



Leasing and Selling Federal Lands and Resources: Receipts and Their Disposition

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Summary

Many laws have been enacted over the past century authorizing the sale or lease of lands or resources by the federal land management agencies—the Bureau of Land Management, National Park Service (NPS), and Fish and Wildlife Service (FWS) in the U.S. Department of the Interior (DOI) and the Forest Service (USFS) in the U.S. Department of Agriculture (USDA). The receipts from these leases and sales have been used for many purposes, including for local economic development, to recover some or all of the operating and capital costs, or to fund land management activities. In its legislative debates, Congress may consider how prices or fees should be set for the sale or use of federal lands and resources and whether and how the receipts from such sales or leases should be used to fund desired activities.

The various resources sold or leased generate substantial federal revenues—nearly \$16 billion annually for FY2007-FY2009. Leases for oil and gas and other minerals have generated the vast majority of these receipts, averaging \$10.3 billion from offshore leasing and \$4.4 billion from onshore leasing, although the amounts fluctuate widely from year to year. Recreation (\$253 million) and timber sales (\$223 million) also generate significant receipts annually. Other resource sales and leases generate lesser amounts—hardrock mining (\$60 million), BLM land sales (\$35 million), geothermal leasing (\$30 million), and grazing (\$17 million). Various other programs (e.g., special use fees) generated nearly \$500 million in FY2009.

The pricing mechanisms for the various land and resource sales and leases vary widely. For many leases and sales, the fees are determined administratively. This can be (1) to recover agency administrative costs, such as for hardrock mining and for mineral leasing permit fees; (2) to approximate a fair market value, such as for BLM land sales; or (3) to account for other factors established in law, such as for grazing and recreation. For some resource leases and sales, competitive bidding is used to establish prices for some resources, such as for timber and mineral leasing bonuses. In a few situations, prices are set in the legislative authorization for the lease or sale program. For mineral resources, multiple pricing mechanisms are used, often with a combination of administrative fees and competitive bids.

Many of the receipts can be spent without further appropriation by Congress; these accounts have mandatory spending authority. Other receipts are deposited in designated accounts or the General Treasury, and cannot be spent without an annual appropriation.

Many of the receipts are granted to state or local governments, generally as compensation for the tax-exempt status of federal lands and resources. The portion of receipts granted to state and local governments varies widely by the type of resource leased or sold and by the history of the lands, and ranges from 0% (for recreation) to 90% (for mineral leasing in Alaska). Other receipts are commonly deposited into designated accounts for particular agency activities, to recover the cost of administering the lease or sale program or to restore or enhance the affected lands and resources, with remaining receipts deposited in the General Treasury. For some sales or leases, the portion deposited in the General Treasury is fixed—for example, 10% of onshore lease receipts, 37.5% of grazing receipts from certain lands, and 0% for recreation. For others, however, the deposits to many of the accounts vary, often being determined on each lease or sale, and thus the remaining portion deposited in the General Treasury, if any, fluctuates.

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A multitude of laws enacted over the past century authorize the lease or sale of federal lands and resources by federal agencies—the Bureau of Land Management (BLM), the National Park Service (NPS), the Fish and Wildlife Service (FWS), and the Bureau of Ocean Energy Management, Regulation, and Enforcement (BOEMRE) in the U.S. Department of the Interior (DOI) and the Forest Service (USFS) in the U.S. Department of Agriculture (USDA). The receipts from selling or leasing federal lands and resources have been used for a wide variety of purposes, including funding general federal government activities and compensating state and local governments for the tax-exempt status of federal lands.

This report presents information on the receipts from the sale and/or lease of federal lands and resources; it identifies the legislative authority for the sales or leases and the process by which fees are established. It also presents information on the disposition of those receipts—the amount or percentage allocated to specific accounts or deposited in the General Treasury. Many of these accounts have mandatory spending authority, allowing deposits to be spent without further appropriation by Congress.¹ Others require annual appropriations by Congress to be spent.

The report does not include information on federal receipts from water resources or marine fisheries, or federal lands and resources administered by other departments or agencies, such as the Department of Defense. It also excludes renewable energy activities on federal lands, because the receipts from these activities are relatively minor at this time. The report presents information on federal land sales, on the sale or lease of renewable resources, on the sale or lease of minerals, and on other resource sales or leases.

Issues for Congress

Congress faces two general issues in legislation to create or reauthorize programs for the sale or lease of federal lands and resources: the price or fee to be charged, and how the receipts should be used. At a time of heightened fiscal concerns, the sale or lease of lands and resources presents opportunities to increase federal receipts and/or to use receipts to reduce the federal deficit, and ultimately the burden on federal taxpayers. On the other hand, a significant portion of receipts historically has been paid to state and local governments.

In authorizing land and resource sales and leases, Congress can choose how fees or prices are to be established. Some sales and leases are offered and bid competitively, and thus the price is a value determined by the market. Other leases and sales are made at prices either specified in law or set administratively within statutory guidelines. Some administered prices are intended to estimate a fair market value, such as the appraisals for federal land sales. Other administered prices reflect other factors; for instance, grazing fees are to reflect sale prices of beef cattle, among other factors.

In some instances, there has been considerable debate over the factors to be considered in setting fees. Some have raised concerns that administered fees differ from the prices that would occur in a competitive market.² BLM and USFS grazing fees, for example, have been noted to be below

¹ For information on these mandatory spending authorities, see CRS Report RL30335, *Federal Land Management Agencies' Mandatory Spending Authorities*, coordinated by (name redacted).

² See, for example, U.S. Government Accountability Office, Interior's Land Appraisal Services: Actions Needed to Improve Compliance with Appraisal Standards, Increase Efficiency, and Broaden Oversight, GAO-06-1050, September (continued...)

the fees charged by other landowners.³ Critics argue that the low fees are a substantial subsidy to the ranching industry;⁴ others contend that the fees reflect that public land ranching is an economically marginal operation, and that higher grazing fees would drive many ranchers out of business.⁵ Similarly, hardrock mining fees recover at least some administrative costs, but return none of the value of the minerals extracted from the federal land; however, free access to the minerals has promoted economic development in many areas.⁶

Congress can also choose how to allocate receipts from any of the land and resource sale or lease programs it creates or amends. One issue is whether to provide mandatory spending authority for the receipts.⁷ Proponents of mandatory spending for particular programs generally are seeking greater financial stability, as compared to the vagaries of the annual appropriations process. Opponents argue that all taxpayers should benefit from the sale or lease of public assets, and often desire the more intense oversight that comes with annual appropriations. Mandatory spending also can affect federal spending levels and the budget deficit.

