



Interior, Environment, and Related Agencies: FY2010 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 agencies within other departments—including 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.

The Department of the Interior, Environment, and Related Agencies Appropriations Act, 2010 (P.L. 111-88), contained a total of \$32.29 billion for FY2010. This was \$4.45 billion (16%) higher than the FY2009 appropriation of \$27.84 billion (excluding stimulus appropriations). The House, Senate, and Administration had all supported significantly higher levels for FY2010—ranging between 15% and 16% higher—than the FY2009 appropriation of \$27.84 billion.

P.L. 111-5, the American Recovery and Reinvestment Act of 2009, contained an additional \$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). The FY2010 appropriation of \$32.29 billion in P.L. 111-88 was \$6.50 billion (17%) less than the total FY2009 appropriations of \$38.79 billion, including stimulus appropriations.

A variety of funding and policy issues were debated during consideration of the FY2010 Interior, Environment, and Related Agencies appropriations bill. They included oil and gas leasing in the Outer Continental Shelf, wildland fire fighting, Indian trust fund management, royalty relief, and climate change. Other issues 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; and the Superfund program.

This report is not expected to be updated.

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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, the National Endowment for the Arts, and the 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. 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 selected 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 Agencies appropriations bill. For each agency or issue, we discuss some of the key funding changes that appear to be of interest to Congress. We also address related policy issues that occur in the context of considering appropriations legislation. Appropriations are complex, and not all issues are summarized in this report. 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 FY2009 appropriations levels for

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, programs, and activities as enacted in the Omnibus Appropriations Act, 2009 (P.L. 111-8). 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 supported by President Obama or enacted for FY2010.

P.L. 111-5, the American Recovery and Reinvestment Act of 2009, contained \$10.95 billion in additional FY2009 funding for some of the agencies and programs typically funded by the Interior, Environment, and Related Agencies Appropriations bill. This amount was a 40% supplement to the \$27.59 billion in omnibus appropriations for FY2009. In general, the funds were made available for obligation until September 30, 2010 (the end of FY2010). They are discussed in the pertinent sections throughout this report, in both the text and accompanying tables. They generally are referred to as stimulus funds, or funds provided by the stimulus law. For additional information on these stimulus funds, including a detailed table, see CRS Report RL34461, *Interior, Environment, and Related Agencies: FY2009 Appropriations*, coordinated by (name redacted).

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 report of the House Appropriations Committee for FY2010 refer to H.Rept. 111-180, on H.R. 2996. References to the report of the Senate Appropriations Committee for FY2010 refer to S.Rept. 111-38, on H.R. 2996. References to the conference report or the explanatory statement for FY2010 refer to H.Rept. 111-316, on H.R. 2996. In the tables throughout this report, some columns of funding figures do not match the precise totals provided due to rounding.

FY2004-FY2010

Table 1, below, shows appropriations for Interior, Environment, and Related Agencies for FY2004-FY2010. Funding for earlier years is not readily available due to changes in the makeup of the Interior appropriations bill. The FY2010 appropriation represented a \$4.97 billion increase (18.2%) over the FY2004 level in current dollars, or an \$826.9 million increase (2.6%) in constant dollars.³ See **Table 22** for a budgetary history of each agency for FY2006-FY2010.

Current Overview

The Department of the Interior, Environment, and Related Agencies Appropriations Act, 2010 (P.L. 111-88) contained a total of \$32.29 billion for FY2010. This was \$4.45 billion (16%) higher than the FY2009 appropriation of \$27.84 billion (excluding stimulus appropriations). The House, Senate, and Administration had all supported significantly higher levels for FY2010—ranging between 15% and 16% higher—than the FY2009 appropriation of \$27.84 billion.

P.L. 111-5, the American Recovery and Reinvestment Act of 2009, contained an additional \$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). The FY2010 appropriation of \$32.29 billion in P.L. 111-88 was \$6.50 billion (17%) less than the total FY2009 appropriations of \$38.79 billion (including stimulus appropriations).

³ These calculations use the Congressional Budget Office's inflation estimate of 2.2% for 2008 and projections of 1.8% for 2009 and 1.1% for 2010.

In earlier action, on September 24, 2009, the Senate had passed H.R. 2996, containing \$32.15 billion for FY2010 for Interior, Environment, and Related Agencies. This was \$201.1 million (0.6%) less than the \$32.35 billion approved by the House on June 26, 2009, and \$228.3 million (0.7%) less than the \$32.38 billion requested by the Obama Administration.

A variety of funding and policy issues were debated during consideration of FY2010 legislation. They included oil and gas leasing in the Outer Continental Shelf, wildland fire fighting, Indian trust fund management, royalty relief, and climate change. Other issues 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; and the Superfund program.

Table 1. Interior, Environment, and Related Agencies Appropriations, FY2004-FY2010
(\$ in billions)

	FY2004	FY2005	FY2006	FY2007	FY2008	FY2009 Omnibus	FY2009 Stimulus	FY2009 Total	FY2010
Current Dollars	\$27.33	\$27.02	\$25.94	\$27.40	\$28.42	\$27.59	\$10.95	\$38.79 ^a	\$32.29
Constant 2010 Dollars ^b	\$31.47	\$30.12	\$28.02	\$28.82	\$29.25	\$27.89	\$11.07	\$38.96 ^a	\$32.29

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 the sum of the FY2009 omnibus and FY2009 stimulus appropriations, plus an additional \$250.0 million in wildland fire appropriations included in P.L. 111-32.
- b. These figures are based on the Congressional Budget Office's (CBO's) inflation projection of 1.8% for 2009 and 1.1% for 2010, on the CBO website at <http://www.cbo.gov/ftpdocs/105xx/doc10521/econproj.pdf>. For inflation forecasts for earlier years, see the GDP Price Index in "CBO's Year-by-Year Forecast and Projections for Calendar Years 2009 to 2019," on the CBO website at <http://www.cbo.gov/doc.cfm?index=10014>.

Status of Bill

Table 2, below, contains information on H.R. 2996, the Interior, Environment, and Related Agencies Appropriations bill for FY2010.

Table 2. Status of Interior, Environment, and Related Agencies Appropriations, FY2010 (H.R. 2996)

Subcommittee Markup		H. Comm. Report	House Passage	S. Comm. Report	Senate Passage	Conf. Report	Conference Rept. Approval		Public Law
House	Senate						House	Senate	
6/10/09	6/23/09	6/23/09 H.Rept. 111-180	6/26/09	7/07/09 S.Rept. 111-38	9/24/09	10/28/09 H.Rept. 111-316	10/29/09	10/29/09	10/30/09 P.L. 111-88

Title I: Department of the Interior

Bureau of Land Management⁴

Overview

The Bureau of Land Management (BLM) manages approximately 253 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.

The FY2010 Interior appropriations law contained \$1.14 billion for BLM, which was less than the Administration's request for FY2010 of \$1.15 billion but higher than the FY2009 omnibus appropriation of \$1.04 billion. An additional \$305.0 million in FY2009 stimulus funds were appropriated to the BLM. See **Table 3**. Figures in this section do not include funds for DOI Wildland Fire Management. In the past, wildland fire funds were appropriated to BLM for fire fighting on all DOI lands, but currently they are appropriated to DOI as a department-wide program. (For more information, see "Wildland Fire Management.") Proposed funding for several key activities is discussed below.

Table 3. Appropriations for the Bureau of Land Management (BLM), FY2009-FY2010
(\$ in millions)

Bureau of Land Management	FY2009 Omnibus	FY2009 Stimulus	FY2009 Total	FY2010 Request	FY2010 House Passed	FY2010 Senate Passed	FY2010 Approp.
Management of Lands and Resources	890.2	125.0	1,015.2	975.4	950.5	965.7	958.6
Construction	6.6	180.0	186.6	6.6	6.6	8.6	8.6
Land Acquisition	14.8	0	14.8	25.0	26.5	28.7	29.7
Oregon and California Grant Lands	109.9	0	109.9	111.6	111.6	111.6	111.6
Range Improvements	10.0	0	10.0	10.0	10.0	10.0	10.0
Service Charges, Deposits, and Forfeitures ^a	0	0	0	0	0	0	0
Miscellaneous Trust Funds and Permanent Operating Funds	7.1	0	7.1	20.1	20.1	20.1	20.1
—Current Appropriations	20.1	0	20.1	20.1	20.1	20.1	20.1
—Naval Oil Shale Reserves, Mineral Leasing Receipts	-13.0	0	-13.0	0	0	0	0
Total Appropriations	1,038.6	305.0^b	1,343.6^b	1,148.7	1,125.3	1,144.7	1,138.5

a. The figures of "0" are a result of an appropriation matched by offsetting fees.

b. The figures do not reflect \$15.0 for the BLM for Wildland Fire Management provided in the stimulus law. These funds were intended to be used for DOI-wide wildland fire fighting, and are reflected in the "Wildland Fire Management" section below.

⁴ For more information on BLM funding, contact (name redacted) at 7-.....

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 for FY2010, the Interior appropriations law included \$958.6 million. This was \$16.8 million less than the Administration's request of \$975.4 million but \$68.4 million higher than the FY2009 omnibus appropriation of \$890.2 million. 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.

In general, the FY2010 law provided increased appropriations over FY2009 for activities funded by this account, as had been requested by the Administration and supported by the House and Senate. For soil, water, and air management, there was an increase of \$18.4 million over the \$40.6 million appropriated for FY2009. The increase included \$15.0 million to help BLM build capacity to assess, monitor, predict, and adapt to changes in BLM landscapes resulting from climate change.

Energy

For land and realty management, the Interior appropriations law included an increase of \$16.9 million, from \$33.8 million for FY2009 to \$50.7 million for FY2010. The additional funds were sought to facilitate and promote renewable energy development. Among other activities, the funds were sought to support development of wind and solar energy on public lands; develop regional environmental impact statements; establish renewable energy coordination offices to facilitate and streamline the review and approval of renewable energy projects; and provide additional renewable energy staff at other BLM offices. The conferees on the bill expressed concern about the impact of renewable energy development on federal lands. For instance, they directed DOI, in consultation with the Forest Service, to submit a report on how sites for renewable energy projects will be selected; how the agencies will coordinate the development of such projects, particularly in areas of mixed ownership or management; how the infrastructure will be removed from public lands when no longer functional; and other issues.⁵

For energy and minerals for FY2010, the Interior appropriations law contained a total of \$156.2 million. The Administration, House, and Senate had supported funding at this level, although they differed as to the amounts to be derived from discretionary appropriations, mandatory funds, and fees. The Administration's request included discretionary appropriations of \$110.7 million, and reflected collections of \$45.5 million in offsetting fees. These revenues are derived through a program requiring payment for each new application for a permit to drill (APD) oil and gas wells. The fee was \$4,000, and in its budget request the Administration proposed raising the fee to \$6,500 per APD. Additionally, the Administration proposed the repeal of provisions of law that redirect mineral leasing revenues from the Treasury to a BLM Permit Processing Improvement Fund. The Administration anticipated that the resulting loss of these mandatory funds to the BLM (\$21.0 million) would be offset by an increased appropriation for energy and minerals and the additional revenues collected through the APD fee increase. However, the House and Senate supported, and the FY2010 law included, \$89.7 million in discretionary appropriations, \$45.5 million in offsetting fees by increasing the APD fee to \$6,500 as proposed by the Administration, and \$21.0 million in mandatory funds. Total FY2009 funding for energy and minerals was \$156.8 million, comprised of

⁵ H.Rept. 111-316 on H.R. 2996, p. 75-76.

discretionary appropriations of \$99.4 million, \$36.4 million in offsetting fees, and \$21.0 million in mandatory appropriations.

Wild Horses and Burros

The FY2010 Interior appropriations law provided historically high funding for the wild horse and burro program—\$64.0 million. While this was \$3.5 million less than the \$67.5 million that the Administration had sought, it was \$23.4 million more than the \$40.6 million appropriated for FY2009. The increased funding over FY2009 was sought for activities to reduce the number of wild horses and burros on BLM lands to achieve the “appropriate management level” by 2013. These activities include additional gathers and removals of wild horses and burros from BLM lands, population control efforts, and animal adoptions. The funding increase also was intended to cover the escalating cost of caring for animals removed from the range in long-term pasture (“holding”) facilities.

In addition, the FY2010 law prohibited funds from being used for the slaughter of healthy, unadopted wild horses and burros under BLM management, or for the sale of wild horses and burros that results in their slaughter for processing into commercial products. Further, the conferees on the FY2010 bill required BLM to follow the Senate’s directions for this program. Noting that the costs of gathering and holding horses and burros “have risen beyond sustainable levels,” the Senate Appropriations Committee had directed BLM to develop and publish a new, long-term plan for management of wild horses and burros that includes private proposals.⁶ The committee also encouraged all federal agencies that need horses to first seek to acquire a wild horse from BLM, and encouraged BLM to expedite the provision of horses to state and local police forces.⁷

National Landscape Conservation System

For the National Landscape Conservation System, the FY2010 law provided \$74.6 million. This was an increase of \$7.9 million over the FY2009 appropriation of \$66.7 million and \$2.5 million over the Administration’s request for FY2010 of \$72.1 million. This system, established legislatively in 2009, consists of BLM’s protected areas, including BLM wilderness, national monuments, and national conservation areas.⁸

Construction

For FY2010, \$8.6 million was appropriated for BLM construction. This was an increase of \$2.0 million over the FY2009 omnibus level and the amount requested by the Administration for FY2010—\$6.6 million. The FY2010 funding would be used for 13 construction projects in seven states as well as bureau-wide architectural and engineering services. 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

⁶ For a discussion of issues regarding the care and management of wild horses and burros under BLM management, see CRS Report RL34690, *Wild Horses and Burros: Current Issues and Proposals*, by (name redacted)

⁷ S.Rept. 111-38 on H.R. 2996, p. 11.

⁸ On management of the NLCS and issues related to its establishment legislatively, see the “National Landscape Conservation System” section of 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).

roads, bridges, trails, property, and facilities. BLM construction funding over the past decade has ranged from a low of \$6.4 million in FY2008 to a high of \$16.8 million in FY2001.

Land Acquisition

For land acquisition by the BLM, the FY2010 law provided \$29.7 million. The Administration, House, and Senate had approved sizeable increases over the FY2009 appropriation of \$14.8 million. The majority of the FY2010 funding would be for 13 specific acquisitions in five states. The appropriation for BLM acquisitions had fallen steadily from \$49.9 million for 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 “The Land and Water Conservation Fund (LWCF).”)

Fish and Wildlife Service⁹

For Fish and Wildlife Service (FWS) accounts for FY2010, the Interior appropriations law contained \$1.65 billion. The Administration had requested \$1.64 billion. Both figures were more than the FY2009 omnibus appropriation (\$1.44 billion), but less than the FY2009 total (\$1.72 billion), which included \$280.0 million in stimulus funds under the American Recovery and Reinvestment Act of 2009, P.L. 111-5. See **Table 4**. The FY2010 law included a Senate floor amendment to prohibit funds appropriated in the act from being used to “impede, prohibit, or restrict activities of the Secretary of Homeland Security on public lands to achieve operational control (as defined in section 2(b) of the Secure Fence Act of 2006)” over border areas. The Interior Appropriations subcommittee chair and the sponsor of the amendment also agreed to hold further discussions with relevant department heads.¹⁰

Table 4. Appropriations for the Fish and Wildlife Service (FWS), FY2009-FY2010
(\$ in thousands)

Fish and Wildlife Service	FY2009 Omnibus	FY2009 Stimulus	FY2009 Total	FY2010 Request	FY2010 House Passed	FY2010 Senate Passed	FY2010 Approp.
Resource Management	1,140,962	165,000	1,305,962	1,218,206	1,248,756	1,244,386	1,269,406
—Ecological Services: Endangered Species	157,973	n/a	n/a	164,157	166,507	174,657	179,457
—Ecological Services: Habitat Conservation and Environmental Contaminants	118,297	n/a	n/a	126,920	128,620	131,020	131,770
—National Wildlife Refuge System	462,859	n/a	n/a	483,279	503,279	488,629	503,279
—Migratory Birds, Law Enforcement & International Conservation	126,717	n/a	n/a	130,093	133,593	133,573	134,743

⁹ For more information on FWS funding, contact (name redacted) at 7-..... In addition, a variety of FWS policy issues that arise in an appropriations context are discussed in more detail in CRS Report R40776, *Fish and Wildlife Service: Appropriations and Policy*, by (name redacted).

¹⁰ More detail on the two amendments is contained in CRS Report R40776, *Fish and Wildlife Service: Appropriations and Policy*, by (name redacted)

Interior, Environment, and Related Agencies: FY2010 Appropriations

Fish and Wildlife Service	FY2009 Omnibus	FY2009 Stimulus	FY2009 Total	FY2010 Request	FY2010 House Passed	FY2010 Senate Passed	FY2010 Approp.
—Fisheries	131,831	n/a	n/a	140,695	144,195	143,695	148,345
—Climate Change Adaptive Science Capacity	0	0	0	20,000	20,000	20,000	20,000
—General Administration	143,285	n/a	n/a	154,062	153,562	152,812	152,812
Construction	35,533	115,000	150,533	29,791	21,139	39,741	37,439
Land Acquisition	42,455	0	42,455	65,000	69,250	82,790	86,340
—Acquisitions: Federal Refuge Lands	28,315	0	28,315	45,445	49,695	63,235	66,765
—Inholdings, Emergencies, & Hardships	3,000	0	3,000	5,000	5,000	5,000	5,000
—Exchanges	1,500	0	1,500	2,000	2,000	2,000	2,000
—Acquisition Management	8,140	0	8,140	10,555	10,555	10,555	10,555
—Cost Allocation Methodology	1,500	0	1,500	2,000	2,000	2,000	2,000
Cooperative Endangered Species Conservation Fund	75,501	0	75,501	100,000	100,000	85,001	85,000
National Wildlife Refuge Fund	14,100	0	14,100	14,100	14,100	14,500	14,500
North American Wetlands Conservation Fund	42,647	0	42,647	52,647	52,647	45,147	47,647
Neotropical Migratory Bird Conservation Fund	4,750	0	4,750	4,750	5,250	5,000	5,000
Multinational Species Conservation Fund	10,000	0	10,000	10,000	11,500	11,500	11,500
State and Tribal Wildlife Grants	75,000	0	75,000	115,000	115,000	80,000	90,000
—State Grants	63,000	0	63,000	63,000	83,000	68,000	78,000
—Competitive Grants for States, Territories, & Other Jurisdictions	5,000	0	5,000	5,000	5,000	5,000	5,000
—Tribal Grants	7,000	0	7,000	7,000	7,000	7,000	7,000
—Climate Change	0	0	0	40,000	20,000	0	0
Federal Aid in Wildlife Restoration	0	0	0	28,000	0	0	0
Wildlife Conservation and Appreciation Fund (cancel prior-year funds)	-497	0	-497	0	0	0	0
Total Appropriations	1,440,451	280,000	1,720,451	1,637,494	1,637,642	1,608,065	1,646,832

Note: n/a indicates not available.

By far the largest portion of the FWS annual appropriation is the Resource Management account, for which the President requested \$1.22 billion, an increase of 7% from the FY2009 omnibus level of \$1.14 billion. Congress appropriated \$1.27 billion, an increase of 11% over the FY2009 omnibus appropriation. Among the programs included in Resource Management are the Endangered Species program, the Refuge System, and Law Enforcement. The request included a new line item of \$20.0

million within Resource Management for Climate Change Adaptive Science Capacity, which Congress accepted. (See “Climate Change Planning and Adaptive Science Capacity” below.)

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 Administration’s FY2010 request was \$164.2 million, an increase of 4% from the FY2009 omnibus level of \$158.0 million. The FY2010 appropriation was \$179.5 million (an increase of 14%). See **Table 5**. The House Appropriations Committee’s report also encouraged FWS to address a backlog of candidate species awaiting listing decisions. The Senate Appropriations Committee report urged improvement in the consultation program to address past deficiencies.¹¹ The conference report specified an increase of \$2.5 million in the consultation program to improve monitoring and record-keeping.

The Cooperative Endangered Species Conservation Fund also benefits conservation of species that are listed, or proposed for listing, under the Endangered Species Act, through grants to states and territories. The President proposed to increase the program from \$75.5 million in FY2009 to \$100.0 million in FY2010. Congress appropriated a smaller increase, to \$85.0 million (up 13%). See **Table 5**. In total, the FY2010 appropriation was \$264.5 million for the two programs, a 13% increase over FY2009.

