Appropriations Committees, Fiscal Year 2009* (Rockville, MD: The Department, 2008), p. CJ-59.

Preventive Health Services

For preventive health services, the omnibus appropriations law contained \$135.2 million for FY2009, which was \$7.6 million (6%) more than FY2008 appropriations and \$4.1 million (3%) more than the Bush Administration's FY2009 request. Included in preventive health services appropriations for FY2009 were \$59.9 million for public health nursing; \$15.7 million for health education in schools and communities; \$1.8 million for immunizations in Alaska; and \$57.8 million for the tribally administered community health representatives (CHR) program, which supports tribal community members who work to prevent illness and disease in their communities. For public health nursing, the FY2009 appropriations were 7% more than FY2008 and 3% more than the Bush Administration's request; for health education, 5% and 3%, respectively; for Alaska immunizations, 5% and 4%, respectively; and for the CHR program, 5% and 4%, respectively.

Other Health Services

The omnibus appropriations law provided \$430.0 million for other health services for FY2009, an increase of \$19.8 million (5%) from the FY2008 appropriations and of \$65.4 million (18%) from the Bush Administration's request. These other health services include urban Indian health programs and Indian health professions support (both discussed below), contract support costs, tribal management grants, direct IHS operation of facilities, and self-governance technical assistance.

Of the total, contract support costs (CSC), the largest item in other health services, received appropriations of \$282.4 million for FY2009. This was an increase of \$15.0 million (6%) from FY2008 and of \$10.8 million (4%) from the Bush Administration's FY2009 request. CSC funds are provided to tribes to help pay the costs of administering IHS-funded programs under self-determination contracts or self-governance compacts authorized by the Indian Self-Determination and Education Assistance Act (P.L. 93-638, as amended). CSC pays for costs that tribes incur for such items as financial management, accounting, training, and program start-up.

Under the FY2009 omnibus appropriations law, tribal management grants received \$2.59 million in FY2009, an increase of \$0.1 million (4%) from FY2008 and of \$0.06 million (2%) from the Bush Administration's FY2009 request. Direct IHS operations appropriations were \$65.3 million in FY2009, which was \$1.7 million (3%) more than FY2008 and \$2.7 million (4%) more than the Bush Administration's request. Self-governance assistance received FY2009 appropriations of \$6.0 million, an increase of \$0.2 million (3%) from FY2008 and of \$0.8 million (1%) from the Bush Administration's proposal.

Urban Indian Health Program

FY2009 appropriations for the urban Indian health program were \$36.2 million, an increase of \$1.6 million (5%) from FY2008. The Bush Administration, as in the preceding two years, had proposed no FY2009 funding for the program.

The 32-year-old program helps fund preventive and primary health services for eligible urban Indians through contracts and grants with urban Indian organizations. Currently there are 35 urban Indian health programs serving 41 urban sites. The specific services vary from site to site, and may include direct clinical care, alcohol and substance abuse care, referrals, and health

information. The Bush Administration contended that IHS must target funding and services towards Indians on or near reservations, to serve those who do not have access to health care other than IHS, and that urban Indians can be served through other federal and local health programs, such as HHS's Health Centers program. Opponents asserted that the Administration did not provide evidence that alternative programs can replace the urban Indian health program and that it did not study the impact of the loss of IHS funding on health care for urban Indians who annually receive services through this program.

Indian Health Professions Program

IHS's Indian Health Professions program comprises three scholarship programs for Indians, a loan repayment program for health professionals' student loans, and multiple recruitment and retention activities. Several additional grant programs support the scholarship, loan repayment, and recruitment and retention programs. The purposes of the Indian Health Professions programs are to increase the number of Indians in health professions and to fill vacancies in IHS-funded health care facilities. Vacancies at IHS-funded facilities decrease access to health care and increase CHS expenditures, according to an IHS official.¹²³

The omnibus appropriations law contained \$37.5 million for FY2009 for Indian Health Professions, which was \$1.2 million (3%) more than FY2008 and \$15.6 million (71%) more than the Bush Administration's request. The Bush Administration had proposed a decrease for FY2009, contending that in a tight budget year IHS funding had to be concentrated on clinical and preventive health care and not on non-clinical programs like Indian Health Professions. Indian health proponents had opposed the reduction, asserting that it would sharply cut scholarships and loan repayment awards, and that the program needed to be increased.

Facilities

The IHS's Facilities budget category includes money for the equipment, construction, maintenance, and improvement of both health-care and sanitation facilities, as well as for environmental health support programs. Under the omnibus appropriations law, FY2009 appropriations for Facilities were \$390.2 million, which was \$15.5 million (4%) more than FY2008 and \$36.8 million (10%) more than the Bush Administration's request. See **Table 22**. Included in the FY2009 omnibus appropriations were \$53.9 million for maintenance and improvement and \$95.9 million for sanitation facilities construction (both 2% more than FY2008 and the request), as well as \$22.1 million for equipment (4% more than FY2008 and the request), \$178.3 million for facilities and environmental health support (5% more than FY2008 and the request), and \$40.0 million for health care facilities construction (9% more than FY2008 and 153% more than the request).

The stimulus appropriations law provided an additional \$415.0 million to the IHS Facilities budget, producing total appropriations in FY2009 for Facilities of \$805.2 million, 115% more than FY2008. All activities in the Facilities budget received stimulus funding except facilities and environmental health support. The stimulus law required that \$227.0 million go to health care

¹²³ Randy Grinnell, IHS, "Indian Health: Challenges and Changes," PowerPoint presentation at National Combined Councils Meeting, February 4, 2008, p. 12-13. According to this source, IHS vacancy rates in January 2008 were: dentists, 31%; physicians, 17%; nurses, 18%; optometrists, 13%; and pharmacists, 11%.

facilities construction, to complete up to two facilities from IHS's current construction priority list on which work had already been initiated. With the \$227.0 million in stimulus funding, total health care facilities construction funding for FY2009 was \$267.0 million, an increase of \$230.4 million (630%) over FY2008. In the explanatory statement on the bill, Congress specified how much was to go to other activities in the Facilities budget. See **Table 22**. It provided that \$100.0 million was for maintenance and improvement, for a FY2009 total of \$153.9 million, an increase of \$101.0 million (191%) over FY2008. Sanitation facilities received \$68.0 million, for a FY2009 total of \$163.9 million, which was \$69.6 million (74%) more than FY2008. The equipment budget received \$20.0 million, for an FY2009 total of \$42.1 million, an increase of \$20.8 million (98%) over FY2008. The stimulus law specified that spending caps on medical equipment in annual appropriations language did not apply. As with the BIA, the stimulus law excluded IHS facilities construction projects from its blanket provision requiring payment of prevailing wage rates under the Davis-Bacon Act, thereby retaining the current prevailing wage rate requirements applicable to IHS construction activities (under the Indian Self-Determination and Education Assistance Act and other laws).

CRS Report RL33022, *Indian Health Service: Health Care Delivery, Status, Funding, and Legislative Issues*, by (name redacted).

CRS Report R40181, *Selected Health Funding in the American Recovery and Reinvestment Act of 2009*, coordinated by (name redacted).

For further information on the Indian Health Service, see its website at <http://www.ihs.gov/>.