Another issue is how the receipts should be used. Some advocate using the fees to reduce the fiscal burden on taxpayers generally. However, some fees are intended to recover administrative costs, while others are intended to fund activities to restore lands and resources to pre-sale conditions. Other receipts are “reinvested” in federal land or resource management in some way. In general, users may be more likely to tolerate higher fees or prices if they see that the additional federal receipts are to be used for management programs that they benefit from, at least in the long run, if not immediately.

Land Sales⁸

Receipts

Generally, only the BLM is authorized to sell lands that it administers. Land sale authority is quite narrow for the USFS, and almost nonexistent for the National Park Service and Fish and Wildlife Service.⁹

(...continued)

2006, <http://www.gao.gov/new.items/d061050.pdf>.

³ U.S. Government Accountability Office, *Livestock Grazing: Federal Expenditures and Receipts Vary, Depending on the Agency and the Purpose of the Fee Charged*, GAO-05-869, September 2005, <http://www.gao.gov/new.items/d05869.pdf>.

⁴ K. Moskowitz and C. Romaniello, *Assessing the Full Cost of the Federal Grazing Program*, Center for Biological Diversity, Tucson, AZ, October 2002, http://www.biologicaldiversity.org/publications/papers/assessing_the_full_cost.pdf.

⁵ See, for example, P. Knize, “Winning the War for the West,” *The Atlantic Monthly (Online)*, July 1999, <http://www.theatlantic.com/past/docs/issues/99jul/9907ranchers.htm>.

⁶ See CRS Report RL33908, *Mining on Federal Lands: Hardrock Minerals*, by (name redacted).

⁷ For information on the process for enacting mandatory spending authorities, see CRS Report RS20129, *Entitlements and Appropriated Entitlements in the Federal Budget Process*, by (name redacted).

⁸ This section written by (name redacted), CRS Specialist in Natural Resources Policy.

⁹ See CRS Report RL34273, *Federal Land Ownership: Current Acquisition and Disposal Authorities*, by (name redacted), (name redacted), and (name redacted).

- Receipts are from the sale of public (i.e., BLM) lands under various authorities. BLM sale authorities include the Federal Land Policy and Management Act of 1976 (FLPMA; 43 U.S.C. §§1701 et seq.); the Federal Land Transaction Facilitation Act (FLTFA; 43 U.S.C. §§2301 et seq.); disposals under geographic-specific laws, perhaps most notably the Southern Nevada Public Land Management Act (SNPLMA; P.L. 105-263, as amended); patents under the General Mining Law (see “Hardrock/Locatable Minerals,” below); transfers to other governmental units for public purposes; and other statutes.¹⁰
- Prices under most authorities (e.g., FLPMA, FLTFA, and SNPLMA) are based on fair market value, as determined by an agency appraisal.¹¹ Also, some land disposal authorities (e.g., the General Mining Law) have other pricing provisions.

Table 1. Receipts from BLM Land Sales
(in millions of dollars)

Source	FY2007	FY2008	FY2009
SNPLMA	\$41.98	\$27.04	\$10.71
Other Land Sales	\$8.62	\$12.65	\$4.50

Source: Figures were derived from the annual editions of *Public Land Statistics*, Bureau of Land Management, Table 3-29, available at http://www.blm.gov/public_land_statistics/index.htm.

Disposition of Receipts

- **Reclamation Fund**—76% of receipts in Reclamation states under FLPMA and FLTFA are deposited in the fund; expenditures require an annual appropriation.¹²
- **Payments to States**—4% of land sale receipts under FLPMA and FLTFA are permanently appropriated to the states.
- **FLTFA**—96% of land sale receipts under FLTFA are permanently appropriated to a designated account for the Secretaries of the Interior and of Agriculture to use to acquire inholdings and adjacent nonfederal lands (or interests therein) with exceptional resources in the state where the receipts were generated; not more than 20% can be used for administrative expenses related to land disposal.
- **SNPLMA, Federal Funds**—85% of SNPLMA land sale receipts are permanently appropriated to a designated account for the Secretary of the Interior to use for certain purposes in Nevada: federal acquisition of environmentally sensitive land; capital improvements at certain federal areas; development of parks, trails, and natural areas in particular counties; and other purposes.

¹⁰ Information on BLM land sales, particularly under FLTFA and SNPLMA, is on the agency’s website at http://www.blm.gov/wo/st/en/prog/more/lands/land_tenure/sale.html.

¹¹ See GAO-06-1050, *Interior’s Land Appraisal Services*.

¹² The Reclamation Fund was originally designed to finance development of DOI Bureau of Reclamation projects. The fund receives receipts from water user reimbursements, water service payments, and water project power revenues, as well as from certain lease and sales of public lands and resources (e.g., timber, grazing, and some mineral receipts). It requires an annual appropriation to the Bureau to fund water project and program activities in the Reclamation states—the 17 western states from the Great Plains states to the Pacific Coast (excluding Alaska and Hawaii). Funds that are not appropriated remain credited to the Reclamation Fund as unappropriated receipts.

- **SNLPMA, Local Payments**—10% of SNLPMA land sale receipts are permanently appropriated to the Southern Nevada Water Authority.
- **SNLPMA, State Payments**—5% of SNLPMA land sale receipts are permanently appropriated to the State of Nevada General Education Fund.
- **General Treasury**—any remaining receipts (20% in Reclamation states and 96% in non-Reclamation states from FLPMA sales) are deposited in the Treasury.