Table 5. Appropriations for Endangered Species and Related Programs, FY2009-FY2010

(\$ in thousands)

Endangered Species and Related Programs	FY2009 Omnibus	FY2010 Request	FY2010 House Passed	FY2010 Senate Passed	FY2010 Approp.
Endangered Species Program					
—Candidate Conservation	10,670	10,592	11,592	11,842	12,592
—Listing	19,266	20,103	20,603	22,103	22,103
—Consultation	53,462	56,863	56,863	59,363	59,363
—Recovery	74,575	76,599	77,449	81,349	85,399
Subtotal, Endangered Species Program	157,973	164,157	166,507	174,657	179,457
Related Program: Cooperative Endangered Species Conservation Fund	75,501	100,000	100,000	85,001	85,000
Total Appropriations	233,474	264,157	266,507	259,658	264,457

National Wildlife Refuge System (NWRS) and Law Enforcement

The FY2010 Interior appropriations law provided \$503.3 million for refuge operations and maintenance, an increase over the Administration’s request of \$483.3 million and the FY2009 omnibus level of \$462.9 million. The FY2010 appropriation would increase all categories of refuge

¹¹ For a discussion of the Endangered Species Act and its programs, see CRS Report RL31654, *The Endangered Species Act: A Primer*, by (name redacted), (name redacted), and (name redacted).

spending over FY2009: wildlife and habitat management, refuge-based law enforcement, visitor services, and conservation planning. The FY2010 law included a Senate floor amendment related to refuges. (See “Fish and Wildlife Service” introduction.)

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 FY2009 stimulus law provided additional funding to address these concerns. However, some observers contend that the system’s problems are ongoing and will be significant after the stimulus funding is exhausted. Congress approved \$65.8 million for nationwide law enforcement, more than the request (\$63.8 million) and more than the FY2009 omnibus appropriations level (\$62.7 million). Nationwide law enforcement covers border inspections, investigations of violations of endangered species or waterfowl hunting laws, and other activities.

Climate Change Planning and Adaptive Science Capacity

For FY2010, the Administration proposed a new line item of \$20.0 million (under Resource Management) to address climate change, which Congress accepted. Half of the funding would support work with partners at federal, state, tribal, and local levels to develop strategies to address climate impacts on wildlife at local and regional scales. The other half would be used to support cooperative scientific research on climate change as it relates to wildlife impacts and habitat, and would provide scientific support to a network of newly created Landscape Conservation Cooperatives (LCCs) to ameliorate the effects of climate change. The LCCs appear to be an amalgam of research institutions, resource managers, and lands managed by agencies at various levels of government.

Land Acquisition

The Administration requested \$65.0 million for land acquisition, an increase of \$22.5 million (53%) from the FY2009 omnibus appropriation of \$42.5 million. The FY2010 Interior appropriations law provided a still higher increase—to \$86.3 million (+103%). See **Table 4**. As compared to recent years, the request and the appropriated level both devoted a somewhat higher percentage (70% and 77% respectively) of the funding to acquisition of land for specified federal refuges, rather than for closely related functions (e.g., acquisition management, land exchanges, emergency acquisitions, and purchase of inholdings). This program is funded with appropriations from the Land and Water Conservation Fund. (See “The Land and Water Conservation Fund (LWCF)”, below.)

Under the Migratory Bird Conservation Account (MBCA), FWS (in contrast to the other three federal lands agencies) has a source of mandatory spending for land acquisition. The account is permanently appropriated, with funds for FY2010 estimated at \$44.0 million, derived from the sale of duck stamps to hunters and recreationists, and import duties on certain arms and ammunition. It does not receive funding in annual Interior appropriations bills.

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 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 additional appropriations to make up the difference. For FY2010, the Administration requested the FY2009 level of \$14.1 million. The FY2010 appropriation was \$14.5 million. With refuge receipts, the FY2009 omnibus appropriation level was estimated to fund about 37% of the authorized payment level. A projected increase in receipts, combined with the appropriation of \$14.5 million, would increase the payment to 42% of the authorized level in FY2010.¹²

Multinational Species and Neotropical Migrants

The Multinational Species Conservation Fund 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 President requested \$10.0 million for FY2010, the same as the FY2009 level.¹³ Congress increased funding for the program to \$11.5 million for FY2010. The President also requested \$4.8 million for the Neotropical Migratory Bird Conservation Fund, a figure identical to the FY2009 level. The FY2010 appropriation was higher—\$5.0 million.

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 has no 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 grants to states. A state's allocation is determined by formula.

The Administration's request for FY2010 was \$115.0 million, an increase over the \$75.0 million for FY2009. The \$40.0 million increase (53%) was proposed for states and tribes to incorporate climate change adaptation strategies into state wildlife action plans and to implement adaptation projects. See **Table 4**, above.

¹² The National Wildlife Refuge Fund is distinct from the Payments in Lieu of Taxes (PILT) program administered 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. As a result of the PILT formula, which will tend to make up for the pro-rated NWRF payment rate for public domain lands only, the acquired lands of the refuge system will be under-compensated for revenue loss relative to the refuge lands reserved from the public domain. Eastern refuges tend to be mostly acquired land, while western refuges are mostly reserved from the public domain. For further information, see CRS Report RL31392, *PILT (Payments in Lieu of Taxes): Somewhat Simplified*, by (name redacted).

¹³ For more information on funding levels for each subprogram, see CRS Report RS21157, *International Species Conservation Funds*, by (name redacted) and (name redacted).

Congress appropriated \$90.0 million, but did not provide the requested \$40.0 million in additional funds for climate change activities. The Senate Appropriations Committee asserted that the states already had authority to address climate change within the existing program.¹⁴ In addition, the FY2010 appropriations law included language reducing the required state match from 50% to 25% for planning grants. It also reduced the required state share of implementation grants from 50% to 35%.

Federal Aid in Wildlife Restoration

This program provides grants to states on a formula basis for activities to benefit hunters and hunting related programs. It is currently funded by an excise tax on hunting equipment, and the receipts are available without further appropriation. As a result, while the program has existed for over 70 years, it normally does not appear in annual appropriations bills. However, this year the Administration's request included \$28.0 million in discretionary spending for hunter education, training, and outreach to young people, especially those in traditionally under-represented groups such as minorities and urban youth. Participation in hunting among young people in these groups has been dropping for years. The new effort was intended to reduce this decline. Congress did not appropriate funding for this program for FY2010. The Senate Appropriations Committee held that sufficient funding for hunter and angler education programs is provided elsewhere.¹⁵

National Park Service¹⁶

For FY2010, the Interior appropriations law provided total National Park Service (NPS) appropriations of \$2.74 billion. The House, Senate, and Administration had supported increases over the FY2009 omnibus appropriation of \$2.53 billion. With FY2009 stimulus appropriations of \$750.0 million, total FY2009 funding was \$3.28 billion. See **Table 6**. The NPS administers the National Park System—391 units covering 85 million acres—to protect, preserve, and interpret the system's many, diverse natural and historic areas. 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.

Operation of the National Park System

For the Operation of the National Park System account in FY2010, the Interior appropriations law provided \$2.26 billion. The House, Senate, and Administration all supported increases over the FY2009 omnibus appropriation for the account (\$2.13 billion), but less than the total FY2009 funding (\$2.28 billion) including the additional \$146.0 million in the stimulus law. See **Table 6**. This line item is the primary source of funding for the national parks, accounting for more than 80% of the total NPS budget. The majority of operations funding is provided directly to park managers for the activities, programs, and services essential to the day-to-day operations of the park system, and covers resource stewardship, visitor services, facility operations and maintenance, and park support programs, as well as administrative expenses. Within this account, the FY2010 Interior appropriations law provided \$10.0 million for NPS climate change activities.

¹⁴ S.Rept. 111-38 on H.R. 2996, p. 24.

¹⁵ S.Rept. 111-38 on H.R. 2996, p. 24.

¹⁶ This section originally was prepared by David Whiteman. For current information on NPS funding, contact (name redacted) at 7-..... For more information on funding for historic preservation, contact Shannon Loane at 7-.....

Table 6. Appropriations for the National Park Service (NPS), FY2009-FY2010
(\$ in millions)

National Park Service	FY2009 Omnibus ^a	FY2009 Stimulus	FY2009 Total	FY2010 Request ^b	FY2010 House Passed	FY2010 Senate Passed	FY2010 Approp.
Operation of the National Park System	2,131.5	146.0	2,277.5	2,266.0	2,260.7	2,261.3	2,261.6
—Park Management ^c	1,983.5	n/a	n/a	2,110.5	2,105.2	2,105.8	2,106.0
—Administrative Costs	148.1	n/a	n/a	155.5	155.5	155.5	155.5
Signature Projects (Matching Program)	0	0	0	25.0	25.0	0.0	5.0 ^d
National Recreation and Preservation	59.7	0	59.7	53.9	59.4	67.4	68.4
Historic Preservation Fund	69.0	15.0	84.0	77.7	91.7	74.5	79.5
Construction	232.5	589.0	821.5	206.0	213.7	219.7	233.0
Land and Water Conservation Fund ^e	-30.0	0	-30.0	-30.0	-30.0	-30.0	-30.0
Land Acquisition and State Assistance	64.2	0	64.2	98.0	113.2	118.6	126.3
—Assistance to States	19.0	0	19.0	30.0	40.0	35.0	40.0
—NPS Acquisition	45.2	0	45.2	68.0	73.2	83.6	86.3
Total Appropriations	2,525.6	750.0	3,275.6	2,696.6	2,733.7	2,711.6	2,743.7

Note: n/a indicates not available.

- 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.
- Includes direction to continue the Urban Park and Recreation Recovery (UPARR) program from prior year balances, but includes no new funding for the program.
- Includes funding for the U.S. Park Police.
- Reflects an appropriation of \$5.0 million and the use of \$10.0 million in carryover balances from the recreational fee program.
- Figures reflect a rescission of contract authority.

FY2010 funding for the U.S. Park Police (USPP) was provided within the park protection sub-account of NPS Operations. The FY2010 Interior appropriations law appeared to provide \$102.6 million for the USPP. The USPP is a law enforcement entity with primary jurisdiction at park sites in Washington, DC, New York City, and San Francisco. The USPP also assists law enforcement rangers in park units system-wide, as well as other law enforcement agencies during emergencies.

Signature Projects

For the “signature projects matching program,” the funding for FY2010 was \$15.0 million. This consisted of an appropriation of \$5.0 million and the use of \$10.0 million in carryover balances from the recreational fee program. The signature projects matching program was developed to help refurbish and prepare the National Park System for its 100th anniversary in 2016. It was intended as a way to leverage private donations for certain park projects. Under the FY2010 Interior appropriations law, not less than 50% of the cost of each project is to be derived from non-federal sources. The Administration had sought \$25.0 million for signature projects. While the House originally had supported this request, the Senate originally did not approve funds for signature projects. Further, no money was appropriated for this purpose in FY2009. In its report on the

FY2010 appropriations bill, the conferees directed the Park Service to report, within 90 days, on the status of earlier projects and the criteria to be used to select new ones.¹⁷

Recreation Fees

The conferees on the FY2010 appropriations bill expressed concern with the Park Service's "ineffective management of its recreation fee revenues which has led to high unobligated carryover balances over many years. It is clear that dramatic changes are needed to address this problem."¹⁸ They conveyed that in response to congressional concern, the agency has developed a plan to "aggressively reduce" the carryover balance of more than \$270.0 million (at the outset of FY2009). They noted that the Park Service has authority under law to reduce the amount of fees retained at any park unit from 80% to 60%, and encouraged the agency to use this authority to meet its goal of a carryover balance of not more than \$80.0 million by January 2011. This was intended to redirect funds away from park units with the largest collections to important projects that can begin quickly.

National Recreation and Preservation

For National Recreation and Preservation (NR&P) in FY2010, the Interior appropriations law provided \$68.4 million, a sizeable increase over the FY2009 level (\$59.7 million) and the FY2010 requested level (\$53.9 million). NR&P funds a variety of park system activities, including natural and cultural resource protection programs, environmental and compliance and review, and an international park affairs office, as well as programs providing technical assistance to state and local community efforts to preserve natural, historic, and cultural resources outside the National Park System.

The FY2010 law included \$5.9 million for statutory and contractual aid, slightly higher than the FY2009 level (\$5.6 million). The Obama Administration proposed discontinuing funding, as had the Bush Administration. This program provides limited financial assistance through partnerships to a variety of areas not managed by the NPS, in support of NPS efforts with other organizations to promote systems of parks and open space nationwide.

The appropriation for heritage partnership programs was \$17.8 million. The Administration had sought to maintain the FY2009 level of \$15.7 million. The program supports national heritage areas (NHAs), which are neither owned nor managed by the NPS. Appropriators have expressed concerns about the expanding numbers of NHAs, and have favored funding new areas principally by savings when mature programs graduate from federal support. The FY2010 law also included a provision to allow a private property owner within an NHA to opt out of participating in any plan, project, program, or activity conducted within the area.¹⁹

For "Preserve America," the FY2010 appropriation was \$4.6 million. This matching grant program supports preservation efforts through heritage tourism, education, and historic preservation planning.²⁰

¹⁷ H.Rept. 111-316 on H.R. 2996, p. 90.

¹⁸ H.Rept. 111-316 on H.R. 2996, p. 91.

¹⁹ For information on NHA establishment, management, and legislation, see CRS Report RL33462, *Heritage Areas: Background, Proposals, and Current Issues*, by (name redacted).

²⁰ Preserve America had traditionally been funded through the HPF; in FY2008, however, it was funded through the (continued...)

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. The Fund's preservation grants are normally funded on a 60% federal and 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.

For FY2010, the appropriations law provided \$79.5 million for the HPF, \$10.5 million more than the FY2009 omnibus appropriation of \$69.0 million²¹ and \$1.8 million more than the Administration's request. See **Table 6**. The law provided \$46.5 million for grants to states and \$8.0 million for tribal preservation grants, as requested. The increases of \$4.0 million in the state grant program and \$1.0 million in the tribal grant program over FY2009 amounts were requested to assist with an escalation in Section 106 compliance reviews, due to the number of infrastructure projects funded through the stimulus law.²²

For FY2010, the law included \$25.0 million for Save America's Treasures, \$5.0 million more than the FY2010 request and FY2009 appropriations. Of the \$25.0 million, \$10.2 million was allocated for 52 specific projects. The FY2010 Interior appropriations law moved the Preserve America program from the HPF to the National Recreation and Preservation account (see above).

Construction

The FY2010 appropriation for NPS construction was \$233.0 million. This was a \$27.0 million increase over the Administration's request of \$206.0 million and about level with the FY2009 omnibus appropriation of \$232.5 million. An additional \$589.0 million in stimulus funds was enacted for FY2009. The Construction line item funds new construction projects, as well as improvements, repair, rehabilitation, and replacement of park facilities. It also funds general management planning, including the special resource studies that evaluate potential park system additions. Additional funding also is provided for NPS road construction and repair through the Federal Lands Highway Program of the Federal Highway Administration.

The Construction line item also includes an unspecified amount of funding for addressing deferred maintenance, a continuing NPS concern. While the NPS has improved inventory and asset management systems, the estimate of its deferred maintenance backlog has continued to mount.

(...continued)

National Recreation and Preservation account. Funding was not granted under the FY2009 omnibus appropriations law. The accompanying explanatory statement called for an evaluation of the program's effectiveness before further funding was committed. This evaluation was submitted in June 2009 and can be found at <http://216.3.143.83/docs/Preserve%20America%20Grants%20Effectiveness%20Final.pdf>.

²¹ Total FY2009 funding included \$15.0 million in the stimulus law for competitive grants to historically black colleges and universities (HBCUs) for the preservation of campus buildings listed in the National Register of Historic Places. The FY2010 report of the House Appropriations Committee noted strong support of HBCU historic preservation funding, but stated that additional funding would not be granted until the carryover balances were reduced.

²² Section 106 of the National Historic Preservation Act of 1966 (P.L. 89-665) requires that federal agencies take into account the effects of their actions on historic properties. More information on Section 106 as it relates to the stimulus law can be found on the Advisory Council for Historic Preservation website at <http://www.achp.gov/recovery/faqs.html>.

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 addition of \$589.0 million for NPS construction from the stimulus law may begin to reverse the trend.

Land Acquisition and State Assistance

For Land Acquisition and State Assistance in FY2010, the Interior appropriations law provided a total of \$126.3 million, a sizeable increase over FY2009 appropriations of \$64.2 million and the Administration's FY2010 request of \$98.0 million. Funding for both NPS land acquisition and state assistance comes from the Land and Water Conservation Fund (LWCF). For NPS land acquisition, the law provided \$86.3 million. Land acquisition funds are used to acquire lands, or interests in lands, for inclusion within the National Park System. For LWCF state assistance, the law contained \$40.0 million. 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)," below.)

U.S. Geological Survey²³

The U.S. Geological Survey (USGS) is a science agency that provides physical and biological information related to natural hazards; geological resources; 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 FY2010 Interior appropriations law provided \$1.11 billion for the USGS, which was \$67.9 million above the FY2009 omnibus appropriation of \$1.04 billion. An additional \$140.0 million in stimulus funding was appropriated for FY2009. The FY2010 appropriation also was \$13.9 million over the Administration's request, \$5.9 million over the original House-passed level, and \$7.4 million over the original Senate-passed level. For all eight USGS activities, the FY2010 law provided more funding than FY2009 omnibus appropriations. See **Table 7**.

The FY2010 law provided new funding to address several DOI-wide programs, including the 21st Century Youth Conservation Corps and Climate Impacts in the Arctic. Further, it reflected the Administration's proposal to transfer the National Geospatial Program from the Enterprise Information activity to the Geographic Research, Investigations, and Remote Sensing activity. **Table 7** and discussions below reflect this change.

²³ For more information on USGS funding, contact (name redacted) at 7-.....

Table 7. Appropriations for the U.S. Geological Survey (USGS), FY2009-FY2010
(\$ in millions)

U.S. Geological Survey	FY2009 Omnibus	FY2009 Stimulus	FY2009 Total	FY2010 Request	FY2010 House Passed	FY2010 Senate Passed	FY2010 Approp.
Geographic Research, Investigations, and Remote Sensing	142.1 ^a	15.0	n/a	143.9	145.6	143.9	145.6
Geologic Hazards, Resources, and Processes	242.1	44.6	n/a	247.0	248.2	247.9	249.1
Water Resources Investigations	221.4	29.2	n/a	227.9	229.7	231.0	232.3
Biological Research	185.3	n/a	n/a	199.3	202.5	202.7	204.9
Enterprise Information	42.7 ^a	n/a	n/a	46.0	46.0	45.0	46.0
Science Support	67.4	n/a	n/a	69.2	69.2	69.2	69.2
Facilities	102.1	29.4	n/a	106.4	106.4	106.4	106.4
Global Climate Change Research	40.6	n/a	n/a	58.2	58.2	58.2	58.2
Total Appropriations	1,043.8	140.0^b	1,183.8	1,097.8	1,105.8	1,104.3	1,111.7

Note: n/a indicates not available.

- These figures have been adjusted to reflect the proposed transfer in FY2010 of the National Geospatial Program from the Enterprise Information activity to the Geographic Research, Investigations, and Remote Sensing activity. Actual FY2009 omnibus appropriations were \$112.5 million for Enterprise Information and \$72.3 million for Geographic Research, Investigations, and Remote Sensing.
- Not reflected in the figures in this column is \$17.8 million of stimulus funds that were provided for construction, and \$4.0 million that had not been specified for projects within the USGS.

Geographic Research, Investigations, and Remote Sensing

This activity aims to provide public access to high-quality geospatial information. For this activity, the FY2010 Interior appropriations law provided \$145.6 million, \$3.5 million above the FY2009 enacted level of \$142.1 million. The law transferred the National Geospatial Program to this activity as requested by the Administration and included in the House- and Senate-passed bills. This program 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. The law included \$63.7 million for the Land Remote Sensing Program for FY2010, \$2.0 million over the FY2009 enacted level of \$61.7 million. This program supports the Landsat satellite series. 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.

Geologic Hazards, Resources, and Processes

For Geologic Hazards, Resources, and Processes activities, the FY2010 law contained \$249.1 million for this program, \$7.0 million over the FY2009 enacted level. These activities provide earth

science information for a wide variety of partners and customers, including federal, state, and local agencies, non-government organizations, industry, and academia. This activity includes funds for geological hazards assessments such as of earthquakes, volcanoes, and landslides.

The law included \$92.8 million for geological hazards assessments, an increase of \$2.2 million over the FY2009 level. Hazard assessments cover geologic landscape and coastal assessments as well as geologic resource assessments. The law also provided \$4.0 million for developing plans for seafloor mapping expeditions of the continental shelf and a data management infrastructure for this effort. This work is being done through an interagency task force and is important for establishing claims as Arctic ice melts and opens up sea lanes near the polar regions.

Water Resources Investigations

The FY2010 appropriation for water resources investigations was \$232.3 million, \$10.9 million over the FY2009 enacted level. The Water Resources activity supports water research and monitoring activities that address issues such as water availability, water quality, and flood and drought hazards.

The Hydrologic Monitoring, Assessments, and Research subactivity includes six programs exclusively funded from federal appropriations. The programs are: groundwater resources, National Water-Quality Assessment Program (NAWQA), toxic substances hydrology, hydrologic research and development, National Streamflow Information Program (NSIP), and Hydrologic Networks and Analysis (HNA). These programs are primarily research oriented, with the exception of NSIP and portions of HNA, which focus on long-term data collection; and NAWQA, which provides status and trends information on water quality conditions across the nation. The FY2010 law provided \$160.2 million for this activity, \$9.5 million over the FY2009 enacted level.