Office of Navajo and Hopi Indian Relocation¹²⁴

The Office of Navajo and Hopi Indian Relocation (ONHIR) and its predecessor were created pursuant to a 1974 act (P.L. 93-531, as amended) to resolve a lengthy dispute between the Hopi and Navajo tribes involving lands originally set aside by the federal government for a reservation in 1882. Pursuant to the 1974 act, the lands were partitioned between the two tribes. Members of one tribe living on land partitioned to the other tribe were to be relocated and provided new homes, and bonuses, at federal expense. Relocation is to be voluntary. ONHIR's chief activities consist of land acquisition, housing acquisition or construction, infrastructure construction, and post-move support, all for families being relocated. ONHIR also certifies families' eligibility for relocation benefits.

The omnibus appropriations law contained \$7.5 million for ONHIR for FY2009, a decrease of \$1.3 million (15%) from the FY2008 total of \$8.9 million and the same as the Bush Administration's proposal.

Navajo-Hopi relocation began in 1977 and is now nearing completion. ONHIR has a small backlog of relocatees who have been certified eligible for replacement homes but have not yet received them. Most families subject to relocation were Navajo. Originally, an estimated 3,600 eligible Navajo families resided on land partitioned (or judicially confirmed) to the Hopi, while only 26 eligible Hopi families lived on Navajo partitioned land, according to ONHIR data. By the end of FY2007, according to ONHIR, 98.5% of the currently eligible Navajo families and 100%

¹²⁴ For more information on ONHIR funding, contact (name redacted) at 7-.....

of the Hopi families had completed relocation. In addition, however, ONHIR estimated that as many as half of roughly 250 Navajo families (not all of them eligible families) who live on Hopi land and signed “accommodation agreements” (under P.L. 104-301) that allow them to stay on Hopi land, under Hopi law, might wish to opt out of these agreements and relocate using ONHIR benefits.

ONHIR estimated that, as of the end of FY2007, 51 eligible Navajo families were awaiting relocation. Eight of these 51 families still resided on Hopi partitioned land; one of these families was seeking a relocation home and the other seven refused to relocate or sign an accommodation agreement. ONHIR and the U.S. Department of Justice were negotiating with the Hopi Tribe to allow the seven Navajo families to stay on Hopi land, as autonomous families, in return for ONHIR’s relocating off Hopi land those families who had signed accommodation agreements but later decided to opt out and accept relocation.

In its FY2009 budget justification, ONHIR had estimated that relocation moves for the 51 currently eligible families would be completed during FY2008-FY2009. ONHIR also estimated that the addition of Navajo families who opt out of accommodation agreements and of Navajo families who filed late applications or appeals (but whom ONHIR is accommodating to avoid litigation), and who are certified by ONHIR, would extend relocation moves beyond FY2009. In addition, according to ONHIR, any required post-move assistance to relocatees would necessitate another two years of expenditures after the last relocation move.

Congress has been concerned at times about the speed of the relocation process and about avoiding forced relocations or evictions. A long-standing proviso in ONHIR appropriations language, retained for FY2009, prohibits ONHIR from evicting any Navajo family from Hopi partitioned lands unless a replacement home were provided. This language appears to prevent ONHIR from forcibly relocating Navajo families, because of ONHIR’s backlog of approved relocatees awaiting replacement homes. As the backlog is reduced, however, forced eviction may become an issue, if any remaining Navajo families were to refuse relocation and if the Hopi Tribe were to exercise a right under P.L. 104-301 to begin legal action against the United States for failure to give the Hopi Tribe “quiet possession” of all Hopi partitioned lands. The purpose of the negotiations among ONHIR, the Justice Department, and the Hopi Tribe, mentioned above, was to avoid this.

Smithsonian Institution¹²⁵

The Smithsonian Institution (SI) is a museum and research complex consisting of 19 museums and galleries and the National Zoo in addition to nine research facilities throughout the United States and around the world. Smithsonian facilities logged more than 28.2 million visitors in 2008. Established by federal legislation in 1846 in acceptance of a trust donation by the Institution’s namesake benefactor, SI is funded by both federal appropriations and a private trust, with \$989 million in revenue for FY2007.¹²⁶

FY2009 omnibus appropriations law provided \$731.4 million for SI, an increase of \$48.8 million (7%) over the FY2008 level of \$682.6 million and of \$15.0 million (2%) over the

¹²⁵ For more information on SI funding, contact Shannon Loane at 7-....

¹²⁶ Smithsonian Institution, *Explore Globally, Engage Locally: 2007 Annual Report*. This and older annual reports are available online at <http://www.si.edu/opa/annualrpts/>.

Administration's request of \$716.4 million. See **Table 23**. Funding was provided for three main line items: Salaries and Expenses, Facilities Capital, and the Legacy Fund.

Salaries and Expenses

For FY2009, the omnibus law appropriated \$593.4 million to fund SI salaries and expenses for its museums, research centers, and administration. This represented a \$31.0 million (5%) increase over FY2008 (\$562.4 million) and a \$5.0 million (1%) increase from the Administration's requested level of \$588.4 million. Noteworthy was a \$10.0 million increase in funding over the Bush Administration's request for museums and research institutes. There was a corresponding decrease of \$10.0 million from the Administration's request for facilities, comprised of \$5.0 million in the Salaries and Expenses account for facilities services and of \$5.0 million in the Facilities Capital account for facilities planning.

Concerns had been raised during the FY2008 Interior appropriations process over governance and fiscal management at the Smithsonian. In the explanatory statement on the FY2009 omnibus bill, the House and Senate Appropriations Committees stated that progress had been made in reforming governance and fiscal management, but that a continuing commitment to this reform was required. They requested that the Government Accountability Office (GAO) conduct a review of the Smithsonian's reform process and submit a progress report to the Committees by December 31, 2009.

Facilities Capital

Recent external studies¹²⁷ and the SI estimate that an investment of \$2.5 billion over ten years is needed to address advanced facilities deterioration. The FY2009 omnibus appropriations law provided the SI with \$123.0 million for Facilities Capital, a category that includes projects involving major repairs or replacement of declining and failed infrastructure to address the causes of advanced deterioration. The FY2009 appropriations represented an increase over FY2008 of \$17.6 million (17%), but a decrease of \$5.0 million (4%) from the Administration's request (as noted above).

In the stimulus law, an additional \$25.0 million for FY2009 was included for Facilities Capital. The Smithsonian is using these funds to repair the Arts and Industries Building (\$4.6 million), make repairs and improvements at the National Zoo (\$11.4 million), and carry out infrastructure projects at other locations (\$9.0 million).

The combined funds provided by the FY2009 omnibus appropriations law and the stimulus law brought total appropriations for Facilities Capital to \$148.0 million. This was an increase over FY2008 of \$42.6 million (40%) and an increase over the FY2009 request of \$20.0 million (16%).

Legacy Fund

The FY2009 omnibus appropriations law provided \$15.0 million for the SI's Legacy Fund. The Legacy Fund's purpose is to address the backlog of facilities capital repairs. The FY2009 omnibus law required a one-to-one match of private donations, and further stated that none of the funds could be used for day-to-day maintenance, general salaries and expenses, or programmatic

¹²⁷ For further information, see U.S. Government Accountability Office, *Smithsonian Institution: Funding Challenges Affect Facilities' Conditions and Security, Endangering Collections*, GAO-07-1127, September 2007.

purposes. The SI did not request funds for this purpose in FY2009, as the institution was developing plans to raise the matching private funds.