Renewable Resources

Recreation¹³

Receipts

Recreation by the public is an authorized use of most federal lands. Recreational uses include a wide variety of activities, such as hiking, camping, bird watching, sightseeing, hunting, fishing, boating, and off-road driving. The agencies may restrict recreation in some areas to reduce conflicts that might occur, such as between off-road vehicle use and hiking.¹⁴

- Fees are charged for recreation on federal lands and waters under the Federal Lands Recreation Enhancement Act (FLREA; Title VIII of Division J of P.L. 108-447, the Consolidated Appropriations Act for FY2005).¹⁵ FLREA authorizes different fees for the four major federal land management agencies (and the Bureau of Reclamation), including entrance, standard amenity, expanded amenity, and special recreation permit fees. The law outlines criteria for establishing fees, and prohibits charging fees for certain activities and services.
- Fees are set administratively under the criteria, prohibitions, and other provisions of FLREA. The intent is, in general, to promote fair and consistent fees among agencies and locations, commensurate with the benefits and services provided. The Secretaries of the Interior and of Agriculture are required to consider comparable fees charged elsewhere, such as by nearby private providers of recreation services. To minimize confusion, burden, and overlap of fees, the Secretaries also are required to consider the aggregate effect of recreation fees on recreation users and providers. They are directed to establish the minimum number of fees and avoid collecting multiple or layered fees for similar purposes. In establishing new fees and fee sites, the Secretaries are required to obtain input from the public and from Recreation Resource Advisory Committees.¹⁶

¹³ This section written by (name redacted), CRS Specialist in Natural Resources Policy.

¹⁴ See CRS Report RL33525, *Recreation on Federal Lands*, by Kori Calvert, (name redacted), and (name redacted).

¹⁵ In addition, some agencies collect relatively modest amounts of recreation-related revenues under other authorities, which are not covered in this report.

¹⁶ For additional background on the enactment and implementation of FLREA, see CRS Report RL33730, *Recreation Fees Under the Federal Lands Recreation Enhancement Act*, by (name redacted).

Table 2. FLREA Receipts by NPS, USFS, BLM, and FWS

(in millions of dollars)

Agency	FY2007	FY2008	FY2009
NPS	\$168.84	\$171.99	\$170.99
USFS	\$61.04	\$61.62	\$64.66
BLM	\$14.55	\$14.95	\$17.54
FWS	\$4.41	\$4.66	\$4.78

Source: Figures for FY2007 and FY2008 were derived from the *Federal Lands Recreation Enhancement Act, Second Triennial Report to Congress, 2009*, prepared by DOI and USDA. Figures for FY2009 were derived from the FY2011 agency budget justifications, except that the USFS figure was provided from the USFS Budget Office.

Disposition of Receipts

- **FLREA Accounts**—100% of receipts are deposited into a designated account for each agency in the Treasury, and are permanently appropriated to the Secretaries. In general, at least 80% of the receipts are directed to be used at the site where they were generated, for various purposes including visitor services and the operation, maintenance, and restoration of facilities. The remaining collections are available to be used at the discretion of the agency. The law contains other provisions for the distribution of certain collections, including from the sale of recreation passes authorized in the FLREA (e.g., the national recreation pass).

Timber¹⁷

Receipts

The majority of timber from federal lands is sold by the USFS. In addition, the BLM sells timber: about 90% of BLM timber is sold from the Oregon and California (O&C) grant lands and the Coos Bay Wagon Road (CBWR) grant lands in western Oregon.¹⁸ Both agencies determine the total amount of timber to be sold and the size and frequency of sales, generally based on land and resource management plans for the areas. Because the volume sold and the prices vary from year to year, annual receipts can fluctuate widely.

- Receipts are from the sale of *stumpage*, defined as the right to cut and remove specified trees or all trees in a specified area. Sales vary widely in size, from a few trees to hundreds of acres of trees (possibly thousands of trees), and purchasers typically have up to a few years to complete the sale contract.
- Prices are set by competitive bids at auctions, either oral auctions or written or sealed bids submitted by a specified date and time, by qualified bidders at not less than the appraised value of the timber as determined by agency employees. Some sales have only one bidder, who generally pays the appraised value for the

¹⁷ This section written by (name redacted), CRS Specialist in Natural Resources Policy.

¹⁸ These lands were granted to companies as compensation for building a railroad and a wagon road, respectively, but were returned to federal ownership because the companies failed to comply with the terms of the grants.

timber, and under limited circumstances, timber can be sold in a negotiated sale at the appraised value. On “scaled” sales (common for USFS sales in the West), purchasers pay the rate competitively bid for each timber species, based on the scaled (measured) amount of timber that is removed. On “lump-sum” sales (BLM sales and USFS sales in the South and East), purchasers pay the total amount that is bid, regardless of the amount of timber that is actually removed. In either case, periodic payments must be made before the timber is cut.

Table 3. Receipts from USFS and BLM Timber Sales

(in millions of dollars; excludes value of road construction required in sale contracts)

	FY2007	FY2008	FY2009
USFS	\$161.44	\$161.05	\$251.50
BLM	\$35.27	\$29.82	\$25.96

Sources: U.S. Dept. of Agriculture, Forest Service, *Budget Justification*, annual series; and personal communication of Ross Gorte with Karen E. Mouritsen, BLM Budget Office, Washington, DC, on June 23, 2010.

Disposition of Receipts

The disposition of timber receipts depends on various factors. The amount deposited in each account is determined by agency personnel on each sale, and up to 100% of the proceeds can be deposited into any one account. Because of the USFS’s two-step process for allocations to accounts (deposits to the National Forest Fund are re-allocated to other accounts),¹⁹ and because these other accounts have mandatory spending authority that is not limited by the deposits to the National Forest Fund, the total allocation of USFS timber sale receipts can exceed 100% of the actual receipts—up to 135%. (The additional funds needed for allocations above 100% can be drawn from the U.S. Treasury for the Payments to States.) The BLM can only allocate 100% of its proceeds to the various accounts.