The increase reflects the aim to enhance the National Streamgauge Network in support of climate change monitoring, among other activities. This effort tracks the flow of water and associated components in rivers and streams throughout the nation. It has 7,500 gages and is funded in partnership with over 800 federal, state, and local agencies. The increase was intended to re-establish up to 50 streamgages that were discontinued, primarily due to funding constraints. Another \$1.0 million was included for the on-going U.S.-Mexico Transboundary Aquifer Assessment Program, which was not included in the Administration's request.

Biological Research

The Biological Research Program generates and distributes information related to conserving and managing the nation's biological resources. The FY2010 Interior appropriations law contained \$204.9 million for this activity, \$19.6 million above the FY2009 enacted level.

The law increased biological research and monitoring, including \$5.0 million for scientific studies and analysis to support Fish and Wildlife Service efforts to prepare refuges and assist species for adapting to climate change, and \$4.2 million for studying species at risk due to changing arctic ecosystems. Loss of arctic sea ice and terrestrial permafrost-supported habitats have potentially negative consequences for polar bears and other species and ecosystems in the Arctic region. The increase in funding would support a strategic expansion of the physical-biological forecasting capacity of USGS in the Arctic region.

The conferees on the FY2010 bill encouraged the USGS to conduct further research and analyses on the interaction of endocrine disrupters on water quality and fish development.²⁴ In addition, the House Appropriations Committee expressed concern over wildlife diseases, such as viral hemorrhagic septicemia—a fatal disease for fish; chytrid disease—which affects amphibians; and whitenose syndrome—which is fatal for cave-dwelling bats.²⁵

Enterprise Information

The Enterprise Information activity consolidates funding of all USGS information needs including information technology, security, services, and resources management, as well as capital asset planning. The FY2010 appropriation was \$46.0 million for this activity, \$3.3 million over the FY2009 enacted level.

Science Support and Facilities

Science Support focuses on costs associated with modernizing the infrastructure for managing and disseminating scientific information. The FY2010 law provided \$69.2 million for this activity, \$1.8 million above the FY2009 enacted level. Facilities focuses on the costs for maintenance and repair. The law contained \$106.4 million for this activity, \$4.3 million above the FY2009 enacted level.

Global Climate Change Research

The FY2009 omnibus appropriations law combined most climate change activities of the USGS into an integrated global climate change research program. The FY2010 Interior appropriations law included \$58.2 million for this activity, \$17.5 million above the FY2009 enacted level.

The climate change research program seeks to provide science, monitoring, and predictive modeling to generate information on climate change and its effect on the resources and landscape of the United States. Specifically for FY2010, scientists would 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.

Of the \$17.5 million increase, \$5.0 million would be for the National Climate Change and Wildlife Science Center (NCCWSC). The Center would receive a total of \$15.0 million for FY2010, according to the conference report on the FY2010 bill. The Center supports research, assessment, and synthesis of global climate change data for research managers of species and habitats. Further, it aims to evaluate global climate change models that are at scales useful for stakeholders. According to the conference report, locations for the regional centers under the NCCWSC are to be selected through a collaborative process that engages other federal, state and tribal agencies, universities, and other partners. The conference report also stated that the NCCWSC should serve as a model for implementing an integrated approach to climate change science and adaptation by the DOI.²⁶

Another \$7.0 million of the increase would be for research on geologic carbon sequestration (total funding was \$10.0 million). USGS would use these funds to conduct studies and activities to begin the development of a National Assessment of Geological Storage Capacity for Carbon Dioxide.

²⁴ H.Rept. 111-316 on H.R. 2996, p. 97.

²⁵ H.Rept. 111-180 on H.R. 2996, p. 56.

²⁶ H.Rept. 111-316 on H.R. 2996, p. 97-98 and p. 76.

Minerals Management Service²⁷

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 submerged lands in the Outer Continental Shelf (OCS) 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.²⁸ 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 offshore leases are allocated among coastal states, the Land and Water Conservation Fund, the Historic Preservation Fund, and the Treasury.

MMS disbursed about \$10.7 billion in FY2009 from mineral leases on federal and Indian lands, down from \$23.5 billion in FY2008. 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 FY2009, royalties from natural gas and oil leases contributed 29% and 41% respectively of total MMS receipts. Other sources of MMS receipts include bonus bids and rents for all leasable minerals and royalties from coal and other minerals.

Budget and Appropriations

The FY2010 appropriation for MMS was \$348.2 million (gross funding level), slightly higher than the \$347.4 million requested by the Administration. However, the FY2010 appropriation was significantly higher than the FY2009 funding level of \$310.4 million, primarily because of a new subactivity for renewable energy programs for FY2010. The FY2010 funding level was composed of: \$136.5 in appropriations (net funding level); \$45.0 million in cost sharing deductions; and \$166.7 million in offsetting collections (which the MMS has been retaining since 1994). The offsetting collections included \$10.0 million in new inspection fees. See **Table 8**.

The new subactivity on renewable energy programs had been proposed by the Administration at \$21.4 million, and was supported by both the House and the Senate. The MMS already has created a new Office of Offshore Alternative Energy Programs to develop and implement its offshore renewable energy policies and comply with departmental goals. MMS expects to initiate its offshore renewable energy leasing program in the North Atlantic and Mid-Atlantic states in FY2010.

The FY2010 Interior appropriations law reflected new inspection fees that the Administration had proposed. The Administration also had sought to impose an excise tax on certain OCS production (related to those leases without price threshold levels), impose fees on non-producing leases (as a disincentive to hold those leases with no prospect for development), repeal the royalty relief provisions,²⁹ and review the royalty rate structure with the intention of making rate reforms and adjustments. These additional fees and royalty-related provisions were not contained in the law.

²⁷ For more information on MMS funding, contact (name redacted) at 7-.....

²⁸ For details on the regulations, see the MMS website at <http://www.mms.gov>.

²⁹ Sections 344 and 345 of the Energy Policy Act of 2005.

Table 8. Appropriations for the Minerals Management Service (MMS), FY2009-FY2010
(\$ in millions)

Minerals Management Service	FY2009 Omnibus	FY2010 Request	FY2010 House Passed	FY2010 Senate Passed	FY2010 Approp.
Royalty and Offshore Minerals Management					
—OCS Lands (OEMM)	166.2	196.0	196.0	196.9	196.9
—Royalty Management (MRM)	86.7	89.4	89.4	89.4	89.4
—General Administration	51.2	55.7	55.7	55.7	55.7
<i>Gross, Royalty and Offshore Minerals Management</i>	<i>304.1</i>	<i>341.0</i>	<i>341.0</i>	<i>341.9</i>	<i>341.9</i>
—Use of Receipts and Cost Recovery Fees	-146.7	-156.7	-156.7	-156.7	-156.7
—Inspection Fees	0	-10.0	-10.0	-10.0	-10.0
Subtotal, Royalty and Offshore Minerals Management Appropriations	157.4	174.3	174.3	175.2	175.2
Oil Spill Research	6.3	6.3	6.3	6.3	6.3
Administrative Provisions					
—State Royalty Administrative Cost Deduction	-47.0	0	-49.0	-45.0	-45.0
Total Appropriations	116.7	180.6	131.6	136.5	136.5

Oil and Gas Leasing Offshore

Issues not directly tied to specific funding accounts remain controversial and were debated during consideration of the FY2010 Interior appropriations bill.³⁰ 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. On September 30, 2008, moratoria provisions in annual appropriations laws expired, allowing these areas to potentially open for oil and gas leasing activity.

Whether to lift the remaining moratorium in the eastern Gulf of Mexico under the Gulf of Mexico Energy Security Act (in P.L. 109-432) is controversial. This moratorium placed nearly all of the eastern Gulf under a leasing moratorium until 2022. The law also contained revenue sharing provisions for selected coastal states. Congressional proposals to lift the moratorium are supported in some quarters as an attempt to increase domestic oil and gas supply. Others favor continuing the moratorium due to concerns about adverse economic and environmental impacts of development. Those in favor of the moratorium maintain that there already are several thousand leases in the central and western parts of the Gulf of Mexico that are unexplored or in development and could potentially yield significant oil and natural gas.

Issues related to the MMS five-year leasing program also were debated. The current MMS five-year leasing program is in effect,³¹ despite the April 17, 2009, order by the U.S. Court of Appeals for the

³⁰ The issues discussed in this section also are being addressed by Congress outside the appropriations process, for instance through legislation and hearings.

³¹ U.S. Dept. of the Interior, News Release, July 29, 2009, on the DOI website at <http://www.doi.gov/news/> (continued...)

D.C. Circuit to vacate and remand the 2007-2012 program. However, after clarification from the court, the decision would affect only the Alaska lease sales in the five-year program. In response to the court order, the Department of the Interior is in the process of conducting a more thorough environmental analysis of certain areas of the OCS. In addition, the Bush Administration had 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. The extended comment period closed on September 21, 2009. Because of the uncertainty over resource assessments and environmental concerns, the Secretary of the Interior announced that the Department will continue to examine more closely the current information on the OCS. In April 2009, the Administration published a report on OCS resources that identified resource data gaps.³² Also, the conferees on the FY2010 Interior appropriations bill directed the MMS to complete a programmatic environmental impact statement (PEIS) for the Atlantic OCS and provide a timeline for completion no later than 90 days after enactment of the bill.³³

Royalty relief for OCS oil and gas producers has been debated during consideration of Interior appropriations bills.³⁴ The MMS has not been collecting royalties on leases awarded in 1998 and 1999 because price thresholds were inadvertently excluded from the lease agreements during those two years, according to a report issued by DOI's Inspector General.³⁵ 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.

In addition, the authority of the Secretary to impose price thresholds has come into question in a lawsuit filed by Kerr-McGee.³⁶ On January 12, 2009, a three-judge panel of the 5th U.S. Circuit Court of Appeals in New Orleans upheld a District Court decision in favor of Kerr-McGee, 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).³⁷ On July 13, 2009, the Administration petitioned the U.S. Supreme Court to review the decision of the U.S. Court of Appeals. On October 5, 2009, the Supreme Court rejected the Administration's appeal. The ruling of the U.S. Court of Appeals could potentially apply to \$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.³⁸ The Government Accountability Office (GAO) estimates the range of

(...continued)

09_News_Releases/072909.html.

³² U.S. Department of the Interior, Report to the Secretary, *Survey of Available Data on OCS Resources and Identification of Data Gaps*, OCS Report MMS 2009-015, April 2009, available at <http://www.doi.gov/ocs/report.pdf>.

³³ H.Rept. 111-316 on H.R. 2996, p. 98.

³⁴ For more details on the royalty relief program, see CRS Report RL33493, *Outer Continental Shelf: Debate Over Oil and Gas Leasing and Revenue Sharing*, by (name redacted) and CRS Report RS22567, *Royalty Relief for U.S. Deepwater Oil and Gas Leases*, by (name redacted).

³⁵ The report is on the DOI website at <http://www.doi.gov/upload/MMS%20ROI%20REDACTED.pdf>.

³⁶ *Kerr-McGee Oil & Gas Corp. v. Allred*. For more details on this case, see CRS Report RL33404, *Offshore Oil and Gas Development: Legal Framework*, by (name redacted). Also, Kerr-McGee has been acquired by Anadarko Petroleum.

³⁷ U.S. Court of Appeals for the 5th Circuit.

³⁸ 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).

royalty revenue loss to the Treasury at \$21-\$53 billion over 25 years. The ranges of MMS and GAO estimated losses are based on assumptions including future prices and production rates.

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, including to adopt a risk-based compliance approach. According to the MMS, its FY2010 budget request reflected the agency's commitment to this approach.

Further, DOI established an independent panel (the Royalty Policy Committee, or 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 (RIK) Program, which grew significantly from 41.5 million barrels of oil equivalent (BOE) sold in 2004 to 112 million BOE sold in 2007.³⁹ GAO issued a report on September 26, 2008, concluding that the RIK Program could be improved.⁴⁰ After review of the RIK program, the Secretary of the Interior announced its "phased-in termination."⁴¹

Office of Surface Mining Reclamation and Enforcement⁴²

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,⁴³ with fees levied on coal production, to reclaim abandoned sites that posed serious health or safety hazards.

Monies accrue to the AML fund based on fees assessed on coal production. Through FY2007, disbursements from the AML fund to states and tribes, to reclaim abandoned sites, were determined strictly by annual appropriations. However, beginning with FY2008, under P.L. 109-432, funding for state and tribal grants has been provided by both annual appropriations from the AML fund, and mandatory appropriations from general U.S. Treasury funds.⁴⁴ Other activities exclusively receive annual appropriations. Among these are the expenses of federal AML programs in states with no

³⁹ 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/RPCRMS1207.pdf.

⁴⁰ 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.

⁴¹ A news release announcing the termination of the program is on the DOI website at http://www.doi.gov/news/09_News_Releases/091609.html.

⁴² For more information on OSM funding, contact (name redacted) at 7-.....

⁴³ Hereafter this fund is referred to as the AML fund.

⁴⁴ The mandatory appropriation has a ceiling of \$490 million annually. If demands on that money would exceed the cap, distributions will be proportional.

OSM-approved reclamation programs, an emergency reclamation program, OSM administrative expenses, and the Clean Streams program.

The addition of mandatory appropriations addressed the contention of western states that they were shouldering a disproportionate share of the reclamation expense because production had moved westward, but the great majority of the sites requiring remediation are in the East. Fee collections exceeded appropriations for a number of years. The total unappropriated balance—including allocations to federal and state share accounts that make up the total balance in the AML fund—was over \$2.2 billion at the end of November 2008.⁴⁵ Western states pressed for increases in the AML appropriations to return to them more of the unappropriated balances allocated to their state share accounts. Under the restructuring of the program established in P.L. 109-432, the unappropriated balance of AML collections that had been allocated to state- and tribal-share accounts is being returned in seven annual installments from general Treasury funds to those states and tribes that had completed remediation of the highest priority sites. These states and tribes, referred to as “certified,” also have been receiving those grants to which they are entitled, under a formula, from prior year collections.

However, in its FY2010 budget proposal, the Administration expressed its intention to seek an end to these payments to certified states and tribes, asserting that because these funds can be used for any purpose, these distributions are inconsistent with the intent of the AML program. As these payments are made from the mandatory appropriations, the Administration’s proposal will require a change in law, which is strongly opposed by the states and tribes that would be affected. Legislation to do so has not been introduced.

The House approved the Administration’s request for a total of \$159.4 million for OSM in FY2010, while the Senate approved total OSM funding of \$166.9 million. The enacted bill set total funding for FY2010 at \$162.9 million, between the House and Senate levels.

The House and Senate had agreed to the Administration’s proposal of \$127.3 million for Regulation and Technology, a \$7.0 million increase over FY2009 appropriations. Most of the increase for Regulation and Technology was sought for state and tribal regulatory programs. The FY2010 Interior appropriations law included \$127.3 million for Regulation and Technology.

The House-passed bill set spending from the AML fund at \$32.1 million, agreeing with an Administration proposal to end the program supporting federal emergency projects, and the provision of emergency grants to states and tribes. The Administration expected that funds from the mandatory appropriations would fully cover the expense of these programs.⁴⁶ The Senate disagreed with the elimination of funding for federal and state emergency grants, and approved \$39.6 million from the AML fund. This was \$7.5 million over the Administration’s request and House-passed level of \$32.1 million. The FY2010 Interior appropriations law set spending from the AML fund at \$35.6 million. This represented an increase of \$3.5 million over the Administration’s request and a decrease of \$8.9 million from the FY2009 enacted level (net of an \$8.5 million rescission in FY2009). Neither the FY2010 Interior appropriations law nor the accompanying conference report specified whether funding was included for federal and state emergency grants.⁴⁷ See **Table 9**.

⁴⁵ See <http://www.osm.gov/topic/grants/docs/2009/09pageA1.pdf>.

⁴⁶ Mandatory appropriations in FY2010 are projected at \$398.3 million, a reduction of \$23.9 million from the projected level of \$422.1 million in FY2009.

⁴⁷ Inquiries to OSM about the status of these grants in the FY2010 Interior appropriations law received no response.

Table 9. Appropriations for the Office of Surface Mining Reclamation and Enforcement, FY2009-FY2010
(\$ in millions)

Office of Surface Mining Reclamation and Enforcement	FY2009 Omnibus	FY2010 Request	FY2010 House Passed	FY2010 Senate Passed	FY2010 Approp.
Regulation and Technology	120.3	127.3	127.3	127.3	127.3
—Environmental Protection	88.4	94.8	94.8	94.8	94.8
Abandoned Mine Reclamation Fund	52.9	32.1	32.1	39.6	35.6
—Rescission	-8.5	0	0	0	0
Total Appropriations	164.7	159.4	159.4	166.9	162.9

Bureau of Indian Affairs⁴⁸

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, irrigation, 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.⁴⁹ The BIE appropriations remain within DOI's Indian Affairs appropriations.

For FY2010, the Interior appropriations law contained \$2.62 billion for BIA and BIE, an increase of \$26.6 million (1%) over the Senate-passed amount, \$60.9 million (2%) over the House, \$82.2 million (3%) over the Administration's proposal, and \$243.4 million (10%) over the FY2009 omnibus appropriations.

The FY2009 stimulus law added \$500.0 million in appropriations for the BIA, yielding total FY2009 appropriations of \$2.88 billion. 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.⁵⁰

Table 10, below, presents funding figures for FY2009 and FY2010. Key programs for BIA include law enforcement, Indian land consolidation, and the Interior Department's process for acknowledging Indian tribes. BIE's key programs include education improvement, forward funding for tribal colleges, and education construction.

⁴⁸ For more information on BIA funding, contact (name redacted) at 7-.....

⁴⁹ 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).

⁵⁰ On April 25, 2009, DOI released details on projects which will be funded with BIA stimulus monies. For further information, see the BIA stimulus page at <http://recovery.doi.gov/press/bureaus/bureau-of-indian-affairs/>.

Table 10. Appropriations for the Bureau of Indian Affairs (BIA), including Bureau of Indian Education (BIE), FY2009-FY2010

(\$ in thousands)

Indian Affairs	FY2009 Omnibus	FY2009 Stimulus ^a	FY2009 Total	FY2010 Request	FY2010 House Passed	FY2010 Senate Passed	FY2010 Approp.
Operation of Indian Programs	2,128,630	38,000^c	2,166,630	2,278,809	2,300,099	2,309,322	2,335,965
Tribal Government	402,531	0	402,531	416,572	422,862	418,572	429,778
—Self-Governance Compacts	144,397	0	144,397	147,762	147,762	147,762	147,762
—Johnson-O'Malley Grants ^b	7,565	0	7,565	7,836	7,836	7,836	7,836
—Welfare Assistance ^c	5,000	0	5,000	5,087	5,087	5,087	5,087
—Contract Support Costs	147,294	0	147,294	152,794	159,084	154,794	166,000
Human Services	137,448	19,000	156,448	136,996	136,996	138,059	136,996
—Welfare Assistance ^c	74,915	0	74,915	74,915	74,915	74,915	74,915
—Housing Improvement Program	13,614	19,000	32,614	12,620	12,620	13,683	12,620
Trust - Natural Resources Management	147,710	0	147,710	160,768	174,768	161,618	175,618
Trust - Real Estate Services	150,087	0	150,087	152,493	152,493	152,493	152,493
Public Safety and Justice	270,785	0	270,785	303,855	303,855	328,855	328,855
—Law Enforcement	255,077	0	255,077	283,152	283,152	303,152	303,152
—Crim. Investigations & Police Services	163,148	0	163,148	175,053	175,053	185,053	185,053
—Detention/Corrections	64,648	0	64,648	70,433	70,433	75,433	75,433
—Tribal Justice Support	1,462	0	1,462	5,697	5,697	5,697	5,697
—Tribal Courts	14,508	0	14,508	19,704	19,704	24,704	24,704
Community and Economic Development	43,589	19,000	62,589	43,910	44,910	43,910	44,910
—Road Maintenance ^d	26,046 ^d	0 ^d	26,046 ^d	26,490	26,490	26,490	26,490
—Construction workforce on-the-job training in maintenance	0	13,300	13,300	0	0	0	0
—Workforce training	0	5,700	5,700	0	0	0	0
Executive Direction and Administrative Services	260,327	0	260,327	267,915	267,915	267,915	267,915
—Office of Federal Acknowledgment	2,624	0	2,624	2,682	2,682	2,682	2,682
Bureau of Indian Education	716,153	0	716,153	796,300	796,300	797,900	799,400
—Elementary/Secondary (Forward-Funded)	499,470	0	499,470	516,702	518,702	516,702	518,702
—ISEP Formula Funds	375,000	0	375,000	391,699	391,699	391,699	391,699
—Elementary/Secondary: Other	75,126	0	75,126	77,379	77,379	77,379	77,379

Indian Affairs	FY2009 Omnibus	FY2009 Stimulus ^a	FY2009 Total	FY2010 Request	FY2010 House Passed	FY2010 Senate Passed	FY2010 Approp.
—Johnson-O'Malley Grants ^b	13,797	0	13,797	13,589	13,589	13,589	13,589
—Post Secondary Programs (Forward-Funded)	0	0	0	50,000	50,000	50,000	50,000
—Post Secondary Programs	115,272	0	115,272	125,691	123,691	127,291	126,791
—Tribal Colleges and Universities (incl. Supplements)	60,593	0	60,593	65,609	63,609	65,609	65,609
—Tribal Technical Colleges	6,000	0	6,000	6,069	6,069	6,669	6,669
—Education Management	26,285	0	26,285	26,528	26,528	26,528	26,528
Construction	217,688	427,500^e	645,188	200,000	200,000	225,000	225,000
Education Construction	128,837	277,700	406,537	112,994	112,994	112,994	112,994
—Replacement School Construction	22,405	134,600	157,005	5,964	5,964	5,964	5,964
—Replacement Facility Construction	17,013	0	17,013	17,013	17,013	17,013	17,013
—Education Facilities Improvement and Repair	84,974	143,100	228,074	85,566	85,566	85,566	85,566
Public Safety and Justice Construction	39,399	7,300	46,699	39,407	39,407	64,407	64,407
—Facilities Replacement/ New Construction	21,500	0	21,500	21,500	21,500	21,500	41,500
—Law Enforcement Facilities Improvement and Repair	10,941	7,300	18,241	10,947	10,947	30,947	10,947
Resources Management Construction	40,306	0	40,306	38,385	38,385	38,385	38,385
Road Maintenance ^d	— ^d	142,500 ^d	142,500 ^d	0	0	0	0
Land and Water Claim Settlements and Miscellaneous Payments	21,627	0	21,627	47,380	47,380	47,380	47,380
Indian Guaranteed Loan Program	8,186	9,500^e	17,686	8,215	8,215	8,215	8,215
Administrative Costs for Stimulus^e	0	25,000	25,000	0	0	0	0
Indian Land Consolidation Program^f	0	0	0	3,000	3,000	3,000	3,000
Total Appropriations	2,376,131	500,000	2,876,131	2,537,404	2,558,694	2,592,917	2,619,560

a. 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, CRS has included stimulus funding in this table's usual budget items, where possible.

b. The Johnson O'Malley program is split between two budget activities: Tribal Government and Bureau of Indian Education.

c. Welfare Assistance is split between two budget activities: Tribal Government and Human Services.