Established by Congress in 2008 (P.L. 110-161), the Legacy Fund received \$14.8 million in FY2008 for the initiative. There was a requirement that private dollars match each federal dollar two to one.

Table 23. Appropriations for the Smithsonian Institution, FY2008-FY2009
(\$ in thousands)

Smithsonian Institution	FY2008 Approp.	FY2009 Request	FY2009 Omnibus	FY2009 Stimulus	FY2009 Total
Salaries and Expenses	562,434	588,400	593,400	0	593,400
—Museums and Research Centers	227,995	224,052	234,052	0	234,052
—Program Support and Outreach	38,169	39,806	39,806	0	39,806
—Administration	65,509	69,229	69,229	0	69,229
—Inspector General	2,052	2,422	2,422	0	2,422
—Facilities Services	228,709	252,891	247,891	0	247,891
Facilities Capital	105,429	128,000	123,000	25,000	148,000
—Revitalization	90,900	104,500	104,500	0	104,500
—Facilities Planning and Design	14,529	23,500	18,500	0	18,500
Legacy Fund	14,766	0	15,000	0	15,000
Total Appropriations	682,629	716,400	731,400	25,000	756,400

Trust Funds

In addition to federal appropriations, the Smithsonian Institution receives income from trust funds which support salaries for some employees, donor-designated capital projects and exhibits, and operations. In FY2008, the SI's net assets decreased by almost 4 percent to a total of just under \$2.4 billion.

For further information on the *Smithsonian Institution*, see its website at <http://www.si.edu/>.

National Endowment for the Arts and National Endowment for the Humanities¹²⁸

One of the primary vehicles for federal support for the arts and the humanities is the National Foundation on the Arts and the Humanities, composed of the National Endowment for the Arts (NEA), the National Endowment for the Humanities (NEH), the Federal Council on the Arts and Humanities, and the Institute of Museum and Library Services (IMLS). The NEA and NEH authorization (P.L. 89-209; 20 U.S.C. §951) expired at the end of FY1993, but the agencies have been operating on temporary authority through appropriations measures. IMLS receives funding

¹²⁸ For more information on NEA/NEH funding, contact Shannon Loane at 7-.....

through the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts.

NEA

The NEA is a major federal source of support for all arts disciplines. Since 1965 it has provided more than 120,000 grants that have been distributed to all states. For FY2009, the omnibus appropriations law provided the NEA with \$155.0 million. This was an increase of \$10.3 million (7%) over FY2008, and an increase of \$26.6 million (21%) over the Bush Administration's FY2009 request, as shown in **Table 24**.

Table 24. Appropriations for the Arts and Humanities, FY2008-FY2009

(\$ in thousands)

Arts and Humanities	FY2008 Approp.	FY2009 Request	FY2009 Omnibus	FY2009 Stimulus	FY2009 Total
National Endowment for the Arts (NEA)					
—Grants	119,604	101,632	128,200	n/a	128,200
—Program Support	1,673	1,700	1,750	n/a	1,750
—Administration	23,429	25,080	25,050	n/a	25,050
Subtotal, NEA	144,706	128,412	155,000	50,000	205,000
National Endowment for the Humanities (NEH)					
—Grants	105,731	106,242	114,700	0	114,700
—Matching Grants	14,284	12,113	14,300	0	14,300
—Administration	24,692	26,000	26,000	0	26,000
Subtotal, NEH	144,707	144,355	155,000	0	155,000
Total Appropriations	289,413	272,767	310,000	50,000	360,000

The omnibus appropriations law provided a total of \$128.2 million for grant funding for FY2009. Most of this funding was provided for two large programs. Specifically, direct grants received \$54.1 million, an increase of \$4.9 million (10%) over FY2008 funding and \$14.9 million (38%) over the FY2009 Bush Administration's request. State/regional partnership grants received \$42.0 million, an increase of \$2.6 million (7%) over FY2008 funding and \$10.0 million (31%) over the FY2009 Administration's request. The total grants funding also included \$9.8 million for *Challenge America*—a program of matching grants for arts education, outreach, and community arts activities for rural and under-served areas. This was an increase of \$0.6 million (6%) over FY2008 funding and \$1.3 million (16%) over the FY2009 Bush Administration's request. Another \$13.3 million of the total grant funding was for *American Masterpieces*—which supports touring programs, local presentations, and arts education in the fields of dance, visual arts, and music. This was essentially level with the FY2008 appropriation and the FY2009 Bush Administration's request.

The NEA received an additional \$50.0 million through the stimulus law for grants and administration. According to the Act, these funds are “to be distributed in direct grants to fund arts projects and activities which preserve jobs in the non-profit arts sector threatened by declines in philanthropic and other support during the current economic downturn,” with forty percent of

the funds distributed to state and regional arts agencies, and sixty percent used for competitively awarded grants. The usual one-to-one matching requirement for NEA grants was waived for eligible entities receiving funding through the stimulus law.

NEH

The NEH generally supports grants for humanities education, research, preservation and public humanities programs; the creation of regional humanities centers; and development of humanities programs under the jurisdiction of the state humanities councils. Since 1965, NEH has provided more than 61,000 grants. NEH also supports a Challenge Grant program to stimulate and match private donations in support of humanities institutions.

The FY2009 omnibus appropriations law provided NEH with \$155.0 million, an increase of \$10.3 million (7%) over FY2008 funding and \$10.6 million (7%) over the FY2009 Bush Administration's request. One of the largest programs funded in NEH is federal/state partnerships, which received \$35.0 million for FY2009. This was an increase of \$3.3 million (10%) over FY2008 funding and the FY2009 Administration's request. Another large program is *We the People* initiative grants, which received \$15.8 million. This was an increase of \$0.8 million (5%) over FY2008 funding and a decrease of \$4.2 million (21%) from the FY2009 Bush Administration's request. *We the People* grants include model curriculum projects for schools to improve course offerings in the humanities.

CRS Report RS20287, *Arts and Humanities: Background on Funding*, by (name redacted).

For further information on the *National Endowment for the Arts*, see its website at <http://arts.endow.gov/>.

For further information on the *National Endowment for the Humanities*, see its website at <http://www.neh.gov/>.

Cross-Cutting Topics

Everglades Restoration¹²⁹

Altered natural flows of water by a series of canals, levees, and pumping stations, combined with agricultural and urban development, are thought to be the leading causes of environmental deterioration in South Florida. In 1996, Congress authorized the U.S. Army Corps of Engineers (Corps) to create a comprehensive plan to restore, protect, and preserve the entire South Florida ecosystem, which includes the Everglades (P.L. 104-303). A portion of this plan, the Comprehensive Everglades Restoration Plan (CERP), was completed in 1999, and provides for federal involvement in restoring the ecosystem. Congress authorized the Corps to implement CERP in Title IV of the Water Resources Development Act of 2000 (WRDA 2000, P.L. 106-541). While restoration activities in the South Florida ecosystem are conducted under several federal laws, WRDA 2000 is considered the seminal law for Everglades restoration. (See CRS Report RS20702, *South Florida Ecosystem Restoration and the Comprehensive Everglades Restoration Plan*, by (name redacted) and (name redacted).)

¹²⁹ For more information on funding for Everglades restoration, contact (name redacted) at 7-.....