Forest Service

- **Brush Disposal** (Act of August 11, 1916; 16 U.S.C. §490)—timber purchasers make deposits to this account, above the stumpage price for the sale, that is permanently appropriated to the USFS for disposing of tree tops, limbs, and other woody debris from timber harvesting. The amount is determined for each sale.
- **Knutson-Vandenberg (K-V) Fund**, also called Sale Area Betterment, or SAB, Fund (Act of June 6, 1930; 16 U.S.C. §576)—a portion of receipts from timber sales are deposited in a trust fund permanently appropriated to the USFS. The amount deposited to the K-V Fund is determined for each sale, can be up to 100% of receipts, leaving nothing for allocation to other accounts. K-V Funds can be used to reforest, improve the remaining timber stands, or mitigate or enhance other resource values within sale areas. Initially, use of K-V Funds was

¹⁹ A flowchart showing this two-step allocation process can be found in U.S. General Accounting Office (now Government Accountability Office), *Forest Service: Distribution of Timber Sales Receipts Fiscal Years 1992-94*, GAO/RCED-95-237FS, September 1995, p. 3, <http://www.gao.gov/archive/1995/rc95237f.pdf>.

restricted to the national forest where the funds were collected, but now can be used on any forest within the USFS region where the funds were collected.

- **Salvage Sale Fund** (National Forest Management Act of 1976 (NFMA); P.L. 94-588, §14(h))—receipts from sales or portions of sales designated as salvage are deposited in this account permanently appropriated to the USFS. The total deposited in the K-V Fund and the Salvage Sale Fund cannot exceed 100% of sale receipts. Funds are used to prepare and administer additional salvage sales.
- **Timber Sales Pipeline Restoration Fund** (Omnibus Consolidated Rescissions and Appropriations Act of 1996; P.L. 104-134, §327)—receipts from certain canceled-but-reinstated timber sales²⁰ and from additional sales prepared with the fund are permanently appropriated to the USFS. Three-quarters of the funds are to prepare additional timber sales and the other quarter is for recreation projects.
- **National Forest Fund (NFF)**—all receipts from leases and sales of national forest resources, except those deposited directly into a particular account (listed above for timber) are deposited into this account. Numerous allocations are then made from the NFF, as identified below.
 - **Payments to States** (Act of May 23, 1908; 16 U.S.C. §500)—25% of gross receipts²¹ are permanently appropriated to the states for use on roads and schools in the counties where the national forests are located.²² Since 2001, counties have been able to choose 25% of current receipts or payments based on historical payments under the Secure Rural Schools and Community Self-Determination Act of 2000 (SRS, P.L. 106-393).²³ Because payments are based on more than deposits to the NFF, total allocations from any particular timber sale can exceed 100% of the sale's receipts.²⁴
 - **National Forest Roads and Trails Fund** (Act of March 4, 1913; 16 U.S.C. §501)—10% of gross receipts (excluding deposits to special accounts) from all timber sales are permanently appropriated to the USFS. Initially, the account was intended to supplement annual appropriations for road and trail construction. In the 1980s, funds were returned to the Treasury to offset annual appropriations for road and trail construction under provisions in the annual Interior appropriations acts. From FY2000-FY2007, funds were made

²⁰ These are sales originally offered and sold under the Interior and Related Agencies Appropriations Act for FY1990 (P.L. 101-121, §318), halted in 1992 after the marbled murrelet was listed as threatened under the Endangered Species Act, and reinstated under the 1995 Emergency Supplemental Appropriations and Rescissions Act (P.L. 104-19, §2001(k)).

²¹ The receipts subject to 25% payments include deposits to the K-V Fund and to the Salvage Sale Fund (described above) and the value of road construction required in timber sale contracts and built by the timber purchasers, but not funds deposited for Brush Disposal.

²² The states cannot retain any of the funds, but the allocation between roads and schools and the local recipient for spending the funds on roads and schools (e.g., the county, a school board, or other local entity) is at the discretion of the state.

²³ For further information, see CRS Report R41303, *Reauthorizing the Secure Rural Schools and Community Self-Determination Act of 2000*, by (name redacted).

²⁴ Under the 25% payments, the nationwide total allocation cannot exceed 100% of receipts. (The USFS essentially shifts funds from areas with relatively high receipts to areas where receipts do not cover all required allocations.) However, because the SRS program can draw from the Treasury to make the required payments to states, the total allocation can exceed 100% of USFS timber sale receipts nationally, and has done so annually since FY2000.

available to implement projects to improve forest health under provisions in the annual Interior appropriations acts. Since FY2008, funds have again been returned to the Treasury to offset appropriations for roads and for forest health projects under provisions in the annual Interior appropriations acts.

- **Purchaser Elect Roads** (NFMA; §14(i))—qualified purchasers who elect to have the USFS build the permanent roads required in the sale contract make deposits to a special account; funds are permanently appropriated to the USFS to build the required roads.
- **General Treasury**—any remaining receipts are deposited in the Treasury. Because of the authorized payments to states under the SRS, no timber sale receipts have been deposited in the Treasury since FY2000.

BLM

- **Payments to States** (various statutes)—4% of receipts from timber sales on public domain lands²⁵ are permanently appropriated to the states.
- **Reclamation Fund** (Reclamation Act of June 17, 1902; 43 U.S.C. §391)—76% of receipts from timber sales on public domain lands in Reclamation states are deposited in the fund; expenditures require an annual appropriation.²⁶
- **O&C County Payments** (O&C Act of August 28, 1937; 43 U.S.C. §1181f)—50% of receipts from O&C timber sales are permanently appropriated to the counties. Note that payments have been based on historical payments, under the same SRS provisions as USFS Payments to States (described above).
- **CBWR County Payments** (Act of May 24, 1939; 43 U.S.C. §1181f-1)—up to 75% of receipts from CBWR timber sales, based on tax bills from the counties, are permanently appropriated to the counties. Note that payments have been based on historical payments, under the same SRS provisions as USFS Payments to States (described above).
- **Forest Ecosystem Health and Recovery Fund** (Interior and Related Agencies Appropriations Act for FY1993; P.L. 102-391)—up to 100% of the federal share of receipts—after payments to states and to O&C and CBWR counties—from sales designated as salvage sales, as determined on each sale, are permanently appropriated to the BLM to prepare and administer additional salvage sales.
- **Timber Sales Pipeline Restoration Fund** (see “Forest Service,” above)—up to 100% of the federal share of receipts—after payments to counties—from certain canceled-but-reinstated O&C timber sales²⁷ and from sales prepared with those funds are permanently appropriated to the BLM. Three-quarters of the funds are to prepare additional timber sales and the other quarter is for recreation projects.
- **General Treasury**—any remaining receipts are deposited in the Treasury.