- d. The FY2009 stimulus 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. BIA allocated \$142.5 million in stimulus funding to Road Maintenance, which is reflected here under Construction. Total FY2009 Road Maintenance funding under both OIP and Construction was \$168.5 million.
- e. DOI allocated 5% of BIA's total stimulus funding for administrative costs associated with control and transparency of stimulus spending, the maximum allowed under the conference report (H.Rept. 111-16, p. 447). For each of the three BIA budget activities whose amounts were specified in the stimulus act, the stimulus total in the table was reduced by 5% for its share of stimulus administrative costs.
- f. Indian Land Consolidation has been a program in the Office of the Special Trustee for American Indians.

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. BIA funds most law enforcement, jails, and courts in Indian country, whether operated by tribes or by the BIA. Currently, BIA supports 191 law enforcement agencies, 91 detention programs, and 288 court systems.

In general, tribes and BIA have fewer law enforcement resources than comparable state and local jurisdictions. In policing, for instance, an independent 2006 analysis, adjusted by BIA for geographic comparability, showed that many BIA and tribal law enforcement agencies had fewer law officers per inhabitant than recommended by the Justice Department.⁵¹ Currently only 60% of BIA-funded law enforcement agencies have enough law enforcement officers to meet Justice's recommended ratio of 26 officers per 100,000 inhabitants.⁵² Further, detention and corrections facilities funded by BIA have significant shortfalls in staffing, training, operating procedures, reporting, and maintenance, according to a 2004 Interior Inspector General report.⁵³

For BIA *law enforcement*, for FY2010 the appropriations law provided \$303.2 million, the same as the Senate-passed amount and an increase of \$20.0 million (7%) over the amount proposed by the Administration and passed by the House, and an increase of \$48.1 million (19%) over the FY2009 omnibus appropriation. The \$20.0 million increase was under the authorization of the Emergency Fund for Indian Safety and Health⁵⁴ and was directed chiefly to criminal investigations and police services (\$10.0 million increase above the House and Administration amount) and detention and corrections (\$5.0 million increase), but also included added funding for police training. The Administration's request had included increases over FY2009 for criminal investigations and police services, chiefly to fund hiring more BIA and tribal law officers. Operation of detention and corrections facilities would receive \$70.4 million under the Administration request for FY2010, an increase of \$5.8 million (9%) over FY2009, for additional correctional officers, staffing of new

⁵¹ U.S. Department of the Interior, *The Interior Budget In Brief: Fiscal Year 2010* (May 2009), p. DH-68; available at http://www.doi.gov/budget/2010/10Hilites/2010_Highlights_Book.pdf.

⁵² *Ibid.*

⁵³ U.S. Department of the Interior, Officer of Inspector General, *"Neither Safe Nor Secure": An Assessment of Indian Detention Facilities*, report no. 2004-I-0056, Sept. 2004; available at <http://www.doi.gov/upload/IndianCountryDetentionFinal%20Report.pdf>.

⁵⁴ The fund was established by § 601 of the Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008 (P.L. 110-293, 25 U.S.C. § 443c).

facilities, and development of armed transport officer teams. Congress appeared to agree with these allocations.

For *tribal courts*, whose BIA appropriations are separate from law enforcement, the Interior appropriations law contained \$24.7 million, the same as the Senate and an increase of \$5.0 million (25%) over the amount passed by the House and proposed by the Administration, and an increase of \$10.2 million (70%) over FY2009. The increase was authorized under the Emergency Fund for Indian Safety and Health. The Administration's request had included increases over FY2009 for development and implementation of corrective action plans to improve nine individual tribal courts. In addition, under the Administration's proposal, the Tribal Justice Support item, under BIA law enforcement, would receive an additional \$4.2 million (an increase of 290%), of which \$3 million would be for the development of corrective action plans for an additional 6 tribal courts. Congress appeared to agree with these allocations.

Indian Land Consolidation Program

The purpose of the Indian land consolidation program is to reduce the fractionation of ownership of individual Indian trust lands—and the consequent multiplication of individual Indian trust accounts that the federal government 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).⁵⁵ The land consolidation program was first funded in FY1999 in the Office of the Special Trustee for American Indians (see “Office of the Special Trustee for American Indians” below). The FY2009 omnibus appropriations law did not fund Indian land consolidation. See **Table 10**. For FY2010, Congress agreed with the Administration's proposal to transfer the program to the BIA, with an appropriation of \$3.0 million. The Bush Administration had not sought funding for FY2009, contending that the Indian land consolidation program had failed to reduce either the fractionation of ownership or the costs of trust management.⁵⁶ The Obama Administration had stated that the FY2010 funding was for maintaining the program and developing alternative means of reducing fractionation.

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).⁵⁷ First located within BIA, the recognition office is now in the office of the Assistant Secretary—Indian Affairs and is known as the Office of Federal Acknowledgment (OFA). OFA employs teams of professional ethnohistorians, genealogists, and anthropologists to consider recognition petitions. The OFA process has often been criticized for

⁵⁵ 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).

⁵⁶ “Bush Administration Seeks Another Cut in BIA Budget,” *Indianz.com* (Feb. 5, 2008), available at <http://www.indianz.com/News/2008/006991.asp>.

⁵⁷ 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).

taking too long, one reason for which is a lack of resources.⁵⁸ Tribes approaching Congress for acknowledgment legislation often cite as one reason the length of time the OFA process takes.⁵⁹ The Administration's FY2010 proposal for the Executive Direction and Administrative Services budget activity, which funds the Assistant Secretary's office and hence OFA, included \$2.7 million for OFA. This would be an increase of \$58,000 (2%) over the FY2009 omnibus law, and would fund the same number of OFA professional employees as FY2009. Congress agreed with the Administration's proposed amount for FY2010.

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. At the beginning of school year 2008-2009, tribes and tribal organizations, under grants for tribally controlled schools and self-determination contracts, operated 124 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 elementary-secondary school system are low student achievement and the high proportion of schools failing to make adequate yearly progress (AYP). Key appropriations issues include increased formula funding to help meet AYP, forward funding for tribal colleges, and the large number of inadequate school facilities.⁶⁰

Indian School Equalization Program (ISEP)

In school years 2003-2007, 68%-70% of BIE-funded schools failed to make AYP, according to BIE. The chief source of BIE funding for school operations is the Indian School Equalization Program (ISEP) formula grant program, within the elementary/secondary education (forward-funded) budget activity. For FY2010, the Administration proposed \$391.7 million in ISEP formula funding, an increase of \$16.7 million (4%) from FY2009 omnibus appropriations. The FY2010 increase would be used for textbooks, classroom materials, equipment, and additional education specialists. Congress approved the Administration's proposal for ISEP. In addition, the House Appropriations Committee required BIE to report on the fiscal impact of restoring to the BIE system those schools removed from the system between 1951 and 1972.

Tribal Colleges Forward Funding

BIE administers operating grants authorized by the Tribally Controlled College or University Assistance Act,⁶¹ which is the major DOI funding source for 26 tribally chartered and controlled

⁵⁸ 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).

⁵⁹ See, e.g., testimony of Chief Stephen R. Adkins, Chickahominy Indian Tribe, on H.R. 1385 (111th Cong.), before the House Natural Resources Committee, March 18, 2009, p. 4, available at http://resourcescommittee.house.gov/images/Documents/20090318/testimony_adkins.pdf; and "Testimony of the Hon. John Sinclair, President, the Little Shell Tribe of Chippewa Indians of Montana," in U.S. Congress, Senate Indian Affairs Committee, *S. 724, S. 514, S. 1058, and H.R. 1294*, hearings, 110th Cong., 2nd sess., Sept. 25, 2008, S.Hrg. 110-686 (Washington: GPO, 2009), pp. 17-18.

⁶⁰ For more information on the BIE and current issues for Congress, see CRS Report RL34205, *Federal Indian Elementary-Secondary Education Programs: Background and Issues*, by (name redacted).

⁶¹ P.L. 95-471, Oct. 17, 1978, 92 Stat. 1325, as amended; 25 U.S.C. §§ 1801 *et seq.*, § 640c-1, § 640a note, and amending (continued...)

two-year, four-year, and graduate institutions of higher education. According to BIE, tribal college administrators have requested a change in funding distribution because the disjunction between school years (July 1-June 30) and fiscal years (October 1-September 30) made planning difficult and exacerbated financial insecurity. The Administration proposed to shift fiscal-year funding so as to fund the school year that begins during the same fiscal year as the appropriation. To do so would require a one-time advance appropriation for school year 2010-2011, in addition to the regular funding for school year 2009-2010. The Administration requested \$50.0 million for the one-time appropriation to start forward funding for tribal colleges, and Congress agreed.

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. For FY2010, the Interior appropriations law contained \$113.0 million for BIA education construction, the same as the Senate and House amounts and the Administration's request, and a decrease of \$15.8 million (12%) from FY2009 omnibus appropriations. This decrease was contained in the budget for replacement school construction, for which \$6.0 million was appropriated for FY2010, a reduction of \$16.4 million (73%) from the FY2009 omnibus. The Administration had asserted that the reduction allowed the agency to focus on stimulus-funded construction. Under the stimulus law, BIA education construction received an additional \$277.7 million, for a total of \$406.5 million for education construction in FY2009. See **Table 10**. Of the stimulus-act funding, replacement school construction received \$134.6 million, for a total of \$157.0 million for FY2009.

Departmental Offices and Department-Wide Programs⁶²

Office of Insular Affairs⁶³

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.⁶⁴ OIA staff manage relations between each jurisdiction and the federal government and work to build the fiscal and administrative capacity of local governments. OIA aid can be particularly important to the insular areas, which have experienced recent fiscal challenges.⁶⁵ OIA funding also could support the ongoing strengthening of U.S. military forces on Guam.⁶⁶

(...continued)

§ 640c.

⁶² This section addresses selected activities/offices that fall under *Departmental Offices* or *Department-Wide Programs*. Total funding for these entities is identified in **Table 22** at the end of this report.

⁶³ For more information on OIA funding, contact (name redacted) at 7-.....

⁶⁴ On behalf of the United Nations, the U.S. government formerly administered these areas as the Trust Territories of the Pacific Islands (TTPI).

⁶⁵ U.S. Dept. of the Interior, *Budget Justifications and Performance Information, Fiscal Year 2010, Office of Insular Affairs*, p. 1. Hereafter referred to as *OIA Budget Justification*.

⁶⁶ *Ibid.* For additional discussion of the buildup, see CRS Report RS22570, *Guam: U.S. Defense Deployments*, by Shirley (continued...)

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). 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.

The total OIA request (including permanent and indefinite annual appropriations) for FY2010 was \$423.3 million. Of that amount, \$336.9 million (80%) in permanent and indefinite funding is required through statutes, as follows:

- an estimated \$207.9 million under conditions set forth in the respective Compacts of Free Association; and
- an estimated \$129.0 million in fiscal assistance through payments to territories, divided between the U.S. Virgin Islands for estimated rum excise and income tax collections, and Guam for income tax collections.⁶⁷

Discretionary and current mandatory funds in the AT and CFA accounts require annual appropriations that constitute the remainder of the OIA budget. The FY2010 Interior appropriations law provided \$85.2 million in AT funding—1% more than the \$84.0 million passed by the House and 5% more than the \$81.1 million passed by the Senate. Of the \$85.2 million appropriated, \$75.9 million was to be reserved for various types of technical assistance to territories (e.g., grants supporting local governments and infrastructure projects), and \$9.3 million is to be reserved for OIA salaries and expenses. The law also provided \$5.3 million in CFA funds—the same amount requested and supported throughout the FY2010 appropriations process. The CFA appropriation provides funding for certain federal services, such as U.S. mail.⁶⁸ In total, the FY2010 law appropriated \$90.5 million in discretionary and current mandatory funds to OIA (AT and CFA accounts combined). This was a \$6.5 million (8%) increase over the FY2009 level of \$84.0 million.

As is typical with OIA appropriations, the law provides that funding may be audited by the Government Accountability Office (GAO). Also, an “administrative provision” in the law would permit the Secretary of the Interior, at the request of the Governor of Guam, to transfer certain funds to the Secretary of Agriculture for rural development projects on the island.⁶⁹ While this provision did not appear in the House-passed bill, the Senate-passed bill had included similar language.

(...continued)

A. Kan and (name redacted); and CRS Report R40731, *Military Construction, Veterans Affairs, and Related Agencies: FY2010 Appropriations*, coordinated by (name redacted).

⁶⁷ The figures in this section appear in the *OIA Budget Justification*, p. 2.

⁶⁸ For additional information about the CFA account, see, for example, the *OIA Budget Justification*, p. 79.

⁶⁹ For background on the USDA's rural development program, see CRS Report RL31837, *An Overview of USDA Rural Development Programs*, by (name redacted).

Office of the Special Trustee for American Indians⁷⁰

The Office of the 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 1994.⁷¹ 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).⁷²

Indian trust funds managed by OST comprise (1) tribal funds owned by over 250 tribes in approximately 2,700 accounts, with a total asset value over \$3.0 billion; and (2) individual Indians' funds, known as Individual Indian Money (IIM) accounts, in about 380,000 accounts with a current total asset value over \$440 million.⁷³ 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 Administration proposed \$186.0 million for FY2010 for OST, an increase of \$4.3 million (2%) over FY2009 omnibus appropriations. The FY2010 Interior appropriations law included this level. See **Table 11**. Key issues for OST include balancing historical accounting expenditures for tribal and IIM accounts, and the possible effects of litigation involving IIM and tribal accounts (which may lead to significant awards against the United States). The transfer of the Indian land consolidation program from OST to BIA is discussed under "Bureau of Indian Affairs," above.

Table 11. Appropriations for the Office of Special Trustee for American Indians (OST), FY2009-FY2010

(\$ in thousands)

Office of Special Trustee for American Indians	FY2009 Omnibus	FY2010 Request	FY2010 House Passed	FY2010 Senate Passed	FY2010 Approp.
Federal Trust Programs	181,648	185,984	185,984	185,984	185,984
—Historical Accounting Office	56,445	56,536	56,536	56,536	56,536
—IIM Accounts	40,000	31,536	n/a	n/a	n/a
—Tribal Accounts	16,445	25,000	n/a	n/a	n/a
Indian Land Consolidation ^a	0	—	—	—	—
Total Appropriations	181,648	185,984	185,984	185,984	185,984

a. Program transferred to BIA for FY2010 (see above).

⁷⁰ For more information on OST funding, contact (name redacted) at 7-.....

⁷¹ P.L. 103-412, Oct. 25, 1994, 108 Stat. 4239; 25 U.S.C. §§ 4001 *et seq.*

⁷² The OST has nearly completed indexing and digitizing the backlog of historical trust records, and in FY2009 the agency reduced these operations to handle the remaining backlog and ongoing trust records.

⁷³ Figures were taken from: U.S. Dept. of the Interior, *Budget Justifications and Performance Information, Fiscal Year 2010, Office of the Special Trustee for American Indians*. Hereafter, this document is cited as *OST FY2010 Budget Justification*.

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 historical accounting usually have been made through OST. For FY2010, the Administration proposed limiting historical accounting to no more than \$56.5 million, an increase of \$91,000 (0.2%) from the FY2009 omnibus appropriation. Of the total, the Administration proposed reducing funds for IIM historical accounting to \$31.5 million, a decrease of \$8.5 million (21%) from FY2009, while increasing funds for tribal historical accounting to \$25.0 million, an increase of \$8.6 million (52%) over FY2009. Enacted FY2010 appropriations provided for no more than \$56.5 million for historical accounting, as requested by the Administration.

IIM and tribal historical accounting are both linked to litigation against the United States by IIM account holders and by Indian tribes (see "Litigation," below). Early expenditures for historical accounting were almost entirely for IIM litigation, but in recent years an increase in tribal litigation has led to a shift in expenditures to tribal historical accounting.

IIM historical accounting proved expensive 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 a large number of missing account documents. OST's IIM historical accounting is based on a plan developed in 2003 and last revised in 2007. OST estimated in 2008 that its IIM plan would cost a total of \$271 million and would be completed in FY2011 if funded at \$40 million per year.⁷⁴

IIM historical accounting is subject not only to executive and congressional actions but also to court rulings in the IIM suit, *Cobell v. Salazar* (see "Litigation"), where plaintiffs strongly disagreed with OST's plan. In January 2008, the district court in the *Cobell* suit rejected OST's IIM historical accounting plan, finding that a historical accounting was impossible given insufficient congressional appropriations. The district court, however, ordered neither a new or revised IIM historical accounting process, nor a cessation of IIM historical accounting. On appeal, the appeals court in July 2009 reversed the finding that a historical accounting was impossible, and instead ordered the district judge "to enforce the best accounting that Interior can provide, with the resources it receives, or expects to receive, from Congress."⁷⁵ Following the appeals court decision, the district court did not issue an order to OST regarding its IIM historical accounting activities; OST continues its IIM historical accounting.

A settlement of the IIM suit was announced (see "Litigation," below). If the settlement is approved by Congress and the court, OST may change its allocation of historical accounting appropriations between IIM and tribal historical accounting.

Tribal historical accounting activities are based on numerous tribal suits, many filed at the end of 2006 in fear of an impending statute of limitations deadline. According to OST, currently 94 tribal trust fund and accounting suits have been filed by 116 tribes.⁷⁶ Each suit may require not only

⁷⁴ U.S. Dept. of the Interior, *Budget Justifications and Performance Information, Fiscal Year 2009, Office of the Special Trustee for American Indians*, p. OST-81 – OST-83.

⁷⁵ *Cobell v. Salazar*, No. 08-5500, consolidated with 08-5506, slip op. at 7 (D.C. Cir. July 24, 2009), available on the web at <http://pacer.cadc.uscourts.gov/docs/common/opinions/200907/08-5500-1197936.pdf>.

⁷⁶ *OST FY2010 Budget Justification*, p. OST-79.

historical accounting but also data provision, accounting analysis, and other litigation support, separate from other suits.

Litigation

The IIM trust funds case, *Cobell v. Salazar*, is a class-action lawsuit filed against the federal government in 1996 by IIM account holders in the Federal District Court for the District of Columbia.⁷⁷ A settlement in the *Cobell* suit was announced by the plaintiffs and the federal government on December 8, 2009.⁷⁸ Under this settlement, the United States will pay a total of \$3.4 billion from the Treasury Department's "Judgment Fund"⁷⁹ as compensation for the IIM historical accounting claim (and for potential trust asset mismanagement claims). Of this total, \$1.4 billion is to be distributed to plaintiffs under a formula in the settlement agreement. The remaining \$2.0 billion will be placed in a fund for the purchase of fractionated land interests from IIM account-holders, on a voluntary basis, in order to consolidate the interests and transfer them to tribes under the Indian Land Consolidation Act (P.L. 97-459, as amended). Under the settlement agreement, both Congress and the district court must approve the settlement.⁸⁰

Estimates of the total owed by the United States for the *Cobell* case had varied. DOI had estimated the total owed to be in the low millions of dollars. The *Cobell* plaintiffs (using different methods) had made varying estimates of the total owed; the highest estimate was \$176 billion⁸¹ and the most recent estimate was \$48 billion.⁸² Settlement proposals had similarly varied. In 2005 the *Cobell* plaintiffs had proposed \$27.5 billion as a settlement amount, and in the 109th Congress Members of Congress had proposed \$8 billion. On August 7, 2008, the district court ruled that the United States owed \$455.6 million in restitution to the IIM plaintiffs. Both the plaintiffs and the defendants appealed the award. The appeals court vacated the award in July 2009, ruling that the IIM historical accounting should proceed before an award could be made and distributed. As noted, the amount in the new settlement agreement is \$3.4 billion.