Appropriations for restoration projects in the South Florida ecosystem have been provided to various agencies as part of several annual appropriations bills. The Interior, Environment, and Related Agencies appropriations laws have provided funds to several DOI agencies for restoration projects. Specifically, DOI conducts CERP and non-CERP activities in southern Florida through the National Park Service, Fish and Wildlife Service, U.S. Geological Survey, and Bureau of Indian Affairs. (For more on Everglades funding, see CRS Report RS22048, *Everglades Restoration: The Federal Role in Funding*, by (name redacted) and (name redacted).)

From FY1993 to FY2009, federal appropriations for projects and services related to the restoration of the South Florida ecosystem exceeded \$3.3 billion, and state funding topped \$12.0 billion.¹³⁰ The average annual federal cost for restoration activities in southern Florida in the next 10 years is expected to be approximately \$286 million per year.¹³¹ For FY2009, \$118.3 million was provided to DOI for Everglades restoration.¹³²

FY2009 Funding

For FY2009, \$118.3 million was provided to DOI for Everglades restoration, an increase of \$45.3 million over the FY2008 enacted level of \$73.0 million and an increase of \$48.9 million over the Bush Administration's request of \$69.4 million. Additional funds for Everglades restoration also were provided under the stimulus law. Detailed information on agency activities related to Everglades restoration is provided in **Table 25**.

The primary difference in funding between FY2008 and FY2009 was for the Modified Water Deliveries Project (Mod Waters). Specifically, the FY2009 omnibus appropriations law provided \$60.0 million for Mod Waters, a \$45.7 million increase from the FY2008 enacted level. See **Table 25**. This funding was in addition to \$50.0 million provided to the Corps for FY2009. Mod Waters is designed to improve water deliveries to Everglades National Park, and to the extent possible, restore the natural hydrological conditions within the Park. The completion of this project is required prior to the construction of certain projects under CERP.

Funding and planning for the Tamiami Trail portion of the project is being conducted by the Corps. The FY2009 omnibus appropriations law provided that funding in the law, as well as any prior acts, for the implementation of Mod Waters shall be made available to the Corps to implement a project regarding the Tamiami Trail, as described in the Limited Reevaluation Report with Integrated Environmental Assessment and Addendum (LRR).¹³³ This report details a project to increase water flows southward to Everglades National Park by creating a 1-mile bridge on Tamiami Trail and increasing the height of a canal by one foot. The project is expected to cost \$227 million. The FY2009 omnibus appropriations law also directed the Secretary of the Interior, acting through the National Park Service, to evaluate the feasibility of additional bridge length (i.e., additional bridges and longer bridges) beyond what is to be constructed under the LRR, to

¹³⁰ These figures represent an estimate of all CERP and non-CERP related costs for restoration in the South Florida ecosystem. For the State of Florida, the total figure includes \$1.85 billion for a land purchase in 2009 aimed at helping restoration.

¹³¹ This figure is based on CERP and non-CERP related restoration activities in South Florida.

¹³² The U.S. Army Corps of Engineers received approximately \$125.8 million for Everglades restoration for FY2009, excluding funding from the stimulus law.

¹³³ The report and addendum are available at <http://www.saj.usace.army.mil/Divisions/Everglades/Branches/ProjectExe/Sections/LECSW/MWD/TamiamiTrail.htm>.

restore natural flows of water to Everglades National Park. The feasibility study and recommendation for additional bridge length are to be submitted to Congress no later than March 11, 2010.

**Table 25. Appropriations for the Department of the Interior (DOI):
Everglades Restoration Budget, FY2008-FY2009**

(\$ in thousands)

Everglades Restoration in DOI	FY2008 Approp.	FY2009 Request	FY2009 Omnibus	FY2009 Stimulus	FY2009 Total
National Park Service (NPS)					
—CERP	4,657	4,699	4,699	n/a	n/a
—Park Operations ^a	28,481	30,210	29,852	n/a	n/a
—Everglades Acquisitions Management	750	800	730	n/a	n/a
—Modified Water Delivery	14,299	10,000	60,000	n/a	n/a
—Everglades Research	3,849	3,849	3,849	n/a	n/a
—South Florida Ecosystem Task Force	1,303	1,303	1,303	n/a	n/a
—GSA Space	554	554	0	n/a	n/a
Subtotal, NPS	53,893	51,415	100,433	n/a	n/a
Fish and Wildlife Service (FWS)					
—CERP	3,250	3,250	3,251	n/a	n/a
—Land Acquisition	1,028	0	0	n/a	n/a
—Ecological Services	2,482	2,443	2,475	n/a	n/a
—Refuges and Wildlife	4,315	4,315	4,022	n/a	n/a
—Migratory Birds	99	99	99	n/a	n/a
—Law Enforcement	609	609	609	n/a	n/a
—Fisheries	94	94	92	n/a	n/a
Subtotal, FWS	11,877	10,810	10,548	n/a	n/a
U.S. Geological Survey (USGS)					
—Research, Planning and Coordination	6,800	6,800	6,907	n/a	n/a
Subtotal, USGS	6,800	6,800	6,907	n/a	n/a
Bureau of Indian Affairs (BIA)					
—Seminole, Miccosukee Tribe Water Studies and Restoration	390	390	390	n/a	n/a
Subtotal, BIA	390	390	390	n/a	n/a
Total Appropriations	72,960	69,415	118,278	n/a	n/a

Source: U.S. Department of the Interior, *Fiscal Year 2010, The Interior Budget in Brief* (Washington, DC: May 2009).

- a. This includes total funding for park operations in Everglades National Park, Dry Tortugas National Park, Biscayne National Park, and Big Cypress National Preserve.

The level of commitment by the federal government to implement restoration activities in the Everglades continues to receive attention. Some observers measure commitment by the frequency and number of projects authorized under CERP, and the appropriations they receive. Because only two restoration projects have been authorized since WRDA 2000, these observers are concerned that federal commitment to CERP implementation is waning. Others assert that the federal commitment will be measurable by the amount of federal funding for construction, expected when the first projects break ground in the next few years. Some state and federal officials contend that federal funding will increase compared to state funding as CERP projects move beyond design into construction. Still others question whether the federal government should maintain the current level of funding, or increase its commitment, because of escalating costs and project delays.

Concerns Over Phosphorus Mitigation

Phosphorus is one of the primary water pollutants in the Everglades and a primary cause for ecosystem degradation. The FY2009 omnibus appropriations law did not contain a provision regarding phosphorus mitigation that had been included in recent appropriations laws. Specifically, from FY2004-FY2008, Interior appropriations laws conditioned funding for the Modified Water Deliveries Project based on meeting state water quality standards. Funds appropriated in the laws and any prior laws for Mod Waters would be provided *unless* administrators of four federal departments/agencies (Secretary of the Interior, Secretary of the Army, Administrator of the EPA, and the Attorney General) indicate in their joint report that water entering the A.R.M. Loxahatchee National Wildlife Refuge and Everglades National Park do not meet state water quality standards, and the House and Senate Committees on Appropriations respond in writing disapproving the further expenditure of funds. These provisions were enacted based on concerns regarding a Florida state law (Chapter 2003-12, enacted on May 20, 2003) that amended the Everglades Forever Act of 1994 (Florida Statutes §373.4592) by authorizing a new plan to mitigate phosphorus pollution in the Everglades.

CRS Report RS22048, *Everglades Restoration: The Federal Role in Funding*, by (name redacted) and (name redacted).

CRS Report RS21331, *Everglades Restoration: Modified Water Deliveries Project*, by (name redacted).