²⁵ Public domain lands are those acquired by the federal government by purchase or treaty from a foreign government.

²⁶ The Reclamation Fund was originally designed to collect various receipts to finance Bureau of Reclamation projects. Expenditures from the fund require annual appropriations; funds not appropriated are credited to the Reclamation Fund as unappropriated receipts.

²⁷ These sales were originally offered and sold in 1990, halted in 1992, and reinstated in 1995.

Grazing²⁸

Receipts

The BLM and USFS establish grazing allotments (areas of federal grazing), generally associated with a particular base ranch. The agencies issue permits or leases to ranchers for grazing private livestock on federal lands; the leases or permits are generally for 10 years, and can be (and usually are) renewed.²⁹ The leases or permits are granted for specified numbers of private livestock, based on several factors, including the amount of vegetation available for livestock and wildlife.

- Fees are charged for grazing specified numbers of private livestock per month on BLM and USFS lands.
- The fee charged by the USFS and BLM is administratively set based on a formula established in the Public Rangelands Improvement Act of 1978 (PRIA, P.L. 95-514).³⁰ The fee is intended to represent the fair market value of grazing, and is determined by formula with a base value of \$1.23 per animal unit month (AUM, one month's use of the range by one animal unit (e.g., a cow with calf)). The formula is annually adjusted for lease rates for grazing on private lands, beef cattle prices, and the cost of livestock production. The current fee is the lowest that can be charged—\$1.35 per AUM—for March 1, 2011, to February 28, 2012.³¹

Table 4. Receipts from BLM and USFS Grazing Leases and Permits

(in millions of dollars)

	FY2007	FY2008	FY2009
BLM	\$12.33	\$11.80	\$11.94
USFS	\$5.19	\$5.16	\$5.18

Source: U.S. Dept. of the Interior, Bureau of Land Management, *Public Land Statistics*, annual series, Table 3-29, http://www.blm.gov/public_land_statistics/index.htm; and personal communication between (name redacted) and Ralph Giffen, USFS Rangeland Management, Washington, DC, on January 26, 2010.

²⁸ This section written by (name redacted), CRS Specialist in Natural Resources Policy.

²⁹ This section covers grazing on BLM and USFS lands in 16 western states.

³⁰ USFS fees for national grasslands and “eastern” states differ. In addition, modest amounts of grazing occur on other federal lands not governed by PRIA fees, including areas managed by the National Park Service, Fish and Wildlife Service, Department of Defense, and Department of Energy. Due to the relatively small size of these programs, they are not covered in this report.

³¹ For more information on grazing fees, see CRS Report RS21232, *Grazing Fees: Overview and Issues*, by (name redacted).

Disposition of Receipts

BLM

The disposition of BLM grazing receipts depends on the lands being grazed. Section 3 of the Taylor Grazing Act of June 28, 1934 (TGA; 43 U.S.C. §315i) authorized grazing districts and grazing permits for those lands, with an allocation of funds for receipts from those grazing permits. Section 15 of the TGA authorized leases for grazing allotments outside of the grazing districts, with a different allocation of receipts for those grazing leases. In both cases (§3 lands and §15 lands), allocations total 100% of receipts.

- ***Payments to States, Section 3 Lands*** (TGA, §3; 43 U.S.C. §315i)—12.5% of receipts from TGA §3 grazing lands are permanently appropriated to the states “for the benefit of the county or counties in which the grazing district is situated.”
- ***Payments to States, Section 15 Lands*** (TGA, §15; 43 U.S.C. §315i)—50% of receipts from TGA §15 grazing lands are permanently appropriated to the states “for the benefit of the county or counties in which the grazing district is situated.”
- ***Range Betterment Fund*** (Federal Land Policy and Management Act of 1976 (FLPMA); P.L. 94-579, 43 U.S.C. §1751(b))—50% of grazing fees or \$10 million, whichever is greater, is allocated to the fund; expenditures require an annual appropriation. By regulation, half of the fund is to be allocated by the Secretary on a priority basis, and the rest is to be spent in the state and district where it was derived.
- ***General Treasury***—37.5% of receipts from TGA §3 lands are deposited in the Treasury.

Forest Service

- ***Range Betterment Fund*** (FLPMA, 43 U.S.C. §1751(b))—50% of grazing fees or \$10 million, whichever is greater, is allocated to the fund; expenditures require an annual appropriation.
- ***National Forest Fund (NFF)***—all receipts from leases and sales of national forest resources, except those deposited directly into a particular account—50% for grazing—are deposited into this account. Numerous allocations are then made from the NFF, as identified below.
 - ***Payments to States***—25% of gross receipts (50% of NFF deposits) are permanently appropriated to the states for use on roads and schools in the counties where the national forests are located. Note that payments may be based on historical payments, under the SRS Act. (See discussion under “Timber,” above.)
 - ***National Forest Roads and Trails Fund***—10% of gross receipts (20% of NFF deposits) are permanently appropriated to the USFS, but with exceptions. (See discussion under “Timber,” above.)

- **General Treasury**—remaining receipts (15% of gross receipts (30% of NFF deposits)) are deposited in the Treasury.

Mineral Resources

Hardrock/Locatable Minerals³²

Receipts

The General Mining Law of 1872 established a system of free access for individuals and corporations to prospect for hardrock (or locatable) minerals (e.g., gold, silver, copper) on open federal lands and to stake a claim on the deposit (30 U.S.C. Chapter 2).³³ The minerals can then be extracted from sites with valid claims. The claim can be “patented” to transfer title to the relevant lands to the claimant, although patenting the land is not necessary to extract the minerals. Since FY1995, Congress had included a provision prohibiting land patents under the General Mining Law in the annual Interior appropriations acts. Receipts from hardrock/locatable minerals are generated from fees to locate the claim, an annual fee to maintain the claim, and a per-acre fee to patent the claim.³⁴

- The location fee is \$34 per claim to locate and record the claim.
- The annual maintenance fee is \$140 per claim. This fee replaces the previous annual requirement of \$100 of development work to maintain each claim. Claimants with 10 claims or fewer may file to waive the annual maintenance fee and perform the annual work assessment instead.
- Fees are adjusted every five years for inflation, based on the Consumer Price Index.
- Patenting the claim (which has been prohibited under a provision in the annual Interior appropriations acts since FY1995) includes two fees:
 - Patent application fee is \$250, plus \$50 per claim for each claim in the application.
 - Land patent fee is \$2.50 or \$5.00 per acre, depending on the type of claim.