Many OST activities are related to the IIM case, including litigation support activities in *Cobell*. The most significant issues for appropriations, other than historical accounting, had concerned the amount the federal government might need to pay to settle the litigation and bring IIM accounts to their proper balances, and whether such payment would jeopardize spending on other Indian programs. The use of the Judgment Fund to settle the *Cobell* case, instead of OST or BIA

⁷⁷ *Cobell v. Salazar* (Civil No. 96-1285) (D.D.C.). For more information on the litigation, see CRS Report RL34628, *The Indian Trust Fund Litigation: An Overview of Cobell v. Salazar*, by Yule Kim. Additional 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 <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.

⁷⁸ U.S. Department of the Interior, "Secretary Salazar, Attorney General Holder Announce Settlement of Cobell Lawsuit on Indian Trust Management," press release, December 8, 2009, http://www.doi.gov/news/09_News_Releases/120809a.html.

⁷⁹ The Judgment Fund is a permanent, indefinite appropriation from the Treasury for paying judgments against, and settlements by, the U.S. government. (See 31 U.S.C. § 1304.)

⁸⁰ For relevant documents, including the text of the settlement agreement, see <http://www.cobellsettlement.com/>.

⁸¹ 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.

⁸² Noelle Straub, "Cobell, Indian Plaintiffs Request 'Rough Justice'," *E&E News PM*, May 11, 2009, <http://www.eenews.net/eenewspm/2009/05/11/6/>.

appropriations, would relieve this concern, as long as there is no requirement that the Judgment Fund be reimbursed.

The *Cobell* settlement does not settle the numerous tribal trust fund and accounting suits, which may involve much larger potential costs of settlements. Cumulatively, tribal claims may total far more than the IIM claim, since the value of tribal accounts (currently \$3 billion) has always been larger than the value of IIM accounts (currently \$440 million). Hence the potential costs of tribal settlements may be far larger than the cost of the *Cobell* settlement.

Title II: Environmental Protection Agency⁸³

The EPA's primary responsibilities include the regulation of air quality, water quality, pesticides, and toxic substances; the regulation of the management and disposal of solid and hazardous wastes; and the cleanup of environmental contamination. EPA also distributes grants to assist states and local governments in complying with federal requirements to control pollution.⁸⁴

For FY2010, the Interior appropriations law provided \$10.29 billion for EPA, an increase above the \$10.16 billion proposed by the Senate but less than the \$10.46 billion proposed by the House and the \$10.49 billion included in the President's FY2010 budget request. The FY2010 appropriation was 35% above the FY2009 omnibus appropriations of \$7.64 billion for EPA. Including the additional \$7.22 billion in FY2009 stimulus appropriations, Congress appropriated a total of \$14.86 billion for EPA in FY2009.⁸⁵ **Table 12** presents funding levels proposed and enacted for FY2010 compared to appropriations enacted in FY2009 for the eight statutory accounts that fund EPA.

Key Funding Issues

Much of the attention focused on federal assistance for wastewater and drinking water infrastructure projects, environmental cleanup, and climate change research and related activities. There was also interest in the Great Lakes Restoration Initiative, a new initiative that expands EPA's and other agencies' existing efforts to restore this ecosystem. This section provides a discussion of selected EPA funding issues that received more prominent attention in the FY2010 appropriations debate.

Certain EPA regulatory actions also received attention. For example, one provision of the Interior appropriations law⁸⁶ prohibited EPA from using funds to issue a final rule that would include fuel sulfur standards applicable to existing steamships that operate exclusively within the Great Lakes and their connecting and tributary waters. This provision impacts proposed EPA regulations of ship and port emissions under the Clean Air Act.⁸⁷

⁸³ For more information on EPA funding, contact (name redacted) at 7-.....

⁸⁴ For a comprehensive overview of laws administered by EPA, including discussion of the basic authorities underlying EPA programs, see CRS Report RL30798, *Environmental Laws: Summaries of Major Statutes Administered by the Environmental Protection Agency (EPA)*.

⁸⁵ EPA must obligate the FY2009 stimulus funds by the end of FY2010 whereas appropriations for EPA are usually available until expended by the agency; for the status of stimulus funds, see <http://www.epa.gov/recovery>.

⁸⁶ § 442 of Title IV of P.L. 111-88.

⁸⁷ For information regarding pollution from ships and port facilities, and measures being implemented and considered by local, state, and federal regulatory agencies, see CRS Report RL34548, *Air Pollution and Greenhouse Gas Emissions from Ships*, by (name redacted).

Table 12. Appropriations for the Environmental Protection Agency, FY2009- FY2010
(\$ in millions)

EPA Accounts	FY2009 Omnibus	FY2009 Stimulus	FY2009 Total	FY2010 Request	FY2010 House Passed	FY2010 Senate Passed	FY2010 Approp.
Science and Technology							
—Base Appropriations	790.1	0.0	790.1	842.3	849.6	842.8	846.1
—Transfer in from Superfund	26.4	0.0	26.4	26.8	26.8	26.8	26.8
Science and Technology Total	816.5	0.0	816.5	869.2	876.5	869.6	872.9
Environmental Programs and Management	2,392.1	0.0	2,392.1	2,940.6	3,022.1	2,878.8	2,993.8
Office of Inspector General							
—Base Appropriations	44.8	20.0	64.8	44.8	44.8	44.8	44.8
—Transfer in from Superfund	10.0	0.0	10.0	10.0	10.0	10.0	10.0
Office of Inspector General Total	54.8	20.0	74.8	54.8	54.8	54.8	54.8
Buildings & Facilities	35.0	0.0	35.0	37.0	33.0	35.0	37.0
Hazardous Substance Superfund (before transfers)	1,285.0	600.0	1,885.0	1,308.5	1,306.5	1,308.5	1,306.5
—Transfer out to Office of Inspector General	10.0	0.0	10.0	10.0	10.0	10.0	10.0
—Transfer out to Science and Technology	26.4	0.0	26.4	26.8	26.8	26.8	26.8
Hazardous Substance Superfund (after transfers)	1,248.6	600.0	1,848.6	1,271.7	1,269.7	1,271.7	1,269.7
Leaking Underground Storage Tank Trust Fund Program	112.6	200.0	312.6	113.1	113.1	114.2	113.1
Oil Spill Response	17.7	0.0	17.7	18.4	18.4	18.4	18.4
State and Tribal Assistance Grants							
—Clean Water State Revolving Fund	689.1	4,000.0	4,689.1	2,400.0	2,307.0	2,100.0	2,100.0
—Drinking Water State Revolving Fund	829.0	2,000.0	2,829.0	1,500.0	1,443.0	1,387.0	1,387.0
—Special Project Grants	145.0	0.0	145.0	0.0	160.0	150.0	156.8
—Categorical Grants	1,094.9	0.0	1,094.9	1,111.3	1,115.4	1,111.3	1,116.4
—Brownfields Section 104(k) Grants	97.0	100.0	197.0	100.0	100.0	101.0	100.0
—Diesel Emission Reduction Grants	60.0	300.0	360.0	60.0	60.0	60.0	60.0
—Other State and Tribal Assistance Grants	53.5	0.0	53.5	20.0	30.0	45.0	50.0
State and Tribal Assistance Grants Total	2,968.5	6,400.0	9,368.5	5,191.3	5,215.4	4,954.3	4,970.2
Rescissions (various EPA accounts) ^a	-10.0	0.0	-10.0	-10.0	-142.0	-40.0	-40.0
Total EPA Accounts	7,635.7	7,220.0	14,855.7	10,486.0	10,461.0	10,156.7	10,289.9

a. The rescissions are from unobligated balances from funds appropriated in prior years, and made available for expenditure in a later year. In effect, these “rescissions” increase the availability of funds for expenditure by the agency in the years in which they are applied (as shown in the table), functioning as an offset to new appropriations.

Wastewater and Drinking Water Infrastructure

The largest FY2010 funding increases for EPA above the FY2009 omnibus appropriations were for capitalization grants for the Clean Water and the Drinking Water State Revolving Funds (SRFs) within the State and Tribal Assistance Grants (STAG) account.⁸⁸ SRF funding is used for local wastewater and drinking water infrastructure projects, such as construction of and modifications to municipal sewage treatment plants and drinking water treatment plants, to facilitate compliance with Clean Water Act and Safe Drinking Water Act requirements, respectively.

The FY2010 Interior appropriations law provided \$2.10 billion for the Clean Water SRF capitalization grants and \$1.39 billion for the Drinking Water SRF capitalization grants. As indicated in **Table 12**, these FY2010 appropriations were the same as proposed by the Senate but were below the amounts proposed by the House and the President. The FY2010 Clean Water SRF appropriation was more than three times the level provided in the FY2009 omnibus appropriations, and the appropriation for Drinking Water SRF capitalization grants was 67% above the FY2009 omnibus appropriation. The stimulus law provided substantial additional funding in FY2009 for the SRF grants, with \$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.

EPA allocates annual appropriations for these capitalization grants among the states based on a formula that is authorized in the Clean Water Act and on the needs surveys required by the Safe Drinking Water Act.⁸⁹ States must provide 20% matching funds in order to receive the federal funds. States combine their matching funds with the federal monies to capitalize their SRFs, which they use to issue low-interest or no-interest loans to finance local water infrastructure projects in communities. The recipients must repay the loan to the issuing state. Monies that states collect from the repayment of these loans are deposited back into the SRFs to provide capital for issuing new loans. In this sense, the SRFs are intended to be “revolving” and eventually self-sustaining over the long term.

The extent of federal assistance still needed to help states maintain sufficient capital in their SRFs to finance projects has been an ongoing issue. Some advocates of a substantial federal funding role have cited estimates of hundreds of billions of dollars in long-term needs among communities, and the expansion of federal water quality requirements over time, as reasons for maintaining or increasing the level of federal assistance.⁹⁰ Others have called for more self-reliance in the water sector.

The FY2010 Interior appropriations law required that, for FY2010, at least 20% of funds made available to each state under the Clean Water and Drinking Water SRFs be used for “green infrastructure,” water and energy efficiency improvements, or other environmentally innovative projects. The law also required that states use, at a minimum, 30% of the funds made available for SRF capitalization grants to provide additional subsidies in the form of principal forgiveness,

⁸⁸ For a chronological discussion of congressional activity to fund wastewater and drinking water infrastructure projects, see CRS Report 96-647, *Water Infrastructure Financing: History of EPA Appropriations*, by (name redacted).

⁸⁹ EPA must allocate the Clean Water SRF grants among the states according to a formula specified in the Clean Water Act itself, whereas the Safe Drinking Water Act authorizes EPA to allocate the Drinking Water SRF grants among the states based on the results of a quadrennial survey of each state’s drinking water infrastructure funding needs.

⁹⁰ For more information on the sufficiency of federal funding for the SRFs, see CRS Report RL31116, *Water Infrastructure Needs and Investment: Review and Analysis of Key Issues*, by (name redacted) and (name redacted).

negative interest loans, or grants to eligible recipients. Similar provisions were included in the FY2009 stimulus law.⁹¹

Two administrative provisions in the FY2010 Interior appropriations law required that, for FY2010, any construction project using assistance made available through the Clean Water and Drinking Water revolving loan funds adhere to provisions of the Davis-Bacon Act. The Davis-Bacon Act requires, among other provisions, that not less than the locally prevailing wage be paid to workers employed, under contract, on federal construction work “to which the United States or the District of Columbia is a party.” Compliance with, and the applicability of, Davis-Bacon to both programs has been an ongoing contentious issue among Members of Congress.⁹²

Although the SRF capitalization grants represent the bulk of EPA funding for water infrastructure, Congress also has supported these needs through congressionally directed funding for “special project grants” in the STAG account. The FY2010 Interior appropriations law included \$156.8 million for 333 special project grants distributed across the United States and technical corrections to prior year grants, as specified in the conference report.⁹³ As identified in their respective reports,⁹⁴ the House had proposed \$160.0 million for 167 special project grants, and the Senate had proposed \$150.0 million for 164 special project grants. The FY2009 omnibus appropriations included \$145.0 million for 301 special project grants.⁹⁵ As in past years, the FY2010 Interior appropriations law required recipients to provide 45% of a project’s cost in matching funds, while authorizing EPA to make some exceptions in cases of financial hardship. The President’s FY2010 budget did not include funding for these special projects, which is consistent with past administrations’ budget requests. Administrations have viewed these projects solely to be the priorities of Congress.

Superfund

The Hazardous Substance Superfund (Superfund) account supports the assessment and cleanup of contaminated sites administered under EPA’s Superfund program established under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA).⁹⁶ 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.⁹⁷ The adequacy of funding to clean up the nation’s most hazardous waste sites has been a long-standing issue.

⁹¹ For a discussion of the green infrastructure and loan forgiveness provisions included in the FY2009 stimulus law, see CRS Report R40216, *Water Infrastructure Funding in the American Recovery and Reinvestment Act of 2009*, by (name redacted), (name redacted), and (name redacted).

⁹² For discussion of the debate regarding the applicability of the Davis-Bacon Act and other federal cross cutting requirements and their impact on the Clean Water and Drinking Water capitalization grant programs see CRS Report RL31116, *Water Infrastructure Needs and Investment: Review and Analysis of Key Issues*, by (name redacted) and (name redacted).

⁹³ H.Rept. 111-316 on H.R. 2996, p. 118-127.

⁹⁴ H.Rept. 111-180 on H.R. 2996, p. 113-115 and 217-233; S.Rept. 111-38 on H.R. 2996, p. 59-62 and 107-116.

⁹⁵ See, U.S. House of Representatives, Committee on Appropriations, Committee Print (unnumbered) on the Omnibus Appropriations Act, 2009, H.R. 1105/P.L. 111-8, p. 1133–1142.

⁹⁶ As amended, 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, and to authorize the federal government to pay the costs of cleanup at sites where the responsible parties cannot pay or cannot be found.

⁹⁷ For a discussion of programmatic concerns and specific issues regarding implementation of the Superfund program, see CRS Report RL33426, *Superfund: Implementation and Selected Issues*, by (name redacted).

The FY2010 appropriation of \$1.31 billion (prior to transfers) for the Superfund account for FY2010 was the same as proposed by the House, but \$2.0 million less (for operations and administration) than the President and Senate had supported. Also, the FY2010 appropriation was \$21.5 million more than the FY2009 omnibus appropriation of \$1.29 billion. See **Table 12**. Funding for the Superfund account has remained fairly close to these levels over the past several years. The stimulus law provided an additional \$600.0 million for the Superfund account, exclusively for “remedial” cleanup projects.

Within the Superfund total, the Interior appropriations law included \$605.0 million for remedial cleanup projects, nearly the same as the FY2009 omnibus appropriations. Remedial projects receive nearly half of the funding within the Superfund account. These 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.

Some Members of Congress have maintained that a steady level of federal funding in the Superfund account 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 been some concern that, as a result of inflation over time, the amount of funding today cannot accomplish as much cleanup as that same amount in the past.

There has been renewed interest in reinstating Superfund taxes on industry to help support the Hazardous Substance Superfund Trust Fund.⁹⁸ Congress appropriates monies out of this trust fund to finance the Superfund appropriations account that funds EPA’s Superfund program, discussed above. 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. Congress now supports the Superfund Trust Fund mostly with general Treasury revenues, but other sources do contribute some revenue.⁹⁹ Although the special taxes on industry have expired, industry continues to contribute to 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.

Brownfields

In addition to Superfund, EPA administers a program to clean up contaminated “brownfields” as established by amendments to CERCLA in 2002.¹⁰⁰ Typically, brownfields are abandoned, idled, or underutilized commercial and industrial properties with levels of contamination less hazardous than

⁹⁸ The Superfund tax consisted of two excise taxes, one on petroleum and one on chemical feedstocks, and a special environmental tax on corporate income.

⁹⁹ Interest on the remaining balance of the 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, which are available for appropriation by Congress to supplement general Treasury revenues to fund the Superfund Program.

¹⁰⁰ Title II of the Small Business Liability Relief and Brownfields Revitalization Act of 2002 (P.L. 107-118) amended CERCLA to provide explicit authority for EPA’s Brownfields program.

an NPL site, but for which cleanup still may be needed to make the land suitable for reuse.¹⁰¹ 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 also aid communities with the cleanup of individual brownfields.

Congress appropriates funding for both of these grants within the STAG account, and funding for EPA's expenses to administer these grants within the Environmental Programs and Management (EPM) account. The Interior appropriations law provided \$173.4 million for EPA's Brownfields program within these accounts. The House had proposed \$174.1 million, the Senate had proposed \$174.4 million, and the President had requested \$174.7 million. Funding for administrative expenses is the primary reason for the differences in the FY2010 levels. All the amounts were an increase above the FY2009 omnibus appropriation of \$169.5 million but less than the total appropriation of \$269.5 million for FY2009 (including stimulus funding of \$100.0 million for Section 104(k) grants).

Climate Change/Greenhouse Gas Reduction¹⁰²

The efforts of EPA and other federal agencies to address climate change and greenhouse gas emissions were an area of interest to Congress during the debate on FY2010 appropriations. EPA is one of 13 federal agencies that have received appropriations annually for climate change activities in recent fiscal years. EPA funding represents a relatively small portion (less than 2%) of total federal funding for climate change activities.¹⁰³ FY2010 funding for EPA climate change activities was included in three EPA accounts: Science and Technology (S&T), EPM, and STAG. Within the three accounts, the Interior appropriations law included \$161.5 million for FY2010 for EPA climate change research and implementation activities. The House had proposed \$163.1 million, and the Senate had proposed \$151.5 million, the same as requested by the Administration. All are above the FY2009 enacted appropriations of \$139.0 million for these activities.

The FY2010 appropriations law included a provision in Title II requiring EPA to study domestic and international black carbon emissions. Black carbon refers to a form of particulate air pollution most often produced from diesel exhaust and burning of biomass. The study is to include an inventory of the major sources of black carbon, an assessment of the impacts of black carbon on global and regional climate, an assessment of potential metrics and approaches for quantifying the climatic effects of black carbon emissions and comparing those effects to the effects of carbon dioxide and other greenhouse gases, and an identification of cost-effective approaches for mitigating black carbon emissions. EPA is to report the results of the study to committees of Congress within 18 months of enactment.¹⁰⁴

¹⁰¹ For a description of the scope of the Brownfield program and a review of historical funding, see CRS Report RS22965, *The Environmental Protection Agency's Brownfields Program: Scope, Authorities, and Implementation*, by (name redacted).

¹⁰² CRS Report RL34513, *Climate Change: Current Issues and Policy Tools*, by (name redacted), provides an introduction to the fundamentals of climate change issues.

¹⁰³ For information on government-wide funding historically for climate change activities, see CRS Report RL33817, *Climate Change: Federal Program Funding and Tax Incentives*, by (name redacted).

¹⁰⁴ H.Rept. 111-316 on H.R. 2996, p. 109.

Title IV of the FY2010 Interior appropriations law included two provisions restricting the use of funds for certain climate change activities affecting livestock operations, and another provision requiring the President to submit a report detailing expenditures and obligations for climate change. Section 424 prohibited funds in the act and any other act from being used to promulgate or implement any regulation requiring the issuance of permits under Title V of the Clean Air Act¹⁰⁵ for carbon dioxide, nitrous oxide, water vapor, or methane emissions resulting from biological processes associated with livestock production. Section 425 prohibited the use of funds in the act and any other act to implement any provision in a rule if that provision requires mandatory reporting of greenhouse gas emissions from manure management systems. More broadly, Section 426 required the President to report to the Appropriations Committees on all federal (including EPA) obligations and expenditures, domestic and international, for climate change programs and activities in FY2009 and FY2010.¹⁰⁶ The report is to include expenditures and associated costs by agency and is to be submitted no later than 120 days after submission of the President's FY2011 budget request.

Central to the climate change debate were EPA's efforts to finalize or implement a proposed rule: "Proposed Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act" published April 24, 2009.¹⁰⁷ Multiple amendments that were filed in the Senate¹⁰⁸ had contained provisions to delay or restrict certain aspects of EPA's implementation of the proposed rule, including limiting regulation of carbon dioxide from stationary sources specifically.¹⁰⁹ Other amendments that were filed had contained provisions concerning impacts of regulating greenhouse gas emissions on agriculture production, including aspects of biofuel requirements, and implementation of the renewable fuel program in general.¹¹⁰ None of these amendments were offered on the Senate floor.

Great Lakes Restoration Initiative

The President's FY2010 request included a proposal for a new Great Lakes Restoration Initiative, intended to target the most significant problems in the Great Lakes ecosystem, such as aquatic invasive species, nonpoint source pollution, and toxics and contaminated sediment.¹¹¹ Projects and programs are expected to be based on strategic planning and recommendations of the Great Lakes Interagency Task Force,¹¹² and are to be implemented through the issuance of grants and agreements with states, tribes, municipalities, universities, and other organizations. The Interior appropriations

¹⁰⁵ 42 U.S.C. § 7661 et seq.