CRS Report RS20702, *South Florida Ecosystem Restoration and the Comprehensive Everglades Restoration Plan*, by (name redacted) and (name redacted).

For further information on *Everglades Restoration*, see the website of the South Florida Ecosystem Restoration Program at <http://www.sfrestore.org> and the website of the Corps of Engineers at <http://www.evergladesplan.org/>.

The Land and Water Conservation Fund (LWCF)¹³⁴

Overview

The LWCF (16 U.S.C. §§4601-4, et seq.) is authorized at \$900 million annually through FY2015. However, these funds may not be spent without an appropriation. The LWCF is used for three purposes. First, the four principal federal land management agencies—Bureau of Land Management, Fish and Wildlife Service, National Park Service, and Forest Service—draw primarily on the LWCF to acquire lands. The sections on each of those agencies earlier in this report identify funding levels and other details for their land acquisition activities. Second, the LWCF funds acquisition and recreational development by state and local governments through a grant program administered by the NPS, sometimes referred to as stateside funding. Third, the Clinton and Bush Administrations had requested, and Congress appropriated, money from the LWCF to fund some related activities. This third use is relatively recent, starting with the FY1998 appropriation. Programs funded have varied from year to year. Most of the appropriations for federal acquisitions generally are specified for management units, such as a specific National Wildlife Refuge. The appropriations for the state grant program and other related activities rarely have been specified for individual projects or areas.

From FY1965 through FY2009, about \$32 billion was credited to the LWCF. Roughly \$15 billion of that amount has been appropriated. Throughout history, annual appropriations from LWCF have fluctuated considerably. The omnibus appropriations law contained a total of \$275.3 million for the land and water conservation fund for FY2009. This was 8% higher than the FY2008 level (\$255.1 million) but 21% less than the Bush Administration’s request for FY2009 (\$348.7 million). The law included funds for federal land acquisition, the stateside program, and other purposes, as discussed below.

Land Acquisition

Of the total appropriations for FY2009, \$152.2 million was for federal land acquisition. This was an 18% increase over FY2008 (\$129.1 million) and more than three times the Administration’s request of \$41.5 million for FY2009. The Administration had requested an additional \$8.0 million for land appraisals related to federal land acquisition. From a low of \$111.9 million for FY2006, funding for federal land acquisition increased each year to \$152.2 million for FY2009. The variability of funding for this activity reflects a tension regarding the extent of federal land ownership. **Table 26** shows recent funding for LWCF.

Table 26. Appropriations for the Land and Water Conservation Fund (LWCF), FY2004-FY2009

(\$ in millions)

Land and Water Conservation Fund	FY2004 Approp.	FY2005 Approp.	FY2006 Approp.	FY2007 Approp.	FY2008 Approp.	FY2009 Request	FY2009 Omnibus
Federal Acquisition							
—BLM	18.4	11.2	8.6	8.6	8.9	4.5	14.8

¹³⁴ For more information on LWCF funding, contact (name redacted) at 7-.....

Land and Water Conservation Fund	FY2004 Approp.	FY2005 Approp.	FY2006 Approp.	FY2007 Approp.	FY2008 Approp.	FY2009 Request	FY2009 Omnibus
—FWS	38.1	37.0	28.0	28.0	34.6	10.2	42.5
—NPS	41.7	55.1	34.4 ^a	34.4	44.4	21.8	45.2
—FS	66.4	61.0	40.9	41.9	41.2	5.0	49.8
Subtotal, Federal Acquisition	164.6	164.3	111.9	113.0	129.1	41.5	152.2
Appraisal Services ^b	0	0	7.3	7.4	0	8.0	0
Grants to States	93.8	91.2	29.6	29.6	24.6	0 ^c	19.0
Other Programs	229.7 ^d	203.5	213.1	216.1	101.3	299.2 ^e	104.1
Total Appropriations	488.1^d	459.0	361.9^a	366.1	255.1	348.7^e	275.3

Source: The primary sources for this data are tables from the DOI Budget Office and from the House and Senate Appropriations Committees.

- a. The NPS land acquisition and total appropriations figures are reduced by \$9.8 million due to the use of prior year funds for NPS federal land acquisition.
- b. For FY2008 and FY2009, there were appropriations of \$7.7 million and \$8.0 million respectively for appraisal services, but these funds did not appear to be derived from LWCF. Accordingly, they are not reflected here.
- c. President Bush proposed \$1.4 million for the administration of state grants in FY2009, to be derived from the appropriation for National Recreation and Preservation rather than the LWCF. Accordingly, this amount is not reflected here. Further, the President proposed canceling \$1.0 million in prior year state assistance balances, which is not reflected here.
- d. This figure includes \$5 million for Bureau of Indian Affairs settlements and \$5 million for FWS resource management.
- e. This figure reflects the cancellation of \$4.5 million in prior year funds for the FWS Cooperative Endangered Species Conservation Fund.

Grants to States

The omnibus appropriations law provided \$19.0 million for FY2009 for stateside grants. This figure was comprised of \$19.0 million for state grants, \$1.0 million for program administration, and a \$-1.0 million cancelation of prior year funds. Over the past decade (since FY2000), stateside funding has ranged from a high of \$143.9 million in FY2002 to a low of \$19.0 million in FY2009.

The Bush Administration did not request funds for new stateside grants in FY2009; similarly, there was no Administration request for stateside grants for FY2006 through FY2008. The Bush Administration had asserted that state and local governments have alternative sources of funding for parkland acquisition and development. The Administration also concluded that the current program could not adequately measure performance or demonstrate results, and is not central to NPS's core functions. For FY2009, the Administration did request a relatively small amount of funding for administration of the grant program—\$1.4 million. However, the funds were not sought from LWCF, but instead from NPS's National Recreation and Preservation line item which funds administration of other grants. Seeking to eliminate funds for new stateside grants is not a new phenomenon. For example, for several years the Clinton Administration proposed eliminating stateside funding, and Congress concurred.

Through provisions of the Gulf of Mexico Energy Security Act of 2006 (P.L. 109-432), a portion of revenues from certain OCS leasing are provided (without further appropriation) to the stateside grant program. An estimated \$8.2 million in revenue from such OCS leasing was projected to be collected in FY2008 and disbursed to the stateside program in FY2009.

Other Purposes

The omnibus appropriations law contained \$104.1 million for two other programs. Of the total, \$54.7 million was provided for FWS Cooperative Endangered Species Grants and \$49.4 million was for the FS Forest Legacy Program. The FY2009 total was similar to the FY2008 appropriation (\$101.3 million) but about one-third of what the Bush Administration had requested for FY2009 (\$299.2 million).

In addition to the two programs that were funded, President Bush had sought funds for FY2009 for several other programs within the Department of the Interior and the Forest Service. The Bush Administration typically requested a much larger amount for other programs than was appropriated. Nevertheless, for each year from FY2004 through FY2007, the largest portion of the LWCF appropriation was for other programs, as shown in **Table 26**. This changed in FY2008, when the largest portion of the LWCF appropriation was for land acquisition, as was the case for FY2009.

Table 27 shows the other programs for which Congress appropriated funds for FY2006 through FY2009 or for which President Bush requested funds for FY2009. Any non-LWCF funds provided to these programs is not reflected here.

