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Land and Water Conservation Fund: Overview, Funding History, and Issues

Carol Hardy Vincent

Specialist in Natural Resources Policy

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Summary

The Land and Water Conservation Fund (LWCF) Act of 1965 was enacted to help preserve, develop, and ensure access to outdoor recreation facilities to strengthen the health of U.S. citizens. The law created the Land and Water Conservation Fund in the U.S. Treasury as a funding source to implement its outdoor recreation goals.

The LWCF has been used for three general purposes. First, it has been the principal source of monies for land acquisition for outdoor recreation by the four federal agencies—the National Park Service, Bureau of Land Management, Fish and Wildlife Service, and Forest Service. Second, the LWCF also funds a matching grant program to assist states in recreational planning, acquiring recreational lands and waters, and developing outdoor recreational facilities. Under this traditional state grant program, a portion of the appropriation is divided equally among the states, with the remainder apportioned based on need, as determined by the Secretary of the Interior. The states award their grant money through a competitive selection process based on statewide recreation plans and establish their own priorities and criteria. For FY2014, Congress appropriated funds for a competitive state grant program in addition to the traditional state grant program. Third, beginning in FY1998, LWCF has been used to fund other federal programs with related purposes.

The LWCF is authorized at \$900 million annually through September 30, 2015. While the fund accrues revenues and collections from multiple sources, nearly all of the revenues are derived from oil and gas leasing in the Outer Continental Shelf (OCS). Congress determines the level of appropriations each year, and yearly appropriations have fluctuated widely since the origin of the program. Of the total revenues that have accrued throughout the history of the program (\$36.2 billion), less than half have been appropriated (\$16.8 billion). FY2001 marked the highest funding ever, with appropriations exceeding the authorized level by reaching nearly \$1 billion. For FY2014, the most recent fiscal year, the appropriation was \$306.0 million.

The \$16.8 billion appropriated throughout the history of the program has been unevenly allocated among federal land acquisition (62%), the state grant program (25%), and other purposes (13%). Similarly, federal land acquisition funds have been allocated unevenly among the four federal agencies. Under more recent legislation (P.L. 109-432), a portion of revenues from certain OCS leasing is provided without further appropriation to the state grant program. These mandatory funds, which thus far have been relatively small, are to supplement any funds appropriated by Congress.

There is a difference of opinion as to the appropriate level of funds for LWCF and how those funds should be used. Current congressional issues include deciding the amount to appropriate for land acquisition, the state grant program, and other purposes, if any. Pending legislative proposals address a variety of issues. They include proposals to permanently authorize the LWCF, provide mandatory appropriations for the fund, provide for a minimum percentage and/or amount of funding for acquisitions that increase access to federal lands for recreational purposes, direct revenues from additional sources to the LWCF, specify or change the allocation for the state grant program, and expand or otherwise alter the purposes for which LWCF funds could be used.

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Introduction

The Land and Water Conservation Fund (LWCF) Act of 1965¹ was enacted to help preserve, develop, and ensure access to outdoor recreation resources. A main goal of the law was to facilitate participation in recreation and strengthen the “health and vitality” of U.S. citizens. The law sought to accomplish these goals by “providing funds” for federal acquisition and development of lands and other areas and by “providing funds for and authorizing” federal assistance to states in recreation planning, acquiring lands and waters, and development of recreation facilities.

The law created the Land and Water Conservation Fund in the Treasury as a funding source to implement the outdoor recreation goals it set out. The fund is currently authorized at \$900 million annually through September 30, 2015. The LWCF is a “trust fund” that accumulates revenues from the federal motorboat fuel tax and surplus property sales. To supplement these sources to reach the annual authorized level of \$900 million, the fund accumulates revenues from oil and gas leases on the Outer Continental Shelf (OCS). For many years, the OCS revenues have accounted for almost all of the deposits.

Monies in the fund are available for outdoor recreation purposes only if appropriated by Congress, and the level of annual appropriations has varied widely since the origin of the fund in 1965. One current issue is whether to provide permanent appropriations for LWCF, rather than continue the current procedure of providing appropriations each year. Also of current debate is whether to direct additional monies to LWCF, to be used for purposes provided for in the LWCF Act or for other purposes. Perennial congressional issues include (1) deciding the amount to appropriate for federal land acquisition, determining the level of acquisition funds for each of the four agencies, and identifying which lands should be acquired; (2) deciding the level of funding for the state grant program; and (3) determining what, if any, other purposes should be funded through LWCF and at what level. The primary context for debating these issues traditionally has been the annual Interior appropriations legislation.