¹⁰⁶ A similar recurring reporting requirement had been in existence for nearly a decade through FY2007, under a provision in the annual appropriations bills for Foreign Operations.

¹⁰⁷ 74 *Federal Register* 18886, April 24, 2009. For additional information regarding implications of EPA's proposed endangerment finding, see CRS Report R40585, *Climate Change: Potential Regulation of Stationary Greenhouse Gas Sources Under the Clean Air Act*, by (name redacted) and (name redacted), and CRS Report R40506, *Cars and Climate: What Can EPA Do to Control Greenhouse Gases from Mobile Sources?*, by (name redacted).

¹⁰⁸ For the information and convenience of the Senate, Senators often file proposed amendments to be printed in the *Congressional Record* a day or more before they are to be called up for consideration on the Senate floor. They are listed in a section called "Amendments Submitted." If an amendment is submitted for printing in the *Record*, it is assigned a number at that time. See CRS Report CRS Report 98-853, *The Amending Process in the Senate*, by (name redacted).

¹⁰⁹ S.Amdt. 2451, S.Amdt. 2452, S.Amdt. 2473, S.Amdt. 2474, S.Amdt. 2490, S.Amdt. 2526, S.Amdt. 2530, S.Amdt. 2539, and S.Amdt. 2540.

¹¹⁰ S.Amdt. 2458, S.Amdt. 2477, S.Amdt. 2506, S.Amdt. 2510, S.Amdt. 2517, and S.Amdt. 2550.

¹¹¹ For more information, see EPA's Great Lakes Restoration Initiative website, <http://www.epa.gov/glnpo/glri/index.html>.

¹¹² The Great Lakes Interagency Task Force was established by Executive Order 13340 of May 18, 2004 (69 *Federal Register* 29043, May 20, 2004); for information about the Task Force, see <http://www.epa.gov/glnpo/iatf/index.html>.

law provided \$475.0 million within EPA's EPM account for the new initiative, the same as proposed by the House and the President; the Senate had proposed \$400.0 million.

The FY2010 Interior appropriations law included a provision authorizing EPA to transfer funding to, or establish interagency agreements with, other federal departments and agencies including the Departments of Homeland Security, Defense, Transportation, Agriculture, the Interior, Health and Human Services, and State.¹¹³ A portion of the funding is to be retained by EPA for its Great Lakes programs, including grants to state and local governments, nonprofit organizations, and other entities. A substantial portion of all funding is to be provided for restoration activities conducted by non-federal partners. If an agency that administers one of the grant programs under the Great Lakes Restoration Initiative has the discretionary authority to reduce or waive a matching funds requirement based on financial hardship of the recipient, the conferees encouraged such financial relief "in recognition of the exceptional economic circumstances of the region and the significant ongoing investments made by non-Federal partners."¹¹⁴

The new initiative subsumes activities of several federal Great Lakes programs, including EPA's Great Lakes National Program Office, and the agency's implementation of the Great Lakes Legacy Act (as reauthorized in 2008, P.L. 110-365) to clean up contaminated sediments in the Great Lakes. The conference report¹¹⁵ directed EPA to develop a comprehensive restoration plan using the existing Great Lakes Regional Collaboration Strategy as a basis and with additional input from Great Lakes stakeholders. Beginning, on March 1, 2010, EPA is to provide annual reports that give funding allocations by each federal agency and identify any adjustments from the request. Beginning in 2011 and each year thereafter, EPA is to provide detailed yearly program accomplishments and compare specific funding levels allocated for participating federal agencies from fiscal year to fiscal year.

Title III: Related Agencies

Department of Agriculture: Forest Service¹¹⁶

For FY2010, the Interior appropriations law provided \$5.30 billion in appropriations for the Forest Service (FS), \$122.9 million (2%) less than House, \$71.5 million (1%) less than the Senate, and \$70.6 million (1%) more than the Administration requested. The enacted level was \$551.5 million (12%) more than the FY2009 omnibus appropriations of \$4.75 billion. With stimulus and other FY2009 emergency funds, the FY2009 total was \$6.10 billion.

As shown in **Table 13**, 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 in the "Cross-Cutting Topics" section at the end of this report. For

¹¹³ As identified by EPA, *FY 2010 Annual Performance Plan and Congressional Justification: EPA's Proposed Budget*, p. 293-301, at http://www.epa.gov/ocfo/budget/2010/tab_04_epm.pdf.

¹¹⁴ H.Rept. 111-316 on H.R. 2996, p. 111.

¹¹⁵ H.Rept. 111-316 on H.R. 2996, p. 110-112.

¹¹⁶ For more information on FS funding, contact (name redacted) at 7-....

FY2010, one significant budget issue was funding for wildfire suppression, as discussed in that later section.

Another significant issue in the FS budget concerns cabin user fees. In Section 433, the FY2010 Interior appropriations law modified Senate-passed language on cabin fees. The enacted provision prohibited funding in the act and any other act to implement fee increases in 2010 of more than 25% of the 2009 fee.

Table 13. Appropriations for Forest Service Accounts, FY2009-FY2010
(\$ in millions)

Forest Service	FY2009 Omnibus	FY2009 Stimulus	FY2009 Total	FY2010 Request	FY2010 House Passed	FY2010 Senate Passed	FY2010 Approp.
FS Research	296.4	0	296.4	300.6	308.6	307.0	312.0
State & Private Forest.	265.9	0	265.9	306.1	307.5	276.9	308.1
National Forest System	1,509.8	0	1,509.8	1,506.6	1,564.8	1,552.4	1,551.3
Capital	482.4 ^c	650.0	1,132.4 ^c	557.0	542.6	495.4	538.1 ^d
Land Acquisition ^e	51.1	0	51.1	30.0	38.1	69.1	64.8
Other	8.7	0	8.7	6.2	6.2	6.2	6.2
Wildland Fire Mgmt.	2,131.6	500.0	2,831.6 ^a	2,520.1	2,652.3	2,661.6 ^b	2,516.7
Forest Service Total	4,745.8	1,150.0	6,095.8^a	5,226.6	5,420.1	5,368.8	5,297.3

- a. Includes \$200.0 million in P.L. 111-32, the Supplemental Appropriations Act, 2009.
- b. Includes \$834.0 million for the FLAME fund, in Section 431 of the bill. These funds are likely to be used predominantly by the FS, but are also available to the Secretary of the Interior.
- c. Reflects savings of \$13.0 million from the deferral of payments to the road and trail fund in FY2009.
- d. Reflects savings of \$18.0 million from the deferral of payments to the road and trail fund in FY2010.
- e. Figures include funds for the Land Acquisition account, which are derived from the Land and Water Conservation Fund (LWCF), as well as other Forest Service acquisitions. For the LWCF Land Acquisition account only, the FY2009 appropriation was \$49.8 million, the FY2010 request was \$28.7 million, the FY2010 House level was \$36.8 million, the FY2010 Senate level was \$67.8 million, and the FY2010 enacted level was \$63.5 million.

FS Research

The FY2010 Interior appropriations law included \$312.0 million for FS Research. This was \$3.4 million more than the House, \$5.0 million more than the Senate, and \$11.4 million more than the Administration. The enacted level matched the higher Senate-passed funding for forest inventory and analysis and nearly matched the higher House-passed funding for research and development, including additional funding for global climate change science.

State and Private Forestry

State and Private Forestry (S&PF) programs provide financial and technical assistance to states and to private forest owners. For FY2010, the Interior appropriations law contained \$308.1 million for S&PF, \$0.6 million more than the House and \$2.0 million more than the request, and \$31.1 million more than the Senate. The FY2010 enacted level was \$42.2 million more than the FY2009 omnibus appropriations of \$265.9 million. See **Table 14**.

Table 14. Appropriations for FS State and Private Forestry, FY2009-FY2010

(\$ in millions)

State and Private Forestry	FY2009 Omnibus	FY2009 Stimulus	FY2009 Total	FY2010 Request	FY2010 House Passed	FY2010 Senate Passed	FY2010 Approp.
Forest Health Management	100.4	0	100.4	101.1	107.1	102.9	105.9
—Federal Lands	54.1	0	54.1	55.3	59.3	55.3	57.3
—Cooperative Lands	46.3	0	46.3	45.8	47.8	47.6	48.6
Cooperative Fire Protection	41.0	0 ^a	41.0	42.1	46.1	42.1	46.1
—State Assistance	35.0	0	35.0	35.1	39.1	35.1	39.1
—Volunteer Assistance	6.0	0	6.0	7.0	7.0	7.0	7.0
Cooperative Forestry	116.0	0	116.0	153.8	143.7	122.9	146.2
—Forest Stewardship	27.0	0	27.0	28.4	31.6	28.4	29.4
—Forest Legacy	49.4 ^b	0	49.4 ^b	91.1	76.2 ^c	55.1	76.5 ^d
—Urban & Comm. Forestry	29.5	0	29.5	29.3	30.8	29.3	30.4
—Economic Action Program	5.0	0	5.0	0.0	0.0	5.0	5.0
—Forest Res. Info. & Analysis	5.0	0	5.0	5.0	5.0	5.0	5.0
International Programs	8.5	0	8.5	9.1	10.6	9.1	9.8
Total State & Private Forestry	265.9	0	265.9	306.1	307.5	276.9	308.1

a. Excludes funds transferred from Wildland Fire Management

b. Total funding was \$57.4 million, offset by \$8.0 million from use of prior year balances.

c. This figure reflects appropriations of \$79.7 million, offset by \$3.5 million from use of prior year balances.

d. This figure reflects appropriations of \$79.5 million, offset by \$3.0 million from use of prior year balances.

The FY2010 enacted S&PF funding reflected various changes from the Senate- and House-passed levels and from the Administration's request. The FY2010 law increased forest health management programs (for insect and disease surveys and control) from FY2009, splitting the difference between the House- and Senate-passed levels for federal lands and increasing funds for cooperative (non-federal) lands. For cooperative fire assistance, enacted funding matched the House-passed level and was \$4.0 million above the Senate-passed level and the Administration's request.

The FY2010 enacted level was between the differences in the House- and Senate-passed levels for forest stewardship (assistance for state forestry programs), urban and community forestry (assistance for local forestry projects), and international forestry assistance; the enacted funding was

above the funding requested by the Administration for these accounts. For the forest legacy program (to acquire lands or easements to preserve forests threatened by conversion to non-forest uses), the enacted level was \$76.5 million (plus \$3.0 million of prior-year balances). This was slightly (\$0.2 million) more than the House, \$21.3 million more than the Senate, and \$14.6 million less than the President's request. The FY2010 law also provided \$5.0 million for the Economic Action Program (assistance for diversification to communities dependent on natural resources), as passed by the Senate—a slight increase from FY2009. The House had agreed with the Administration's request to terminate funding for the program.

National Forest System

For the National Forest System (NFS), the FY2010 Interior appropriations law provided \$1.55 billion, \$1.1 million less than the Senate, \$13.5 million less than the House, and \$44.8 million more than the Administration's request (after the proposed \$10.0 million rescission). Nearly every activity received more than was requested, and funding for four activities matched the House-passed level, the Senate-passed level, or both (for grazing management, forest products, law enforcement operations, and Valles Caldera). Funding for other activities was between the House-passed and Senate-passed level on most accounts (land management planning; inventory and monitoring; recreation, heritage, and wilderness; wildlife and fish habitat management; minerals and geology management; and land ownership management [boundary surveying]) The exception was vegetation and watershed management, which was reduced modestly from the House- and Senate-passed levels (\$1.2 million and \$0.8 million, respectively).

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 FY2010, the Interior appropriations law provided \$538.1 million, \$42.6 million more than the Senate and \$4.6 million less than the House. The enacted level nearly matched the request (\$0.9 million less), before the enacted deferral of \$18.0 million in payments to the road and trail fund. The Interior appropriations law increased funding over the Administration's request for facility construction, road construction, and trail maintenance and construction.

Deferred maintenance and the backlog of needed infrastructure improvements has continued to be a concern; the agency's backlog of deferred maintenance was estimated at \$5.1 billion as of September 30, 2008 (the most recent estimate). The appropriations law matched the Senate- and House-passed levels and the request for the specific deferred maintenance account—\$9.1 million. The statute included \$90.0 million for legacy road remediation (to decommission roads, repair and maintain roads and trails, remove fish passage barriers, and protect community water resources). This was \$10.0 million (10%) less than the House-passed level and \$40.0 million more than the Senate-passed level. The Interior appropriations law did not fund the proposed new "Presidential Initiative: Protecting the National Forests" to address critical deferred maintenance and operational components of FS infrastructure (proposed at \$50.0 million).

Land Acquisition

For FY2010, the Interior appropriations law provided \$64.8 million for FS land acquisition, including \$63.5 million for LWCF. This was \$4.3 million less than the LWCF funds approved by the Senate, \$26.7 million (73%) more than the LWCF funds approved by the House, and \$34.8 million

(121%) more than the LWCF request. In its report, the House Appropriations Committee expressed concern that the FS land acquisition budget request “was entirely at odds with” the DOI land acquisition request.¹¹⁷ (For more information, see “The Land and Water Conservation Fund (LWCF).”)

Department of Health and Human Services: Indian Health Service¹¹⁸

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 564 federally recognized tribes located in 35 states. Health care is provided through a system of facilities and programs operated by IHS, tribes and tribal groups, and urban Indian organizations. As of October 2008, IHS operated 31 hospitals, 61 health centers, 2 school health centers, and 30 health stations. Tribes and tribal groups, through IHS contracts and compacts, operated another 14 hospitals, 227 health centers, 13 school health centers, 102 health stations, and 166 Alaska Native village clinics. Urban Indian organizations operated 34 ambulatory or referral programs. IHS, tribes, and tribal groups also operate 12 residential youth substance abuse treatment centers and over 2,200 units of residential quarters for staff working in the facilities.

For FY2010, the Interior appropriations law contained \$4.05 billion for IHS, which was the same as the House amount, \$17.8 million (0.4%) more than the Senate amount and Administration’s request, and \$471.3 million (13%) more than the FY2009 omnibus appropriations (\$3.58 billion). From the FY2009 stimulus law, IHS received an additional \$500.0 million for FY2009, chiefly for facilities construction and improvement.¹¹⁹ Besides discretionary appropriations, IHS also receives funding from third-party reimbursements, appropriations for a special Indian diabetes program, and rents on personnel quarters. The sum of appropriations, reimbursements, diabetes funding, and rent is IHS’s “program level” total. See **Table 15**.

IHS funding is separated into two budget categories: Health Services, and Facilities. Of IHS appropriations for FY2010, approximately 90% were for Health Services and 10% for the Facilities program. Reimbursements from Medicare/Medicaid and private insurance go to Health Services, while collections from personnel quarters go to Facilities. IHS’s most salient FY2010 budget issues concern, in Health Services, the Indian Health Care Improvement Fund, Contract Health Services, and contract support costs, and, in Facilities, the health care facilities construction program.¹²⁰

¹¹⁷ H.Rept. 111-180 on H.R. 2996, p. 134.

¹¹⁸ For more information on IHS funding, contact (name redacted) at 7-.....

¹¹⁹ For further information on IHS funding in the stimulus act, see CRS Report R40181, *Selected Health Funding in the American Recovery and Reinvestment Act of 2009*, coordinated by (name redacted).

¹²⁰ For more information on IHS and current issues for Congress, see CRS Report RL33022, *Indian Health Service: Health Care Delivery, Status, Funding, and Legislative Issues*, by (name redacted).

Health Services

Indian Health Care Improvement Fund

Congress approved the Administration’s proposed FY2010 appropriation of \$45.5 million for the Indian Health Care Improvement Fund (IHCIF), an amount that was \$30.5 million (204%) more than the FY2009 omnibus appropriation of \$15.0 million. IHCIF provides added funding, above an IHS operating unit’s usual allocation, for the purposes of reducing deficiencies and shortfalls in health status and resources and reducing funding disparities among the operating units. IHCIF allocation is based on a formula that measures, for each of 269 IHS-funded operating units, the percentage of the unit’s health care funding needs met, per capita, as compared to a benchmark. Once the percentages of unmet needs are calculated, IHCIF funds are allocated so as to reduce disparities among IHS operating units, by granting funds first to units with the lowest percentage of funding needs met (as measured by the formula) in order to bring their funding up to a particular level. As calculated under the formula, in FY2008 IHS operating units nationwide received 54.5% of their total needed funds, but among the operating units the proportion of need funded ranged from 25.1% to 100%; 46 operating units were below 40% in FY2008.¹²¹ IHS calculated that FY2009 IHCIF funding would bring all operating units up to at least 40% of need.¹²² IHS did not estimate the effect of the large increase proposed for FY2010, but the House Appropriations Committee directed that FY2010 IHCIF funding be distributed to bring all operating units up to at least 45% of need.

Table 15. Appropriations for the Indian Health Service (IHS), FY2009-FY2010
(\$ in millions)

Indian Health Service	FY2009 Omnibus	FY2009 Stimulus ^a	FY2009 Total	FY2010 Request	FY2010 House Passed	FY2010 Senate Passed	FY2010 Approp.
Indian Health Services							
Clinical Services	2,625.7	85.0	2,710.7	2,949.8	2,953.6	2,949.8	2,953.6
—Hospital and Health Clinics	1,597.8	85.0	1,682.8	1,751.9	1,754.4	1,751.9	1,754.4
—Indian Health Care Improvement Fund	15.0	0	15.0	45.5	45.5	45.5	45.5
—Health Information Technology	3.0	85.0	88.0	16.3	16.3	16.3	16.3
—Dental Health	141.9	0	141.9	151.4	152.6	151.4	152.6
—Mental Health	67.7	0	67.7	72.8	72.8	72.8	72.8
—Alcohol and Substance Abuse	183.8	0	183.8	194.4	194.4	194.4	194.4
—Methamphetamine treatment and prevention	16.4	0	16.4	16.4	16.4	16.4	16.4
—Contract Health Services	634.5	0	634.5	779.3	779.3	779.3	779.3

¹²¹ See Indian Health Service, “IHCIF Allocations by Area and Site,” May 9, 2009, available at <http://www.ihs.gov/NonMedicalPrograms/Lnf/2008/IHCIFAllAreaAllSites5-8-08.pdf>.

¹²² U.S. Department of Health and Human Services, Indian Health Service, *Fiscal Year 2010 Indian Health Service Justification of Estimates*, HHS, Rockville, MD, 2009, p. 246, http://www.ihs.gov/NonMedicalPrograms/BudgetFormulation/documents/IHS_CJ_2010_Final_Submission.pdf. Hereafter this document is cited as *IHS FY2010 Budget Justification*.

Indian Health Service	FY2009 Omnibus	FY2009 Stimulus ^a	FY2009 Total	FY2010 Request	FY2010 House Passed	FY2010 Senate Passed	FY2010 Approp.
—Catastrophic Health Emergency Fund	31.0	0	31.0	48.0	48.0	48.0	48.0
Preventive Health Services	135.2	0	135.2	144.3	144.3	144.3	144.3
—Public Health Nursing	59.9	0	59.9	64.1	64.1	64.1	64.1
—Health Education	15.7	0	15.7	16.7	16.7	16.7	16.7
—Community Health Representatives	57.8	0	57.8	61.6	61.6	61.6	61.6
—Immunization (Alaska)	1.8	0	1.8	1.9	1.9	1.9	1.9
Other Services	430.0	0	430.0	545.7	559.7	545.7	559.7
—Urban Health Projects	36.2	0	36.2	38.1	43.1	38.1	43.1
—Indian Health Professions	37.5	0	37.5	40.7	40.7	40.7	40.7
—Tribal Management	2.6	0	2.6	2.6	2.6	2.6	2.6
—Direct Operations	65.3	0	65.3	68.7	68.7	68.7	68.7
—Self-Governance	6.0	0	6.0	6.1	6.1	6.1	6.1
—Contract Support Costs	282.4	0	282.4	389.5	398.5	389.5	398.5
Subtotal, Indian Health Services	3,191.0	85.0	3,276.0	3,639.9	3,657.6	3,639.9	3,657.6
Indian Health Facilities							
—Maintenance and Improvement	53.9	100.0	153.9	53.9	53.9	53.9	53.9
—Sanitation Facilities Construction	95.9	68.0	163.9	95.9	95.9	95.9	95.9
—Health Care Facilities Construction	40.0	227.0	267.0	29.2	29.2	29.2	29.2
—Facilities and Environmental Health Support	178.3	0	178.3	193.1	193.1	193.1	193.1
—Equipment	22.1	20.0	42.1	22.7	22.7	22.7	22.7
Subtotal, Indian Health Facilities	390.2	415.0	805.2	394.8	394.8	394.8	394.8
Total Appropriations	3,581.1	500.0	4,081.1	4,034.6	4,052.4	4,034.6	4,052.4
Reimbursements from Medicare/Medicaid and Private Insurance, and Other Collections	804.8	0	804.8	804.8	n/a	n/a	n/a
Special Diabetes Program for Indians ^b	150.0	0	150.0	150.0	150.0	150.0	150.0
Total Program Level	4,535.9	500.0	5,035.9	4,989.4	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 subactivities but usually are assigned to the Hospital and Health Clinics budget subactivity under Health Services. However, the stimulus law allowed use of the funds for HIT infrastructure under the Facilities budget activity. In May 2009, IHS announced HIT allocations under the stimulus law, with about 20% (after oversight expenditures) going to infrastructure. See CRS Report R40181, *Selected Health Funding in the American Recovery and Reinvestment Act of 2009*, coordinated by (name redacted), for more detail.
- b. The Special Diabetes Program for Indians has a direct appropriation of \$150 million for each of fiscal years FY2004 through FY2011 (P.L. 110-275). Funded through the general Treasury, this program cost is not a part of IHS appropriations.