**Table 27. Appropriations for the Land and Water Conservation Fund (LWCF):
Other Programs, FY2006-FY2009**
(\$ in millions)

Other Programs	FY2006 Approp.	FY2007 Approp.	FY2008 Approp.	FY2009 Request	FY2009 Omnibus
Department of the Interior					
Bureau of Land Management					
—Challenge Cost Share	0	0	0	9.2	0
Fish and Wildlife Service					
—Resource Management	0	0	0	82.7	0
—State and Tribal Wildlife Grants	67.5	67.5	0	73.8	0
—Landowner Incentive Grants	21.7	23.7	0	0	0
—Private Stewardship Grants	7.3	7.3	0	0	0
—Cooperative Endangered Species Grants	60.1	61.1	49.0	75.5 ^a	54.7 ^b
—North American Wetlands Conservation Fund Grants	0	0	0	42.6	0
National Park Service					
—Challenge Cost Share	0	0	0	2.3	0
Departmental Management					
—Take Pride in America	0	0	0	0.5	0

Other Programs	FY2006 Approp.	FY2007 Approp.	FY2008 Approp.	FY2009 Request	FY2009 Omnibus
Forest Service (USDA)					
—Forest Legacy Program	56.5	56.5	52.3	12.5	49.4
Total Appropriations	213.1	216.1	101.3	299.2	104.1

Note: This table identifies “other” programs for which Congress appropriated funds for FY2006 through FY2009 or for which the Bush Administration requested funds for FY2009. It excludes federal land acquisition and the stateside program. Funding provided outside of LWCF is not reflected. Information is from the DOI Budget Office and House and Senate Appropriations Committees.

- a. Reflects a request for \$80.0 million and the cancellation of \$4.5 million in prior year funds for a total of \$75.5 million for FY2009.
- b. The law provided \$80.0 million for the Cooperative Endangered Species Conservation Fund, with \$54.7 million derived from the LWCF. It also contained a rescission of \$4.5 million in unobligated balances, resulting in an appropriation of \$75.5 million. The \$54.7 million reported here does not reflect the rescission, as the law did not specify whether it was to be taken from the LWCF portion of the overall appropriation.

CRS Report RL33531, *Land and Water Conservation Fund: Overview, Funding History, and Current Issues*, by (name redacted).

Wildland Fire Management¹³⁵

Wildfire protection programs and funding continue to be controversial. Ongoing discussions include questions about the high cost of fire suppression efforts; locations for various fire protection treatments; and whether, and to what extent, environmental analysis, public involvement, and legal challenges to administrative decisions hinder fuel reduction and post-fire rehabilitation activities.

The FS and DOI wildfire line items include funds for fire suppression, preparedness, and other operations. The FY2009 omnibus appropriations law provided \$2.99 billion for the FS and DOI wildland fire management accounts. See **Table 28**. This was an increase of \$164.4 million (6%) from the Bush Administration’s FY2009 request, and an increase of \$239.7 million (9%) from FY2008 regular appropriations. For FY2009, the FS received \$2.13 billion, \$155.0 million (8%) more than the request. DOI received \$859.5 million, \$9.4 million (1%) more than the request. The FY2009 budget request also proposed transferring the DOI wildfire appropriation from the Bureau of Land Management, which traditionally had transferred wildfire funds to the other DOI agencies, to the Office of the Secretary—Department-Wide Programs; the FY2009 omnibus appropriations law accepted this change. (For historical background, descriptions of activities, and analysis of wildfire expenditures, see CRS Report RL33990, *Wildfire Funding*, by (name redacted).)

FY2008 funding also included \$1.71 billion of emergency wildfire appropriations—\$500.0 million in P.L. 110-116 (\$329.0 million for the FS and \$171.0 million for DOI), \$300.0 million in Title V of P.L. 110-161 (\$222.0 million for the FS and \$78.0 million for DOI), and \$910.0 million in P.L. 110-329 (\$775.0 million for the FS and \$135 million for DOI). In addition, the FY2009

¹³⁵ For more information on funding for Wildland Fire Management, contact (name redacted) at 7-.... or (name redacted) at 7-.....

economic stimulus law provided an additional \$515.0 million (\$500.0 million for the FS and \$15.0 million for BLM) for reducing fuel levels on federal and nonfederal lands, and for related activities.

Table 28. Appropriations for the Forest Service (FS) and the Department of the Interior (DOI): Wildland Fire Management, FY2007-FY2009
(\$ in millions)

National Fire Plan	FY2007 Approp.	FY2008 Approp.	FY2009 Request	FY2009 Omnibus	FY2009 Stimulus	FY2009 Total
FS						
—Fire suppression	741.5	845.6	993.9	993.9	0	993.9
—Preparedness	665.4	665.8	588.4	675.0	0	675.0
—Other operations	416.7	432.0	394.3	462.7	500.0 ^a	962.7
Subtotal, FS	1,823.6	1,943.5	1,976.6	2,131.6	500.0 ^a	2,631.6
—Emergency	370.0	1,326.0	0	0	0	0
Total, FS	2,193.6	3,269.5	1,976.6	2,131.6	500.0	2,631.6
DOI						
—Fire Suppression	249.2	289.8	335.2	335.2	0	335.2
—Preparedness	274.9	276.5	277.7	281.8	0	281.8
—Other Operations	234.3	241.8	237.2	242.5	15.0 ^b	257.5
Subtotal, DOI	758.4	808.1	850.1	859.5	15.0 ^b	874.5
—Emergency	95.0	384.0	0	0	0	0
Total, DOI	853.4	1,192.1	850.1	859.5	15.0	874.5
FS and DOI						
—Fire Suppression	990.7	1,135.4	1,329.1	1,329.1	0	1,329.1
—Preparedness	940.3	942.3	866.1	956.8	0	956.8
—Other Operations	651.1	673.8	631.5	705.2	515.0	1,220.2
Subtotal, Funding	2,582.0	2,751.5	2,826.7	2,991.1	515.0	3,506.1
—Emergency	465.0	1,710.0	0	0	0	0
Total Appropriations	3,047.0	4,461.5	2,826.7	2,991.1	515.0	3,506.1

Note: Includes funding only from DOI and FS Wildland Fire Management accounts. This table differs from the detailed tables in CRS Report RL33990, *Wildfire Funding*, by (name redacted), because that report rearranges data to distinguish funding for protecting federal lands, assisting in nonfederal land protection, and fire research and other activities.

- a. The stimulus law provided \$500.0 million for Wildand Fire Management, of which \$250.0 million was for state and private forestry activities including hazardous fuels reduction, forest health, and ecosystem improvement activities on state and private lands. The other \$250.0 million was to be used on federal lands for several purposes — hazardous fuels reduction, forest health protection, rehabilitation, and fire hazard mitigation activities.
- b. The FY2009 stimulus law appropriated these funds to the Bureau of Land Management, rather than to DOI.