³² This section written by (name redacted), CRS Analyst in Energy Policy.

³³ The 1872 Mining Law and subsequent statutes governing mining on federal lands do not define hardrock or locatable minerals subject to their provisions. Legislation in the 111th Congress to modify federal mining administration (e.g., H.R. 699, H.R. 3201, and S. 796) would have defined locatable minerals as those not subject to mineral and geothermal leasing laws (30 U.S.C. §§181 et seq., §§351 et seq., and §§1001 et seq.) or the Mineral Materials Act of 1947 (30 U.S.C. §§601 et seq.). Leasable minerals are discussed below; mineral materials are essentially low-grade construction materials, such as sand, gravel, and crushed rock, and are not discussed in this report.

³⁴ See CRS Report RL33908, *Mining on Federal Lands: Hardrock Minerals*, by (name redacted).

Table 5. Receipts from BLM Hardrock Mining Fees
(in millions of dollars)

FY2007	FY2008	FY2009
\$56.70	\$69.20	\$55.40

Source: U.S. Dept. of the Interior, Bureau of Land Management, *Public Land Statistics*, annual series.

Disposition of Receipts

- **Cost of Collections** (P.L. 111-8, FY2009 Omnibus Appropriations Act at 123 Stat. 701)—the BLM is authorized to retain a portion of the receipts based on BLM’s cost of collections (\$32.7 million in FY2007, \$34.7 million in FY2008, and \$34.7 million in FY2009).
- **General Treasury**—any remaining receipts are deposited in the Treasury.

Onshore Leasable Minerals³⁵

Receipts

Mineral leasing for “coal, phosphate, sodium, potassium [potash], oil, oil shale, gilsonite (including all vein-type solid hydrocarbons), or gas” under all federal lands is governed by the Mineral Leasing Act of 1920 (30 U.S.C. §181) and the Mineral Leasing Act for Acquired Lands (31 U.S.C. §§351 et seq.).³⁶ Leasing auctions and implementing activities are administered by the BLM for all federal lands. Receipts from leasing are collected by the DOI Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE, formerly the Minerals Management Service).³⁷ For oil and gas, areas identified as known geological structures are offered for lease competitively; for areas with bids less than the identified minimum or outside known geological structures, leases may be offered to applicants without competition for a \$75 application fee (in lieu of a bonus bid).

- **Bonus Bids**—competitive bonus bidding is used for lease sales, with leases awarded to the highest bidder. A minimum acceptable bonus bid is determined by BOEMRE for each tract offered. Successful bidders make an up-front cash payment, called a bonus bid, to secure the lease.
- **Rents**—administratively determined annual payments are charged per acre leased until production commences or the lease is terminated or relinquished.
- **Royalties**—payments of a share of production are made, generally set at 12.5% of the value of production. The Secretary may reduce or eliminate the royalty established by the lease to promote increased recovery.

³⁵ This section written by (name redacted), CRS Analyst in Energy Policy.

³⁶ See CRS Report R40806, *Energy Projects on Federal Lands: Leasing and Authorization*, by (name redacted).

³⁷ DOI Order 3302, June 18, 2010. For background on the agency’s reorganization, see CRS Report R41485, *Reorganization of the Minerals Management Service in the Aftermath of the Deepwater Horizon Oil Spill*, by (name redacted).

- **Permit Fees**—administratively determined fees are charged for filing applications for permits to drill. The fees are intended to recover administrative costs of permit processing

Table 6. Receipts from Onshore Mineral Leasing

(in millions of dollars)

	FY2007	FY2008	FY2009
Bonus Bids	\$543.71	\$676.46	\$778.90
Annual Rents	\$65.20	\$65.93	\$63.27
Royalties	\$3,158.40	\$4,886.20	\$2,581.76
Permit Fees	4.70	\$4.71	\$6.96
Total	\$3,772.01	\$5,633.30	\$3,430.89

Source: U.S. Dept. of the Interior, Office of Natural Resources Revenue, *Federal Onshore Reported Royalty Revenues*, <http://www.onrr.gov/ONRRWebStats/FedOffReportedRoyaltyRevenues.aspx?yeartype=FY&year=%202010&dateType=AY#>.

Disposition of Receipts

- **Payments to States, except Alaska** (Mineral Leasing Act of 1920; 30 U.S.C. §191)—50% of receipts is permanently appropriated to the states. Since FY2008, under language in the Interior appropriation bills, 2% of the states' share (1% of total receipts) is retained by the BLM to cover administrative costs of the leasing program.
- **Reclamation Fund**—40% of receipts, except in Alaska, are deposited in the Reclamation Fund; expenditures require an annual appropriation.³⁸
- **Payments to Alaska** (Mineral Leasing Act of 1920; 30 U.S.C. §191, as amended by P.L. 85-505)—90% of receipts from leases in Alaska is permanently appropriated to the state. Since FY2008, under language in the Interior appropriation bills, 2% of the state's share (1.8% of receipts from leases in Alaska) is retained by the BLM to cover administrative costs of the leasing program.
- **Federal Administrative Costs**—2% of the states' share (1% of receipts, except for 1.8% of receipts in Alaska) is retained and permanently appropriated to the BLM to cover administrative costs of the leasing program, under language in the Interior appropriation bills since FY2008.
- **General Treasury**—the remaining 10% of receipts is deposited in the Treasury.

³⁸ The Reclamation Fund was originally designed to collect various receipts to finance Bureau of Reclamation projects. Expenditures from the fund require annual appropriations; funds not appropriated are credited to the Reclamation Fund as unappropriated receipts.