Contract Health Services

The FY2010 Interior appropriations law contained \$779.3 million for Contract Health Services (CHS), the same as the Senate, House, and Administration amounts, and an increase of \$144.9 million (23%) from the FY2009 omnibus appropriation (\$634.5 million). CHS is a program that funds the purchase of essential 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. Funding for CHS has not allowed it to meet all requests, or even all IHS referrals to non-IHS providers, so IHS prioritizes CHS payments based on relative medical need and denies other CHS requests. IHS estimated that the proposed 23% increase would “significantly reduce denials” of CHS requests in FY2010, but did not estimate the proportion by which denials would be reduced.¹²³

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. As with the rest of the CHS program, funding does not always meet demand. The FY2010 law appropriated \$48.0 million for CHEF, the same as the Senate, House, and Administration amounts and an increase of \$17.0 million (55%) over the FY2009 appropriation (\$31.0 million). IHS estimated the increase would allow funding for “700 additional high cost cases that were not previously funded by the CHEF program”¹²⁴ but did not estimate the proportion of CHEF requests that would be funded.

Contract Support Costs

For contract support costs (CSC) for FY2010, the Interior appropriations law contained \$398.5 million, which was the same as the House amount, an increase of \$9.0 million from the Senate and Administration’s amount, and an increase of \$116.1 million (41%) over FY2009 omnibus appropriations (\$282.4 million). 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.¹²⁵ CSC pays for costs that tribes incur for such items as financial management, accounting, training, and program start-up. The CSC program has long been subject to shortfalls, causing reduced services or decreased administrative efficiency for contracting and compacting tribes.¹²⁶ CSC shortfalls also may discourage other tribes from initiating contracts or compacts. IHS stated that the Administration’s proposed increase would significantly increase CSC funding for tribes that already have contracts or compacts, but did not state whether the increase would fully fund CSC for existing contracts or compacts.

¹²³ *IHS FY2010 Budget Justification*, p. 3, 99-105.

¹²⁴ *IHS FY2010 Budget Justification*, p. 3.

¹²⁵ P.L. 93-638, act Jan. 4, 1975, 88 Stat. 2203, as amended; 25 U.S.C. § 450 *et seq.*

¹²⁶ See U.S. General Accounting Office, *Indian Self-Determination Act: Shortfalls in Indian Contract Support Costs Need to Be Addressed*, GAO/RCED-99-150, June 1999, <http://www.gao.gov/archive/1999/rc99150.pdf>.

Facilities

Health Care Facilities Construction

Congress approved the Administration's proposed \$29.2 million for construction of health care facilities, a decrease of \$10.8 million (27%) from the omnibus FY2009 appropriations of \$40.0 million. The stimulus appropriations law provided an additional \$227.0 million for FY2009 health care facilities construction, to complete up to two facilities from IHS's current construction priority list on which work had already been initiated.¹²⁷ With the \$227.0 million in stimulus funding, total health care facilities construction funding for FY2009 was \$267.0 million. See **Table 15**. IHS's FY2010 request was to continue construction of a hospital and two health centers. According to IHS, the request for reduced appropriations for FY2010 was to focus on completion of projects funded under the stimulus law and other projects already begun. Indian health organizations assert that many IHS facilities are old and in poor repair and that increased appropriations are needed for health care facility construction.

Office of Navajo and Hopi Indian Relocation¹²⁸

The Office of Navajo and Hopi Indian Relocation (ONHIR) and its predecessor were created pursuant to a 1974 act¹²⁹ 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. Most families subject to relocation were Navajo. Relocation is to be voluntary. ONHIR's chief activities consist of land acquisition, housing acquisition or construction, infrastructure construction, and post-move assistance and support, all for families being relocated. ONHIR also certifies families' eligibility for relocation benefits.

The FY2010 appropriations law contained \$8.0 million for ONHIR, the same as the Senate, House, and Administration amounts and an increase of \$0.5 million (6%) over FY2009 omnibus appropriations. Issues for ONHIR include the speed with which relocation is carried out and the possibility of evictions.

Navajo-Hopi relocation began in 1977. By the end of FY2007, according to ONHIR, 98.5% of the 3,600 Navajo families currently eligible and 100% of the 26 eligible Hopi families had completed relocation. Newly added families, however, may postpone the completion of relocation. Besides the few certified relocatees awaiting replacement homes, ONHIR estimated that about 125 Navajo families who live on Hopi land, and who signed "accommodation agreements" under a 1996 act¹³⁰ that allowed them to stay on Hopi land under Hopi law, might wish to opt out of these agreements

¹²⁷ 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 (see P.L. 111-5, Div. A, Title VII).

¹²⁸ For more information on ONHIR funding, contact (name redacted) at 7-.....

¹²⁹ Navajo-Hopi Land Settlement Act of 1974, P.L. 93-531, act Dec. 22, 1974, 88 Stat. 1712, as amended; 25 U.S.C. 640d *et seq.*

¹³⁰ Navajo-Hopi Land Dispute Settlement Act of 1996, P.L. 104-301, act Oct. 11, 1996, 110 Stat. 3649; 25 U.S.C. 640d note.

and relocate using ONHIR benefits. ONHIR had estimated that the addition of Navajo families opting out of accommodation agreements, or with late applications that are approved, would extend relocation moves beyond FY2009. In addition, required post-move assistance to relocatees would necessitate another two years of expenditures after the last relocation move, according to ONHIR.

Smithsonian Institution¹³¹

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. More than 25.2 million people visited Smithsonian facilities 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 \$1 billion in total revenue from all sources of funding for FY2008.¹³²

For FY2010, the Interior appropriations law provided \$761.4 million for SI, an increase of \$30.0 million over the FY2009 omnibus appropriations level of \$731.4 million¹³³ and of \$2.2 million over the Administration's request of \$759.2 million. See **Table 16**. Funding was provided for three main line items: Salaries and Expenses, Facilities Capital, and the Legacy Fund.

Table 16. Appropriations for the Smithsonian Institution, FY2009-FY2010
(\$ in thousands)

Smithsonian Institution	FY2009 Omnibus	FY2009 Stimulus	FY2009 Total	FY2010 Request	FY2010 House Passed	FY2010 Senate Passed	FY2010 Approp.
Salaries and Expenses	593,400	0	593,400	634,161	634,161	634,161	636,161
—Museums and Research Institutes	234,052	0	234,052	242,199	242,199	242,199	242,199
—Program Support and Outreach	39,806	0	39,806	41,870	41,870	41,870	43,870
—Administration	69,229	0	69,229	76,494	76,494	76,494	76,494
—Inspector General	2,422	0	2,422	2,576	2,576	2,576	2,576
—Facilities Services	247,891	0	247,891	271,022	271,022	271,022	271,022
Facilities Capital	123,000	25,000	148,000	125,000	140,000	125,000	125,000
—Revitalization	104,500	0	104,500	89,300	104,300	89,300	89,300
—Facilities Planning and Design	18,500	0	18,500	35,700	35,700	35,700	35,700
Legacy Fund	15,000	0	15,000	0	0	234 ^a	234 ^a
Total Appropriations	731,400	25,000	756,400	759,161	774,161	759,395	761,395

¹³¹ For more information on SI funding, contact Shannon Loane at 7-.....

¹³² Smithsonian Institution, *Charting Course: 2008 Annual Report*. This and older annual reports are available online at <http://www.si.edu/opa/annualrpts/>.

¹³³ Total FY2009 funding included \$25 million in the stimulus law for Facilities Capital. The Smithsonian used 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).

- a. This figure reflects appropriations of \$30.0 million for FY2010 and a rescission of the unobligated balance of \$29.8 million from FY2008 and FY2009.

Salaries and Expenses

For FY2010, the law contained \$636.2 million, \$2.0 million over the requested amount, for salaries and expenses for SI's museums, research centers, and administration. This \$42.8 million increase over FY2009 funding was for increases in salaries, utilities, and rent, and to fund operating priorities including increased security, information technology improvements, facilities maintenance, collections care and preservation, and governance support. The \$2.0 million over the requested amount was for a museum-wide collections care initiative to support efforts to preserve historical collections. A Senate amendment to make \$250,000 of the funds provided available for the SI to carry out activities under the Civil Rights History Project Act of 2009 was included in the FY2010 law.

Facilities Capital

External studies¹³⁴ and the SI estimate that an investment of \$2.5 billion over ten years is needed to address advanced facilities deterioration. For FY2010, the Interior appropriations law provided \$125.0 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 FY2010 appropriation was equal to the Administration's request and an increase of \$2.0 million over the FY2009 omnibus appropriations. Another \$25.0 million in stimulus funding was provided for FY2009.

Of the \$125.0 million for FY2010, \$89.3 million was for revitalization. This was the same as the amount requested but \$15.2 million less than the FY2009 omnibus appropriation. The remaining \$35.7 million was for facilities planning and design, of which \$20.0 million would fund design work for the National Museum of African American History and Culture (NMAAHC).

Legacy Fund

Established by Congress in 2008 (P.L. 110-161), the Legacy Fund was intended to address the backlog of facilities capital repairs. In FY2008, up to \$14.8 million in federal funding was provided for the initiative, with a requirement that private dollars match each federal dollar two to one. The SI did not request funds for this purpose in FY2009 or FY2010, as the institution was developing plans to raise the matching private funds. The FY2009 omnibus appropriations law, however, provided \$15.0 million for the Legacy Fund, with a requirement for 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 purposes.

For FY2010, the Interior appropriations law provided \$30.0 million for the Legacy Fund, while rescinding the fund's unobligated balance of \$29.8 million for FY2008 and FY2009 and revising conditions for the fund's use. The fund is to be used for the development of a public-private partnership for the purpose of reopening the Arts and Industries Building, and the 1:1 matching requirement can be met with major in-kind donations and with privately contributed endowments

¹³⁴ 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.

designated for the care and renewal of permanent exhibitions installed in the Arts and Industries Building.

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 four percent to a total of just under \$2.4 billion.

National Endowment for the Arts and National Endowment for the Humanities¹³⁵

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 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 130,000 grants that have been distributed to all states. For FY2010, the Interior appropriations law provided \$167.5 million for the NEA, an increase of \$6.2 million over the amount requested by the Administration and an increase of \$12.5 million over the FY2009 omnibus appropriations of \$155.0 million.¹³⁶ The majority of the increase in appropriations was for grants, which increased from \$128.2 million in FY2009 to \$138.7 million in FY2010. See **Table 17**.

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 FY2010 Interior appropriations law contained \$167.5 million for NEH for FY2010, an increase of \$12.5 million over the FY2009 omnibus appropriations and \$6.2 million over the amount requested by the Administration. The federal/state partnership grants program, NEH's largest program, received \$40.4 million, an increase of \$5.4 million over FY2009 and \$1.9 million over the

¹³⁵ For more information on NEA/NEH funding, contact Shannon Loane at 7-.....

¹³⁶ Total FY2009 funding for NEA included \$50 million in the stimulus law for grants.

Administration’s request. The “We the People” initiative, which supports exhibitions, films, library programs, professional development programs for teachers, scholarly research on American history and culture, and collection preservation, received \$14.5 million for FY2010, equal to the budget request and a decrease of \$1.3 million from FY2009 funding.

The Administration’s proposed relocation of the administration of the National Capital Arts and Cultural Affairs Program from the Commission of Fine Arts to the NEH was not included in the FY2010 appropriations law.

Table 17. Appropriations for Arts and Humanities, FY2009-FY2010

(\$ in thousands)

Arts and Humanities	FY2009 Omnibus	FY2009 Stimulus	FY2009 Total	FY2010 Request	FY2010 House Passed	FY2010 Senate Passed	FY2010 Approp.
National Endowment for the Arts	155,000	50,000	205,000	161,315	170,000	161,315	167,500
Grants	128,200	n/a	128,200	132,540	141,225	132,540	138,725
Program Support	1,750	n/a	1,750	1,850	1,850	1,850	1,850
Administration	25,050	n/a	25,050	26,925	26,925	26,925	26,925
National Endowment for the Humanities	155,000	0	155,000	161,315	170,000	161,315	167,500
Grants	114,700	0	114,700	119,515	128,200	119,515	125,700
Matching Grants	14,300	0	14,300	14,300	14,300	14,300	14,300
Administration	26,000	0	26,000	27,500	27,500	27,500	27,500
<i>National Capital Arts and Cultural Affairs Program^a</i>	9,500	0	9,500	10,000	10,000	9,500	9,500
Total NEA & NEH	310,000	50,000	360,000	322,630	340,000	322,630	335,000

Note: n/a indicates not available.

- a. The FY2010 NEH request included funding for the National Capital Arts and Cultural Affairs Program, currently administered by the Commission of Fine Arts and funded separately in FY2009. Under the FY2010 Interior appropriations law, the program remains under the administration of the Commission of Fine Arts.

Cross-Cutting Topics

Everglades Restoration¹³⁷

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

¹³⁷ For more information on funding for Everglades restoration, contact (name redacted) at 7-..... For an overview of restoration activities in the Everglades, see CRS Report RS20702, *South Florida Ecosystem Restoration and the Comprehensive Everglades Restoration Plan*, by (name redacted) and (name redacted).

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.

Appropriations for restoration projects in the South Florida ecosystem have been provided to various agencies in multiple annual appropriations bills.¹³⁸ 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.

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.¹³⁹ 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.¹⁴⁰

FY2010 Appropriations

For FY2010, the Interior appropriations law did not specify total funding for Everglades restoration in bill language or report language. Generally, total funding for Everglades restoration for a fiscal year is not known until the Administration's budget request is submitted for the subsequent year. The Modified Water Deliveries Project (Mod Waters; see below for a description of the project), however, was addressed by the appropriations law. The conference agreement specified \$8.4 million for Mod Waters: \$4.2 million to be used by the NPS and \$4.2 million to be used by the Corps.¹⁴¹ This funding level represented a significant reduction from the FY2009 omnibus level of \$60.0 million for Mod Waters. Detailed information on DOI activities related to Everglades restoration is provided in **Table 18**.

Mod Waters is designed to improve water deliveries to Everglades National Park and, to the extent possible, to restore the natural hydrological conditions within the park.¹⁴² The completion of this project is required prior to construction of certain projects under CERP. Funding and planning for the Tamiami Trail portion of Mod Waters is being conducted by the Corps. The FY2009 omnibus appropriations law provided that funding in the law, as well as any prior acts, for 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).¹⁴³ This report details a project to increase water flows southward to

¹³⁸ For information on federal funding for Everglades restoration in recent years and a discussion of related implementation issues, see CRS Report RS22048, *Everglades Restoration: The Federal Role in Funding*, by (name redacted) and (name redacted).

¹³⁹ 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.

¹⁴⁰ This figure is based on CERP and non-CERP related restoration activities in South Florida.

¹⁴¹ H.Rept. 111-316 on H.R. 2996, p. 94.

¹⁴² For background on Mod Waters, see CRS Report RS21331, *Everglades Restoration: Modified Water Deliveries Project*, by (name redacted).

¹⁴³ The report is available at <http://www.saj.usace.army.mil/Divisions/Everglades/Branches/ProjectExe/Sections/LECSW/MWD/TamiamiTrail.htm>.

Everglades National Park by creating a 1-mile bridge on Tamiami Trail and increasing the height of a canal by 1 foot. The project is expected to cost \$227 million.

According to the conference report and the House Appropriations Committee report for FY2010, funding for Mod Waters is expected to allow for continuous work on the Tamiami Trail and bridge modifications, which both reports state is to be completed at the earliest possible date. The House committee further urged DOI to continue its work on restoring the Everglades and to focus on those projects with the greatest restoration benefits.

**Table 18. Appropriations for the Department of the Interior (DOI):
Everglades Restoration Budget, FY2009-FY2010**
(\$ in thousands)

Everglades Restoration in DOI	FY2009 Omnibus	FY2009 Stimulus	FY2009 Total	FY2010 Request	FY2010 House Passed	FY2010 Senate Passed	FY2010 Approp.
National Park Service (NPS)	100,433	n/a	n/a	46,262	n/a	n/a	n/a
—CERP	4,699	n/a	n/a	4,789	n/a	n/a	n/a
—Park Operations ^a	29,852	n/a	n/a	31,305	n/a	n/a	n/a
—Everglades Acquisitions Management	730	n/a	n/a	775	n/a	n/a	n/a
—Modified Water Delivery	60,000	n/a	n/a	4,200	8,400	4,200	8,400
—Everglades Research	3,849	n/a	n/a	3,873	n/a	n/a	n/a
—South Florida Ecosystem Task Force	1,303	n/a	n/a	1,320	n/a	n/a	n/a
Fish and Wildlife Service (FWS)	10,548	n/a	n/a	10,548	n/a	n/a	n/a
—CERP	3,251	n/a	n/a	3,251	n/a	n/a	n/a
—Ecological Services	2,475	n/a	n/a	2,475	n/a	n/a	n/a
—Refuges and Wildlife	4,022	n/a	n/a	4,022	n/a	n/a	n/a
—Migratory Birds	99	n/a	n/a	99	n/a	n/a	n/a
—Law Enforcement	609	n/a	n/a	609	n/a	n/a	n/a
—Fisheries	92	n/a	n/a	92	n/a	n/a	n/a
U.S. Geological Survey (USGS)	6,907	n/a	n/a	6,907	n/a	n/a	n/a
—Research, Planning and Coordination	6,907	n/a	n/a	6,907	n/a	n/a	n/a
Bureau of Indian Affairs (BIA)	390	n/a	n/a	390	n/a	n/a	n/a
—Seminole, Miccosukee Tribe Water Studies and Restoration	390	n/a	n/a	390	n/a	n/a	n/a
Total Appropriations	118,278	18,600	136,878	64,107	n/a	n/a	n/a

Source: The primary source for this information is: Department of the Interior, *Fiscal Year 2010, The Interior Budget in Brief* (Washington, DC: May 2009), and DOI news release of May 28, 2009, at http://www.doi.gov/news/09_News_Releases/052809.html.

Note: n/a indicates not available.

- 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 three 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.

The Land and Water Conservation Fund (LWCF)¹⁴⁴

Overview

The LWCF (16 U.S.C. §§ 460l-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. 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, Congress has appropriated money from the LWCF to fund some related activities, with programs varying from year to year.

From FY1965 through FY2009, about \$32 billion was credited to the LWCF. Roughly \$15 billion of that amount has been appropriated. Annual appropriations from LWCF have fluctuated considerably over time. **Table 19** shows funding for LWCF since FY2006. For FY2010, the Administration, House, and Senate supported increases in LWCF appropriations over the FY2009 total appropriation of \$275.3 million. The Interior appropriations law for FY2010 provided even higher funding—a total of \$450.4 million from LWCF.

Table 19. Appropriations for the Land and Water Conservation Fund (LWCF), FY2006-FY2010

(\$ in millions)

Land and Water Conservation Fund	FY2006 Approp.	FY2007 Approp.	FY2008 Approp.	FY2009 Omnibus	FY2010 Request	FY2010 House Passed	FY2010 Senate Passed	FY2010 Approp.
Federal Acquisition	111.9	113.0	129.1	152.2	186.7	205.8	262.8	265.8
—BLM	8.6	8.6	8.9	14.8	25.0	26.5	28.7	29.7
—FWS	28.0	28.0	34.6	42.5	65.0	69.3	82.8	86.3
—NPS	34.4 ^a	34.4	44.4	45.2	68.0	73.2	83.6	86.3
—FS	40.9	41.9	41.2	49.8	28.7	36.8	67.8	63.5

¹⁴⁴ For more information on LWCF funding, contact (name redacted) at 7-.....

Land and Water Conservation Fund	FY2006 Approp.	FY2007 Approp.	FY2008 Approp.	FY2009 Omnibus	FY2010 Request	FY2010 House Passed	FY2010 Senate Passed	FY2010 Approp.
Appraisal Services ^b	7.3	7.4	0	0	12.1	12.1	12.1	12.1
Grants to States	29.6	29.6	24.6	19.0 ^c	30.0	40.0	35.0	40.0
Other Programs	213.1	216.1	101.3	104.1 ^d	191.1 ^e	141.9 ^f	109.8	132.5
Total Appropriations	361.9	366.1	255.1	275.3	419.9	399.8	419.8	450.4

Sources: Sources are tables from the DOI Budget Office and the Appropriations Committees.