Wildfire Suppression

The omnibus appropriations law included \$1.33 billion for FY2009 wildfire suppression—for fighting wildfires—matching the Bush Administration’s request. This was an increase of \$193.7 million (17%) above the FY2008 regular appropriations. This included an increase of \$148.3 million (18%) for the FS and of \$45.4 million (16%) for DOI. The amounts were based on the 10-year average of suppression obligations, adjusted for inflation. However, the appropriations were less than the total of fire suppression plus emergency and contingent funding in four of the past five years. Further, emergency wildfire funding for FY2008 totaled \$1.71 billion, of which \$1.28 billion was for fire suppression (or repaying funds previously borrowed for fire suppression). In its report on the FY2008 appropriations bill, the House Appropriations Committee expressed continued concern with the high costs of large fires, and provided direction to the FS and DOI on examining, reducing, and reporting on the costs of large fire incidences (H.Rept. 110-187, p. 139). The Federal Land Assistance, Management, and Enhancement (FLAME) Act, H.R. 1404 and S. 561, have been introduced to modify the funding structure for severe fires, to reduce the borrowing that has affected other agency programs.¹³⁶

Fire Preparedness

The omnibus appropriations law included \$956.8 million for FY2009 for wildfire preparedness—equipment, training, baseline personnel, prevention, and detection. This was an increase of \$90.7 million (10%) from the request and of \$14.5 million (2%) from FY2008. The Bush Administration had proposed a decrease of \$77.4 million (12%) for FS preparedness, but Congress increased preparedness funding for both agencies. In their reports on the FY2008 appropriations bill, the Appropriations Committees had recommended an increase in preparedness funding. For instance, the Senate Committee had asserted that cutting preparedness funds would not save money, but rather shift expenditures to suppression (S.Rept. 110-91, p. 15).

Other Operations

Other wildland fire operations include funds for an array of activities—burned area rehabilitation, fuel reduction, research, and assistance to states and private entities. The omnibus appropriations law included \$705.2 million for FY2009 for other operations, an increase of \$73.7 million (12%) from the FY2009 requests and of \$31.4 million (5%) from FY2008 regular appropriations. However, the increases were not spread evenly among the activities.

The FY2009 omnibus appropriations law included \$31.8 million for burned area rehabilitation—\$20.3 million for DOI and \$11.5 million for the FS. This was a decline of \$4.0 million (16%) from the BLM’s FY2009 requested appropriations and an increase of \$11.5 million from the request for no specific FS site rehabilitation funds. FS funds for emergency burned area rehabilitation can be drawn from suppression funding, while additional funds to restore burned areas are provided in the various accounts for the National Forest System. Emergency funds totaling \$131.0 million—\$100.0 million for the FS and \$31.0 million for DOI—also were enacted for FY2008 to supplement burned area rehabilitation.

¹³⁶ For further information, see CRS Report RL33990, *Wildfire Funding*, by (name redacted) and CRS Report R40237, *Federal Lands Managed by the Bureau of Land Management (BLM) and the Forest Service (FS): Issues for the 111th Congress*, coordinated by (name redacted) and (name redacted).

Fuel reduction was a Bush Administration focus, to implement the Healthy Forests Restoration Act of 2003 (P.L. 108-148) and the National Fire Plan. The omnibus appropriations law included \$531.1 million for fuel reduction, \$31.3 million (6%) more than was requested (\$499.8 million) and \$21.4 million (4%) more than enacted for FY2008 (\$509.7 million). Emergency funds totaling \$265.0 million (\$255.0 million for the FS and \$10.0 million for DOI) also were enacted for FY2008 for fuel reduction, with as much as \$155.0 million of the FS funds available for fuel reduction on nonfederal lands. In addition, the FY2009 economic stimulus law contained an additional \$515.0 million for activities including fuel reduction. Of this, \$15.0 million was for the BLM and \$500.0 million was for the FS, with half of the FS funds for use on federal lands and half for use on state and private lands.

The omnibus appropriations law maintained or increased wildfire appropriations for fire research in FY2009. DOI funding for the Joint Fire Science Program received \$6.0 million, 50% above the request and nearly the same as the FY2008 level. FS funding for the Joint Fire Science Program was \$8.0 million as requested, and above the FY2008 level. Funding for FS fire plan research and development was increased to \$23.9 million, \$1.9 million (9%) above the request and 2% above the FY2008 level. The FS also funds fire research in its research line item, but the amount of general forestry research for fire is not distinguished in the budget documents.

The omnibus appropriations law significantly increased FY2009 FS fire assistance funding, to \$91.2 million. This was \$11.5 million (14%) more than enacted for FY2008 and \$23.9 million (36%) more the President Bush's request. Relative to the Administration's request, the FY2009 amount included an increase for FS forest health management on federal lands (21%), a modest decrease for forest health management on nonfederal lands (1%), an increase for volunteer fire assistance (13%), and a significant increase (\$20.0 million, 57%) for state fire assistance. The omnibus law also restored proposed cuts in State and Private Forestry funding for these programs. (See State and Private Forestry under "Department of Agriculture: Forest Service," above.) DOI funding for community assistance, proposed to be terminated by the Bush Administration, was increased to \$7.0 million, up \$1.1 million (19%) from FY2008.

Emergency Supplemental and Contingent Appropriations, FY2008

P.L. 110-116 provided \$500.0 million in emergency wildfire appropriations for FY2008, with \$329.0 million for the FS and \$171.0 million for DOI. The funds were for several purposes:

- \$110.0 million for FS emergency wildfire suppression and \$40.0 million for DOI emergency wildfire suppression;
- \$100.0 million for repayment of FS accounts and \$115.0 million for repayment of DOI accounts from which funds were borrowed during FY2007 for wildfire suppression;
- \$80.0 million for FS fuels reduction and hazard mitigation activities (including \$30.0 million available for activities on nonfederal lands) and \$10.0 million for DOI fuels reduction;
- \$25.0 million for FS rehabilitation and restoration of lands and \$6.0 million for DOI rehabilitation and restoration of lands; and
- \$14.0 million for reconstruction/construction of FS facilities.

In addition, Title V of the FY2008 Interior appropriations act (Division F of P.L. 110-161) provided another \$300.0 million for emergency wildfire suppression—\$222.0 million for the FS and \$78.0 million for DOI.

Finally, P.L. 110-329 (the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009) provided \$910.0 million in emergency wildfire appropriations for FY2008—\$775.0 million for the FS and \$135.0 million for DOI. As with P.L. 110-116 emergency funding, the money was directed for several purposes:

- \$500.0 million for FS emergency wildfire suppression (including at least \$300.0 million to repay FY2008 borrowings and at least \$100.0 million to repay previous borrowings) and \$110.0 million for DOI emergency wildfire suppression and repayment of borrowed funds;
- \$75.0 million for FS rehabilitation and restoration of burned lands and \$25.0 million for DOI burned area rehabilitation;
- \$175.0 million for FS fuels reduction (including \$125.0 million available for activities on nonfederal lands); and
- \$25.0 million for FS preparedness for retention initiatives for high risk areas with recurrent staffing shortages.

CRS Experts List WE04003, *Wildfires: CRS Experts*, by (name redacted).

CRS Report RL33990, *Wildfire Funding*, by (name redacted).

CRS Report RL30755, *Forest Fire/Wildfire Protection*, by (name redacted).

CRS Report RL34517, *Wildfire Damages to Homes and Resources: Understanding Causes and Reducing Losses*, by (name redacted).

CRS Report RS21880, *Wildfire Protection in the Wildland-Urban Interface*, by (name redacted).

For further information on wildfires, see the National Interagency Fire Center website at <http://www.nifc.gov>.