Offshore Leasable Minerals³⁹

Receipts

Leasing minerals (primarily oil and gas) under the federal Outer Continental Shelf (OCS, typically from 3 to 200 miles offshore) is governed by the 1953 Outer Continental Shelf Lands Act (OCSLA, 43 U.S.C. §§1301, et seq.).⁴⁰ The DOI BOEMRE prepares five-year leasing plans and periodically offers leases at auction.⁴¹

- **Bonus Bids**—competitive sealed bonus bidding is used for lease sales, with leases awarded to the highest bidder. Successful bidders make an up-front cash payment, called a bonus bid, to secure the lease. A minimum acceptable bonus bid is determined by BOEMRE for each tract offered. In contrast to onshore oil and gas leasing, if no bids match or exceed the minimum, the lease is withheld, to be offered again at a later sale.
- **Rents**—administratively determined annual payments are charged per acre leased for nonproducing active leases.
- **Royalties**—payment of a share of production is made by the successful bidder. Royalty rates are generally set at 12.5%, 16.7%, or 18.75% of the value of production, with the highest rate used in recent offshore lease sales. The Secretary may reduce or eliminate the royalty established by the lease to promote increased recovery.
- **Permit Fees**—administratively determined fees are charged for filing and maintaining permits.

Table 7. Receipts from Offshore Mineral Leasing

(in millions of dollars)

	FY2007	FY2008	FY2009
Bonus Bids	\$373.93	\$9,479.61	\$1,174.07
Annual Rents	\$198.81	\$237.34	\$235.18
Royalties	\$6,037.55	\$7,707.57	\$4,178.46
Permit Fees	\$3.00	\$2.28	\$2.80
Total	\$6,613.29	\$17,426.79	\$5,590.51

Source: U.S. Dept. of the Interior, Office of Natural Resources Revenue, *Total Federal Offshore Reported Royalty Revenues*, <http://www.onrr.gov/ONRRWebStats/FedOffReportedRoyaltyRevenues.aspx?yeartype=FY&year=%202010&dateType=AY#>.

Note: Many factors contribute to the high level of bonus bids and royalties in FY2008. The two most widely reported reasons are record demand for oil (and high oil prices) spurred by a stronger economy prior to 2008

³⁹ This section written by (name redacted), CRS Analyst in Energy Policy.

⁴⁰ See CRS Report RL33404, *Offshore Oil and Gas Development: Legal Framework*, by (name redacted).

⁴¹ For a discussion of the controversies over OCS leasing in recent years, see CRS Report RL33493, *Outer Continental Shelf: Debate Over Oil and Gas Leasing and Revenue Sharing*, by (name redacted) and CRS Report R41132, *Outer Continental Shelf Moratoria on Oil and Gas Development*, by (name redacted).

and pent-up interest in new leasing opportunities, spurred by President George W. Bush rescinding the executive moratorium on offshore drilling in 2008, changing the status of some deepwater areas of the Gulf of Mexico and some frontier areas of the Alaska region.

Disposition of Receipts

- ***Land and Water Conservation Fund*** (LWCF, P.L. 88-578; 16 U.S.C. §§460l-4, et seq.)⁴²—up to \$900 million annually is allocated to the LWCF. It receives deposits from several sources, such as surplus federal property sales and federal motorboat fuel taxes, and then from OCS leasing to fulfill the \$900 million annual authorization; expenditures require an annual appropriation.
- ***National Historic Preservation Fund*** (National Historic Preservation Act, P.L. 89-665; 16 U.S.C. §§470, et seq.)—\$150 million annually from OCS lease receipts is allocated to the fund; expenditures require an annual appropriation.
- ***Section 8(g) Payments to States*** (§8(g) of the OCSLA Amendments of 1985, P.L. 99-272)—27% of receipts from §8(g) common pool lands is permanently appropriated to the states; §8(g) common pool lands are defined as submerged acreage lying outside the three-nautical mile state-federal demarcation, typically extending to a total of six nautical miles offshore but including a pool of oil common to both federal and state jurisdiction. A 1978 OCSLA amendment provides for “fair and equitable” sharing of revenues from §8(g) common pool lands.
- ***Section 8(p) Payments to States*** (Gulf of Mexico Energy Security Act (GOMESA) of 2006, P.L. 109-432, amending OCSLA)—37.5% of receipts from specified federal oil and gas leases off the coasts of selected Gulf states is permanently appropriated to those states (Alabama, Louisiana, Mississippi, and Texas; no leasing occurs off the Florida coast).
- ***LWCF, Stateside Program*** (GOMESA)—12.5% of receipts from specified federal oil and gas leases off the coasts of selected Gulf states is permanently appropriated to the National Park Service to be used consistent with the stateside program under the LWCF Act.
- ***Coastal Impact Assistance Program*** (CIAP, Energy Policy Act of 2005, P.L. 109-58, §384)—\$250 million of annual spending for FY2007-FY2010 is permanently appropriated, 65% to coastal producing states (Alabama, Alaska, California, Louisiana, Mississippi, and Texas) and 35% to eligible political subdivisions, allocated among states by the formula in law (based on previous qualified OCS revenues).
- ***General Treasury***—any remaining funds are deposited in the Treasury.

⁴² See CRS Report RL33531, *Land and Water Conservation Fund: Overview, Funding History, and Issues*, by (name redacted).

Geothermal Leasing⁴³

Receipts

Receipts for geothermal leasing are collected by the DOI BOEMRE.⁴⁴

- **Commercial Sales for Electricity Production**—Competitive lease sales are held at least every two years. If there are no competitive bids, then lands are made available for two years under a non-competitive process.
 - **Bids**—competitive bidding, roughly comparable to bonus bidding for other mineral leases, is used for lease sales, with leases awarded to the highest bidder.
 - **Royalties**
 - On electricity produced directly from geothermal resources, the royalty rate is 1%-2.5% of the gross proceeds from geothermal electricity sales in the first 10 years of production and 2%-5% of the gross proceeds from geothermal electricity sales each year after the 10-year period.
 - For arms-length sales of geothermal heat to a third party for energy production or other purposes, the royalty rate is 10% of the gross proceeds from the sale.
 - **Rent**
 - For competitive leases, annual rents are \$2 per acre for the first year, \$3 per acre per year for the second through the tenth years, and \$5 per acre annually thereafter.
 - For non-competitive leases, annual rents are \$1 per acre per year for the first through the tenth years, and \$5 per acre annually thereafter.
- **Direct Use for Heating**—fees are based on the quantity or thermal content, or both, of the resource, to encourage resource development and ensure a fair return to the United States.