- a. This figure has been reduced by \$9.8 million due to the use of prior year funds.
- b. For FY2008 and FY2009, there were appropriations of \$7.7 million and \$8.0 million respectively for appraisal services, but they did not appear to be derived from LWCF. For FY2010, the intent of the Senate is to derive these funds from LWCF, according to Senate Appropriations Committee staff.
- c. This figure has been reduced by \$1.0 million due to the use of prior year funds.
- d. This figure has been reduced by \$8.0 million due to the use of prior year funds.
- e. This figure reflects \$100.0 million for the Cooperative Endangered Species Conservation Fund, although the portion for land acquisition would be \$65.7 million.
- f. This figure has been reduced by \$3.5 million due to the use of prior year funds.

Land Acquisition

The Administration, House, and Senate sought to increase funds for federal land acquisition for FY2010 over the FY2009 level of \$152.2 million. The FY2010 Interior appropriations law provided still higher funding for land acquisition—\$265.8 million. The law also included an additional \$12.1 million for land appraisals related to federal land acquisition, to be derived from LWCF, as had been supported by the Administration, House, and Senate. Most of the appropriations for federal acquisitions generally are specified for management units, such as a specific National Wildlife Refuge. The FY2010 appropriation for land acquisition was more than double the level of five years ago—\$111.9 million for FY2006. The variability of funding for this activity throughout history reflects a tension regarding the extent of federal land ownership.

The conferees on the FY2010 bill expressed concern with the processes for acquiring lands, and provided several related directives to the agencies. Conferees directed the agencies to use funds for inholdings to acquire high-priority lands that are threatened by development, and address delays in conducting land appraisals, including by considering alternative organizational structures. The conferees expressed their intention that, to the maximum extent possible, there be a single set of policies among the four agencies for conducting land acquisitions. They directed the DOI and Agriculture Secretaries to jointly examine their acquisition policies and practices and to submit a report with findings and recommendations to the House and Senate Appropriations Committees. Further, the conferees expressed concern that lands acquired with LWCF funds are being used in ways inconsistent with the recreation, conservation, or public access uses for which they were purchased, and directed the DOI and Agriculture Secretaries to notify the Appropriations Committees before changing the use of the lands.¹⁴⁵

¹⁴⁵ H.Rept. 111-316 on H.R. 2996, p. 77-78.

Grants to States

For stateside grants, the FY2010 appropriation was \$40.0 million. This was more than double the FY2009 level of \$19.0 million. The Administration, House, and Senate had sought increased funds for the stateside program over FY2009. The appropriations for the state grant program typically are not specified for individual projects or areas, but rather are allocated to states in accordance with a formula in law. 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.

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 \$9.7 million in revenue from such OCS leasing was projected to be collected in FY2009 and disbursed to the stateside program in FY2010.

Other Purposes

The Administration, House, and Senate had sought varying levels of funds from LWCF for two other purposes—FWS Cooperative Endangered Species grants and the FS Forest Legacy program. The FY2010 Interior appropriations law funded these two programs at \$56.0 million and \$76.5 million, respectively. For FY2006 and FY2007, the largest portion of the LWCF appropriation was for other programs, as shown in **Table 19**. Since FY2008, the largest portion of the LWCF appropriation has been for land acquisition. **Table 20** shows the other programs for which Congress appropriated funds for FY2006 through FY2010.¹⁴⁶

**Table 20. Appropriations for the Land and Water Conservation Fund (LWCF):
Other Programs, FY2006-FY2010**
(\$ in millions)

Other Programs	FY2006 Approp.	FY2007 Approp.	FY2008 Approp.	FY2009 Omnibus	FY2010 Request	FY2010 House Passed	FY2010 Senate Passed	FY2010 Approp.
Fish and Wildlife Service								
—State and Tribal Wildlife Grants	67.5	67.5	0	0	0	0	0	0
—Landowner Incentive Grants	21.7	23.7	0	0	0	0	0	0
—Private Stewardship Grants	7.3	7.3	0	0	0	0	0	0
—Cooperative Endangered Species Grants	60.1	61.1	49.0	54.7 ^a	100.0 ^b	65.7	54.7	56.0
Forest Service								
—Forest Legacy Program	56.5	56.5	52.3	49.4 ^c	91.1	76.2 ^d	55.1	76.5
Total Appropriations	213.1	216.1	101.3	104.1	191.1	141.9	109.8	132.5

Note: This table identifies “other” programs for which Congress appropriated funds for FY2006 through FY2010 and for which the Obama Administration requested funds for FY2010. 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. 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, for a total

¹⁴⁶ For more information on the operation of the LWCF and its funding throughout history, see CRS Report RL33531, *Land and Water Conservation Fund: Overview, Funding History, and Current Issues*, by (name redacted).

- 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.
- b. The portion for land acquisition would be \$65.7 million.
 - c. This figure has been reduced by \$8.0 million due to the use of prior year funds.
 - d. This figure has been reduced by \$3.5 million due to the use of prior year funds.

Wildland Fire Management¹⁴⁷

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.

The FS and DOI wildfire line items include funds for fire suppression, preparedness, and other operations. Comparing FY2010 appropriations with Senate- and House-passed levels, Administration-requested funds, and FY2009 appropriations is difficult. This is due in part to the treatment of suppression funds and the inclusion of any emergency, contingency, and prior year funds. For FY2010, the Interior appropriations law provided a total of \$3.37 billion for the FS and DOI for Wildland Fire Management (\$2.52 billion for the FS and \$855.9 million for DOI), after adjusting for \$200.0 million in prior-year funds. Including these prior-year funds, the statute contained \$3.57 billion for FY2010, which was \$87.5 million (2%) less than the House, \$6.3 million (0.2%) more than the Senate, and \$77.7 million (2%) more than the request. Further, the FY2010 total was \$183.5 million (5%) less than total FY2009 funding (including \$250.0 million in FY2009 emergency funding in P.L. 111-32 and \$515.0 million in the stimulus law, P.L. 111-5.)

The FY2010 law established two new FLAME funds in Title V—the Federal Land Assistance, Management, and Enhancement (FLAME) Act of 2009—with related funding for DOI and the FS. Both the Senate and the House had included funding for a new fire suppression reserve, as had been proposed in the Administration’s request. The Senate also included funds for a recently authorized Collaborative Forest Landscape Restoration Fund, and for a new FLAME fund in the section creating the fund. (See “Wildfire Suppression and Emergency Funds,” below.) See **Table 21**.

Table 21. Appropriations for FS and DOI Wildland Fire Management, FY2009-FY2010
(\$ in millions)

National Fire Plan	FY2009 Omnibus	FY2009 Stimulus	FY2009 Total	FY2010 Request	FY2010 House Passed	FY2010 Senate Passed	FY2010 Approp.
Forest Service							
—Fire suppression	993.9	0	993.9	1,128.5	1,128.5	369.5	997.5
—Preparedness	675.0	0	675.0	675.0	693.0	690.0	675.0
—Reserve Funds ^a	0	0	0	282.0	282.0	282.0	413.0
—Other operations	462.7	500.0	962.7	434.6	548.8	486.1 ^b	506.2
Subtotal, FS	2,131.6	500.0	2,631.6	2,520.1	2,652.3	1,827.6	2,591.7

¹⁴⁷ For more information on funding for Wildland Fire Management, contact (name redacted) at 7-.....

National Fire Plan	FY2009 Omnibus	FY2009 Stimulus	FY2009 Total	FY2010 Request	FY2010 House Passed	FY2010 Senate Passed	FY2010 Approp.
—Emergency ^c	0	0	200.0	0	0	0	0
—Prior Year Funds	0	0	0	0	0	0	-75.0
Total, FS	2,131.6	500.0	2,831.6	2,520.1	2,652.3	1,827.6	2,516.7
DOI							
—Fire suppression	335.2	0	335.2	369.8	369.8	294.8	383.8
—Preparedness	281.8	0	281.8	285.5	290.5	289.2	290.5
—Reserve Funds ^a	0	0	0	75.0	75.0	75.0	61.0
—Other Operations	242.5	15.0	257.5	244.5	272.5	245.6	245.6
Subtotal, DOI	859.5	15.0	874.5	974.8	1,007.8	904.6	980.9
—Emergency ^c	0	0	50.0	0	0	0	0
—Prior Year Funds	0	0	0	0	0	0	-125.0
Total, DOI	859.5	15.0	924.5	974.8	1,007.8	904.6	855.9
FS and DOI							
—Fire suppression	1,329.1	0	1,329.1	1,498.3	1,498.3	664.3	1,381.3
—Preparedness	956.8	0	956.8	960.5	983.5	979.2	965.5
—Reserve Funds ^a	0	0	0	357.0	357.0	357.0	474.0
—Other Operations	705.2	515.0	1,220.2	679.2	821.3	731.8	751.9
Subtotal Funding	2,991.1	515.0	3,506.1	3,494.9	3,660.1	2,732.3	3,572.6
—Emergency ^c	0	0	250.0	0	0	0	0
—FLAME Fund ^d	0	0	0	0	0	834.0	0
—Prior Year Funds	0	0	0	0	0	0	-200.0
Total Funding	2,991.1	515.0	3,756.1^c	3,494.9	3,660.1	3,566.3	3,372.6

Notes: 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 different purposes.

- a. The FY2010 Interior appropriations law included funding for the FLAME Wildfire Suppression Reserve Funds for DOI and the FS. The Administration had proposed a Wildland Fire Suppression Contingency Reserve Fund, and the House agreed to the proposal. The Senate dropped the term “Contingency” in providing the funds. The Senate also included appropriations for the FLAME fund in the separate title creating the fund, without allocating the appropriations between the FS and DOI.
- b. Includes \$10.0 million for the Collaborative Forest Landscape Restoration Fund.
- c. Includes FY2009 supplemental funds in P.L. 111-32.
- d. Includes appropriations for FLAME fund, in Section 431 of the Senate-passed bill.

Fire Preparedness

Enacted FY2010 funding for wildfire preparedness—equipment, training, baseline personnel, fire prevention, and fire detection—totaled \$965.5 million, \$5.0 million more than the Administration’s request. The statute matched the \$675.0 million requested for FS fire preparedness, and was less than the Senate- and House-passed levels. For DOI, the Interior appropriations law provided \$290.5

million, the same as the House-passed level, \$1.3 million more than the Senate-passed level, and \$5.0 million (2%) more than the Administration's request.

Wildfire Suppression and Emergency Funds

For FY2010, the Interior appropriations law modified the traditional approach to funding wildfire suppression. Title V, the Federal Land Assistance, Management, and Enhancement (FLAME) Act of 2009, established in the Treasury the FLAME Wildfire Suppression Reserve Fund for DOI and the FLAME Wildfire Suppression Reserve Fund for the Department of Agriculture (for the Forest Service). The funds are to be used to cover the costs of large or complex fires, when amounts provided in the Wildland Fire Management accounts for suppression and emergency response are exhausted. The requirements are the same for the two accounts. Each Secretary may transfer funds from the FLAME fund into the respective Wildland Fire Management account, for suppression activities, upon a secretarial declaration. The declaration may be issued if the fire covers at least 300 acres or threatens lives, property, or resources, among other criteria. The conferees stated their intent that the money in the FLAME funds, together with appropriations through the Wildland Fire Management accounts, should fully fund suppression needs and prevent borrowing funds from other programs. They directed the Secretaries to develop new methods of estimating fire suppression funding needs as part of their FY2011 budget requests.¹⁴⁸

The Interior appropriations law included \$474.0 million (\$413.0 million for the FS and \$61.0 million for DOI) for the FLAME funds. This would supplement the FS and DOI fire suppression funding in the law, which totaled \$1.38 billion (\$997.5 million for the FS and \$383.8 million for DOI). Thus, FY2010 appropriations for wildfire suppression totaled \$1.86 billion (\$1.41 billion for the FS and \$444.8 million for DOI).

The total wildfire suppression funding in the House-passed bill and the Administration's request matched the enacted level, \$1.86 billion, but differed in structure. The Administration and the House included \$1.50 billion for wildfire suppression (\$1.13 billion for the FS and \$369.8 million for DOI), and \$357.0 million for a proposed Wildland Fire Suppression Contingency Reserve Fund (comprising \$282.0 million for the FS and \$75.0 million for DOI).

The Senate also had approved \$1.86 billion, but structured the funding differently still. The Senate had provided \$664.3 million for wildfire suppression (\$369.5 million for the FS and \$294.8 million for DOI), \$357.0 in Wildland Fire Suppression Reserve Funds (\$282.0 million for the FS and \$75.0 million for DOI), and \$834.0 million for a new FLAME fund (with no allocation between the FS and DOI).

Other Operations

Other wildland fire operations include an array of activities—burned area rehabilitation, biomass fuels reduction, research, and assistance to states and private entities. For FY2010, the Interior appropriations law provided \$751.9 million for other operations, \$20.1 million (3%) more than the Senate, \$69.4 million (8%) less than the House, and \$72.7 million (11%) more than the Administration's request.

¹⁴⁸ H.Rept. 111-316 on H.R. 2996, p. 152-154.

Fuel reduction—activities to protect resources and infrastructure by removing “excess” biomass fuels from forests—has received the bulk of other operations funding. (For background, see CRS Report R40811, *Wildfire Fuels and Fuel Reduction*, by (name redacted).) The Interior appropriations law provided \$556.5 million for fuel reduction in FY2010 (\$350.3 million for the FS and \$206.2 million for DOI). This was an increase of \$36.1 million (7%) over the Administration’s request. The enacted level matched the Senate-passed level (including the \$10.0 million for the Collaborative Forest Landscape Restoration Fund authorized in Section 4003(f) of P.L. 111-11). The House had provided \$611.2 million for fuel reduction in FY2010 (\$378.1 million for the FS and \$233.1 million for DOI).

For burned area rehabilitation—to control erosion and restore vegetation on burned areas—in FY2010, the FY2010 Interior appropriations law provided \$31.9 million, matching the House-passed level and slightly exceeding the Senate level (by \$0.1 million). The enacted level was also slightly (\$0.1 million) more than the FY2009 appropriations and an increase of \$2.6 million more than the request. Also, 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.

For related activities of FS forest health management—to survey and control insects, diseases, and invasive species—the FY2010 law included \$32.2 million, an increase of \$6.3 million (44%) above the request for federal lands and of \$4.4 million (63%) above the request for cooperative (non-federal) lands. The enacted level was less than the House-passed level of \$37.2 million but more than the Senate-passed level of \$27.2 million. (This activity also receives funds through State and Private Forestry; see **Table 14**, above.)

The FY2010 appropriations matched the House, Senate, and Administration levels of wildfire appropriations for fire research at the FY2009 level. DOI funding for the Joint Fire Science Program remained at \$6.0 million; FS funding for the Joint Fire Science Program remained at \$8.0 million. Wildfire funding for FS fire plan research and development was kept at \$23.9 million. (Fire research also receives funds under FS Research; see above.) Further, the law maintained the FY2009 level for DOI wildfire facilities—\$6.1 million.

For FS fire assistance to states, the FY2010 law included \$80.3 million. This included \$71.3 million for state fire assistance, \$8.8 million less than the House, \$15.0 million more than the Senate, and \$21.3 million more than the request. For volunteer fire departments, the law included \$9.0 million, which matched FY2009 omnibus funding and the Senate-passed level, and was \$1.0 million less than the House and \$2.0 million more than the request. (FS fire assistance also is funded through State and Private Forestry; see **Table 14** above.) DOI funding for community assistance remained at \$7.0 million, as passed in both the House and Senate bills.

Table 22. Appropriations for Interior, Environment, and Related Agencies, FY2006-FY2010

(\$ in thousands)

Bureau or Agency	FY2006 Approp.^a	FY2007 Approp.	FY2008 Approp.	FY2009 Omnibus	FY2009 Stimulus	FY2009 Total	FY2010 Approp.
<i>Title I: Department of the Interior</i>							
Bureau of Land Management ^b	1,001,902	1,029,498	1,007,897	1,038,596	305,000	1,343,596	1,138,534
U.S. Fish and Wildlife Service	1,307,639	1,340,989	1,441,301	1,440,451	280,000	1,720,451	1,646,832
National Park Service	2,255,768	2,299,959	2,390,488	2,525,608	750,000	3,275,608	2,743,730
U.S. Geological Survey	961,675	988,050	1,006,480	1,043,803	140,000	1,183,803	1,111,740
Minerals Management Service	158,294	159,530	118,053	116,676	0	116,676	136,520
Office of Surface Mining Reclamation and Enforcement	294,228	294,654	170,411	164,702	0	164,702	162,868
Bureau of Indian Affairs	2,274,270	2,308,304	2,291,279	2,376,131	500,000	2,876,131	2,619,560
Departmental Offices ^c	527,656	514,913	474,236	480,790	15,000	495,790	508,999
Department-Wide Programs ^d	1,003,540	1,101,911	1,477,066	949,374	15,000	1,014,374 ^e	958,357
Subtotal, Title I: Department of the Interior	9,784,972	10,037,808	10,377,211	10,136,131	2,005,000	12,191,131^e	11,027,140
Subtotal, Title II: Environmental Protection Agency	7,617,416	7,723,948	7,461,496	7,635,674	7,220,000	14,855,674	10,289,864
<i>Title III: Related Agencies</i>							
U.S. Forest Service (FS)	4,200,762	4,706,349	5,804,428	4,745,794	1,150,000	6,095,794 ^f	5,297,256
Indian Health Service	3,045,310	3,180,148	3,346,181	3,581,124	500,000	4,081,124	4,052,375
National Institute of Environmental Health Sciences	79,108	79,117	77,546	78,074	0	78,074	79,212
Agency for Toxic Substances and Disease Registry	74,905	75,212	74,039	74,039	0	74,039	76,792
Council on Environmental Quality and Office of Environmental Quality	2,677	2,698	2,661	2,703	0	2,703	3,159
Chemical Safety and Hazard Investigation Board	9,064	9,113	9,263	10,199	0	10,199	11,147
Office of Navajo and Hopi Indian Relocation	8,474	8,509	8,860	7,530	0	7,530	8,000
Institute of American Indian and Alaska Native Culture and Arts Development	6,207	6,207	7,183	7,900	0	7,900	8,300

Bureau or Agency	FY2006 Approp. ^a	FY2007 Approp.	FY2008 Approp.	FY2009 Omnibus	FY2009 Stimulus	FY2009 Total	FY2010 Approp.
Smithsonian Institution	615,097	634,895	682,629	731,400	25,000	756,400	761,395
National Gallery of Art	111,141	111,729	117,866	122,756	0	122,756	167,005
John F. Kennedy Center for the Performing Arts	30,347	30,389	42,674	36,364	0	36,364	40,447
Woodrow Wilson International Center for Scholars	9,065	9,100	9,844	10,000	0	10,000	12,225
National Endowment for the Arts	124,406	135,500	144,706	155,000	50,000	205,000	167,500
National Endowment for the Humanities	140,949	141,105	144,707	155,000	0	155,000	167,500
Commission of Fine Arts	1,865	1,873	2,059	2,234	0	2,234	2,294
National Capital Arts and Cultural Affairs	7,143	7,143	8,367	9,500	0	9,500	9,500
Advisory Council on Historic Preservation	4,789	4,828	5,265	5,498	0	5,498	5,908
National Capital Planning Commission	8,123	8,168	8,136	8,328	0	8,328	8,507
U.S. Holocaust Memorial Museum	42,150	42,349	44,786	47,260	0	47,260	49,122
Presidio Trust	19,706	19,706	22,051	17,450	0	17,450	23,200
White House Commission on the National Moment of Remembrance	247	247	197	0	0	0	0
Dwight D. Eisenhower Memorial Comm.	0	0	1,969	2,000	0	2,000	19,000
Subtotal, Title III: Related Agencies	8,541,535	9,214,385	10,565,417	9,810,153	1,725,000	11,735,153^f	10,969,844
Subtotal, [Title IV: Veterans' Health]	[1,500,000]	0	0	0	0	0	0
Subtotal, Title IV: Secure Rural Schools	0	425,000	0	0	0	0	0
Grand Total Appropriations (in Bill)^g	25,942,155	27,401,141	28,416,852	27,590,958	10,950,000	38,790,958	32,294,848

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 FY2006 through FY2009. 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, Central Hazardous Materials Fund, Natural Resource Damage Assessment Fund, and Working Capital Fund. For comparative purposes, figures for FY2006 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. Figures prior to FY2009 reflect funding for the Payments in Lieu of Taxes Program (PILT).

- e. This figure includes \$50.0 million in emergency funding in P.L. 111-32, which is not reflected in the two prior FY2009 columns.
- f. This figure includes \$200.0 million in emergency funding in P.L. 111-32, which is not reflected in the two prior FY2009 columns.
- g. Figures generally do not reflect scorekeeping adjustments. The FY2006 total does not include supplemental appropriations or \$1.50 billion in emergency appropriations for veteran's health. It reflects \$1.8 billion in undistributed reductions which are not reflected in the individual agency figures in the column. The FY2007 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. The FY2008 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. The FY2009 omnibus total reflects rescissions of \$62.2 million and an appropriation of \$27.65 billion, including \$9.0 million in Title IV, General Provisions, not reflected in the column figures above. The FY2009 total is the sum of the previous two totals, plus an additional \$250.0 million in wildland fire appropriations that was included in P.L. 111-32. The FY2010 total reflects appropriations of \$32.40 billion, including \$8.0 million in Title IV, General Provisions, not reflected in the column figures above, and a rescission of \$100.8 million.

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