Table 29. Appropriations for Interior, Environment, and Related Agencies, FY2004-FY2009

(\$ in thousands)

Bureau or Agency	FY2004 Approp.	FY2005 Approp.	FY2006 Approp. ^a	FY2007 Approp.	FY2008 Approp.	FY2009 Requested	FY2009 Omnibus	FY2009 Stimulus	FY2009 Total
Title I: Department of the Interior									
—Bureau of Land Management ^b	1,009,640	985,615	1,001,902	1,029,498	1,007,897	999,119	1,038,596	320,000	1,358,596
—U.S. Fish and Wildlife Service	1,308,405	1,332,591	1,307,639	1,340,989	1,441,301	1,301,745	1,440,451	280,000	1,720,451
—National Park Service	2,258,581	2,365,683	2,255,768	2,299,959	2,390,488	2,404,342	2,525,608	750,000	3,275,608
—U.S. Geological Survey	937,985	944,564	961,675	988,050	1,006,480	968,516	1,043,803	140,000	1,183,803
—Minerals Management Service	170,297	173,826	158,294	159,530	118,053	160,393	116,676	0	116,676
—Office of Surface Mining Reclamation and Enforcement	295,975	296,573	294,228	294,654	170,411	137,559	164,702	0	164,702
—Bureau of Indian Affairs	2,300,814	2,295,702	2,274,270	2,308,304	2,291,279	2,191,364	2,376,131	500,000	2,876,131
—Departmental Offices ^c	460,859	496,837	527,656	514,913	474,236	474,180	480,790	15,000	495,790
—Department-Wide Programs ^d	1,105,408	1,063,837	1,003,540	1,101,911	1,477,066	1,135,064	949,374	0	949,374
Subtotal, Title I: Department of the Interior	9,847,964	9,955,228	9,784,972	10,037,808	10,377,211	9,772,282	10,136,131	2,005,000	12,141,131
Subtotal, Title II: Environmental Protection Agency	8,361,841	8,026,485	7,617,416	7,723,948	7,461,496	7,177,285	7,635,674	7,220,000	14,855,674
Title III: Related Agencies									
—U.S. Forest Service (FS) ^f	4,939,899	4,770,598	4,200,762	4,706,349	5,804,428	4,114,367	4,745,794	1,150,000	5,895,794
—Indian Health Service	2,921,715	2,985,066	3,045,310	3,180,148	3,346,181	3,324,862	3,581,124	500,000	4,081,124
—National Institute of Environmental Health Sciences	78,309	79,842	79,108	79,117	77,546	77,546	78,074	0	78,074
—Agency for Toxic Substances and Disease Registry	73,034	76,041	74,905	75,212	74,039	72,882	74,039	0	74,039
—Council on Environmental Quality and Office of Environmental Quality	3,219	3,258	2,677	2,698	2,661	2,703	2,703	0	2,703
—Chemical Safety and Hazard Investigation Board	8,648	9,424	9,064	9,113	9,263	9,499	10,199	0	10,199

Bureau or Agency	FY2004 Approp.	FY2005 Approp.	FY2006 Approp. ^a	FY2007 Approp.	FY2008 Approp.	FY2009 Requested	FY2009 Omnibus	FY2009 Stimulus	FY2009 Total
—Office of Navajo and Hopi Indian Relocation	13,366	4,930	8,474	8,509	8,860	7,530	7,530	0	7,530
—Institute of American Indian and Alaska Native Culture and Arts Development	6,173	5,916	6,207	6,207	7,183	7,900	7,900	0	7,900
—Smithsonian Institution	596,279	615,158	615,097	634,895	682,629	716,400	731,400	25,000	756,400
—National Gallery of Art	98,225	102,654	111,141	111,729	117,866	118,000	122,756	0	122,756
—John F. Kennedy Center for the Performing Arts	32,159	33,021	30,347	30,389	42,674	33,300	36,364	0	36,364
—Woodrow Wilson International Center for Scholars	8,498	8,863	9,065	9,100	9,844	8,857	10,000	0	10,000
—National Endowment for the Arts	120,972	121,264	124,406	135,500	144,706	128,412	155,000	50,000	205,000
—National Endowment for the Humanities	135,310	138,054	140,949	141,105	144,707	144,355	155,000	0	155,000
—Commission of Fine Arts	1,405	1,768	1,865	1,873	2,059	2,234	2,234	0	2,234
—National Capital Arts and Cultural Affairs	6,914	6,902	7,143	7,143	8,367	0	9,500	0	9,500
—Advisory Council on Historic Preservation	3,951	4,536	4,789	4,828	5,265	5,498	5,498	0	5,498
—National Capital Planning Commission	7,635	7,888	8,123	8,168	8,136	8,328	8,328	0	8,328
—U.S. Holocaust Memorial Museum	39,505	40,858	42,150	42,349	44,786	46,839	47,260	0	47,260
—Presidio Trust	20,445	19,722	19,706	19,706	22,051	17,450	17,450	0	17,450
—White House Commission on the Natl. Moment of Remembrance	0	248	247	247	197	0	0	0	0
—Dwight D. Eisenhower Memorial Comm.	0	0	0	0	1,969	19,000	2,000	0	2,000
Subtotal, Title III: Related Agencies	9,115,661	9,036,011	8,541,535	9,214,385	10,565,417	8,865,962	9,810,153	1,725,000	11,535,153
Subtotal, [Title IV: Veterans' Health]	0	0	[1,500,000]	0	0	0	0	0	0
Subtotal, Title IV: Secure Rural Schools	0	0	0	425,000	0	0	0	0	0
Grand Total Appropriations (in Bill)^e	27,325,466	27,017,724^f	25,942,155^g	27,401,141^h	28,416,852ⁱ	25,810,529^j	27,590,958^k	10,950,000	38,540,958

Source: House and Senate Appropriations Committees.

a. Supplemental appropriations are not reflected in this column.

- b. Figures do not reflect funding appropriated to Bureau of Land Management (BLM) for Wildland Fire Management for FY2004 through FY2008. These fire funds are included under Department-Wide Programs, consistent with the change to fund Department of the Interior (DOI) firefighting from this account beginning with FY2009.
- c. The Departmental Offices figure currently includes the Office of the Secretary, Insular Affairs, Office of the Solicitor, Office of Inspector General, and Office of Special Trustee for American Indians. For comparative purposes, figures in earlier years have been adjusted to reflect funding for these offices as well.
- d. The Department-Wide Programs figures include Wildland Fire Management, the Payments in Lieu of Taxes Program (PILT), Central Hazardous Materials Fund, Natural Resource Damage Assessment Fund, and Working Capital Fund. For comparative purposes, figures for FY2004 through FY2008 have been adjusted to reflect the transfer in FY2009 of DOI Wildland Fire Management from the Bureau of Land Management to Department-Wide Programs.
- e. Figures generally do not reflect scorekeeping adjustments.
- f. The FY2005 figure excludes \$40.0 million in transferred funds from the Department of Defense (§8098, P.L. 108-287).
- g. The total does not include supplemental appropriations or \$1.50 billion in emergency appropriations for veteran's health. It reflects \$1.8 million in undistributed reductions which are not reflected in the individual agency figures in the column.
- h. The total reflects appropriations of \$26.51 billion; emergency appropriations of \$925.2 million, including \$425.0 million for Secure Rural Schools; and rescissions of \$30.0 million.
- i. The total reflects rescissions of \$35.0 million; emergency appropriations of \$1.82 billion; and appropriations of \$26.64 billion, including \$12.7 million in Title IV, General Provisions, not reflected in the column figures above.
- j. The total includes a requested appropriation of \$25.86 billion and rescissions of \$54.4 million.
- k. The total reflects rescissions of \$62.1 million and an appropriation of \$27.65 billion, including \$9.0 million in Title IV, General Provisions, not reflected in the column figures above.

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