Table 8. Receipts from Geothermal Leasing

(estimates in millions of dollars)

FY2007	FY2008	FY2009
\$13.66	\$37.10	\$40.10

Source: U.S. Dept. of the Interior, BOEMRE, Office of Administration and Budget, *Budget Justifications*, annual series, <http://www.boemre.gov/adm/budget.html>.

⁴³ This section written by (name redacted), CRS Analyst in Energy Policy.

⁴⁴ See CRS Report R40806, *Energy Projects on Federal Lands: Leasing and Authorization*, by (name redacted).

Disposition of Receipts

- ***Payments to States*** (Geothermal Steam Leasing Act, P.L. 91-581; 30 U.S.C. §1019)—50% of receipts is permanently appropriated to the states where the receipts were generated.
- ***Payments to Counties*** (30 U.S.C. §1019)—25% of receipts is permanently appropriated to the counties where the receipts were generated.
- ***General Treasury***—25% of receipts is deposited in the Treasury.

Other Activities⁴⁵

Each agency has an array of additional activities that also generate receipts. Many of these include permanent appropriations of receipts from specific sources for specific purposes. With a few exceptions (e.g., USFS recreation and special land use permits listed below), these permanent appropriations are fully dedicated to the specified purposes. Each agency's accounts with receipts of more than \$10 million in FY2009 (other than those discussed above) are listed below in decreasing size.⁴⁶

National Park Service

- ***Park Concessions Franchise Fees***, \$58.2 million in FY2009—administrative fees are collected from National Park System concessions to approximate fair market value. Collections are permanently appropriated; 80% are for use at the park unit where the funds were collected, and 20% are available to the Secretary for high priority management and operations throughout the National Park System.
- ***Donations***, \$31.2 million in FY2009—contributions from the public are permanently appropriated for management and operations of the National Park System.
- ***Operation and Maintenance of Quarters***, \$20.0 million in FY2009—salary deductions from employees living in NPS housing are permanently appropriated for the operations and maintenance of that housing.
- ***Concessions Improvement Accounts***, \$13.7 million in FY2009—concessionaire deposits are permanently appropriated for facility improvements at the park units where the funds were collected.
- ***Transportation System***, \$11.0 million in FY2009—fees collected for public transportation services to any National Park System unit, authorized by P.L. 105-391 (the National Parks Omnibus Management Act of 1998) are permanently appropriated to the NPS.

⁴⁵ This section written by (name redacted), CRS Specialist in Natural Resources Policy.

⁴⁶ The data on these accounts are from each agency's annual budget justifications.

Forest Service

- ***Recreation Fees*** (other than under FLREA), \$50.2 million in FY2009—receipts from ski area permits, cabin fees, and other permitted recreation activities. Fees are disposed to states (25% payments), to the roads and trails fund (10%), and to the General Treasury (65%). (See the discussion under “Timber,” above, for information on USFS Payments to States and the National Forest Roads and Trails Fund.)
- ***Restoration of Lands and Improvements***, \$45.0 million in FY2009—receipts from forfeitures of bonds or from judgments against contractors for work not completed are permanently appropriated for agency employees or contracts to complete the work.
- ***Cooperative Deposits***, \$22.7 million in FY2009—deposits from cooperators and others are permanently appropriated for joint work efforts, such as deposits from timber purchasers for road maintenance during and after timber harvesting.
- ***Special Land Use Permits***, \$14.8 million in FY2009—receipts intended to approximate fair market value are collected from special use permits for the use of national forest lands, such as for telecommunication sites and agricultural activities. Fees are disposed to states (25% payments), to the roads and trails fund (10%), and to the General Treasury (65%).

Bureau of Land Management

- ***Helium Fund***, \$96.7 million in FY2009—receipts for the sale of crude helium (and natural gas and liquid gas from the Crude Helium Enrichment Unit) are permanently appropriated to administer helium leasing and extraction from federal lands and crude helium sales, storage, and transmission, as well as clean-up and disposal of unneeded helium refining facilities.
- ***Rights-of-Way Processing***, \$14.3 million in FY2009—receipts are intended to recover the costs of processing rights-of-way for pipelines, transmission lines, wind and solar energy projects and more. Expenditures require annual appropriations.

Fish and Wildlife Service⁴⁷

- ***Migratory Bird Conservation Fund***, \$52.3 million in FY2009—receipts from the sale of “Duck Stamps”⁴⁸ (\$22.9 million in FY2009) and from import duties on arms and ammunition (\$29.4 million in FY2009) are permanently appropriated for wildlife refuge land acquisition.

⁴⁷ This excludes two very large FWS accounts that fund fish and wildlife-related activities—Federal Aid in Sport Fish Restoration (the Dingell-Johnson/Wallop-Breaux Fund) and Federal Aid in Wildlife Restoration (the Pittman-Robertson Fund). They have been excluded, because they are funded largely from excise taxes and import tariffs on sporting equipment and certain fuel uses, not from leases and sales of federal lands and resources.

⁴⁸ Duck Stamps are generally required for hunting, may be used for entry into National Wildlife Refuges, and are sold to collectors and the general public. They are produced by the U.S. Postal Service for the Fish and Wildlife Service, but cannot be used for postage (and are unlikely to be used for postage, since the current price is \$15.00 per stamp).

- **National Wildlife Refuge Fund**, also called the Refuge Revenue-Sharing Fund, \$20.8 million in FY2009—receipts from resource sales and user fees (e.g., timber and grazing) for national wildlife refuges (\$6.7 million in FY2009) are permanently appropriated and supplemented with annual appropriations (\$14.1 million in FY2009). Payments are made to counties at the highest of (1) 25% of net receipts; (2) 0.75% of fair market value of the land; or (3) \$0.75 per acre.

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