How the Fund Works

The LWCF is not a true trust fund in the way “trust fund” is generally understood in the private sector. The fund is credited with revenues totaling \$900 million annually, but these credited monies cannot be spent unless appropriated by Congress. From FY1965 through FY2014, about \$36.2 billion has been credited to the LWCF. Less than half that amount—\$16.8 billion—has been appropriated, leaving an unappropriated balance of \$19.4 billion in the fund.² Further, interest is not accrued on the accumulated unappropriated balance that has been credited to the LWCF. While some supporters assert that the LWCF was originally intended to be a revolving fund, whereby the money would be maintained in an account separate from the General Treasury that could accrue interest, this has not been the case. The fund’s basic purpose has not been altered even though the authorizing legislation has been amended, most notably to raise the

¹ Act of September 3, 1964; P.L. 88-578, 78 Stat. 897. 16 U.S.C. §§4601-4, et seq.

² These figures are derived primarily from the Office of Budget, Department of the Interior, at <http://www.doi.gov/budget/budget-data.cfm>. See the entry for “Land and Water Conservation Fund: MS Excel Spreadsheet.” Data updated on March 5, 2014.

authorization ceiling and to mandate that offshore oil and gas leasing revenues should make up any shortfall from other specified financing sources.

Purposes of LWCF Appropriations

Appropriations from LWCF have been made for three general purposes: (1) federal acquisition of land and waters and interests therein; (2) grants to states for recreational planning; acquiring recreational lands, waters, or related interests; and developing outdoor recreational facilities; and (3) related purposes.³ Each year, Congress determines the total appropriations from the Fund, and the amount for each of these three general purposes.

The LWCF Act states that not less than 40% of the appropriations from the fund are to be available for federal purposes. This language resulted from a 1976 amendment, at a time when funds were being appropriated for federal land acquisition and for the stateside program. Funding for other federal purposes did not occur until FY1998. This provision replaced language in the LWCF Act that had provided that, “in the absence of a provision to the contrary in the Act making an appropriation from the fund,” the appropriation from the fund was to be 60% for state purposes and 40% for federal purposes. That language had specified that during the first five years in which appropriations were made from the fund, the President could vary these percentages by not more than 15 points to meet the needs of states and the federal government.

Federal Land Acquisition

The LWCF remains the principal source of funds for federal acquisition of lands for outdoor recreation. Most federal lands are acquired (and managed) by four agencies—the Forest Service (FS) in the Department of Agriculture, and the National Park Service (NPS), Fish and Wildlife Service (FWS), and Bureau of Land Management (BLM) in the Department of the Interior. These four agencies manage about 95% of all federally owned lands. Of these agencies, only the FWS has another significant source of acquisition funding. Specifically, under the Migratory Bird Conservation Fund the FWS has a permanently appropriated source of funding for land acquisition.⁴ The BLM also has authority to keep the proceeds of certain land sales (primarily in Nevada) and use them for subsequent acquisitions and other purposes.

The LWCF Act provides that “unless otherwise allotted in the appropriation Act making them available,” appropriations from the fund for federal purposes are to be allotted by the President for certain purposes.⁵ These purposes include water development projects with recreational benefits; land acquisition in areas administered by the Secretary of the Interior for recreational purposes; and land acquisition in national park, national forest, and national wildlife system units. In practice, the appropriations acts typically identify the purposes for which the federal funds are to be used.

³ Hereinafter, these purposes are referred to respectively as (1) federal land acquisition, (2) the stateside program, and (3) other purposes.

⁴ For more information on the Migratory Bird Conservation Fund, see the FWS land acquisition section of CRS Report RL34273, *Federal Land Ownership: Acquisition and Disposal Authorities*.

⁵ 16 U.S.C. §460l-9(a).

In many respects, the process for appropriating funds for federal land acquisition is similar from year to year. The annual budget submission from each of the four federal agencies typically has included proposals for lands the agencies seek to acquire with requested LWCF funds. The number of specific acquisitions sought by the agencies varies from year to year. The most recent budget requests—for FY2015—sought discretionary appropriations for 45 acquisitions by DOI agencies and 17 acquisitions by the Forest Service. The FY2015 budget requests also included a proposal for additional acquisitions with mandatory appropriations from the LWCF; this would require a change in law. Together, the three DOI agencies sought mandatory appropriations for 80 specific acquisitions and the Forest Service sought mandatory appropriations for 21 acquisitions. In total, for FY2015 the four agencies sought appropriations (discretionary and mandatory) for 163 acquisitions. By contrast, some recent requests have sought to fund a smaller number of acquisitions. For example, for FY2013, 34 acquisitions were sought for the three DOI agencies and 17 for the FS. The large backlog of potential acquisitions provides each agency with options in its annual request. The requests also sometimes seek funding for certain types of acquisitions, such as those that would facilitate access to federal lands for recreation and sportsmen, as proposed in the FY2015 BLM and Forest Service budget requests. Congress reviews agency requests, and then determines the funding level for each agency's acquisitions.

The LWCF Act restricts appropriations to those acquisitions that have been previously authorized by law. However, it allows LWCF appropriations to be used for pre-acquisition work where “authorization is imminent and where substantial monetary savings could be realized.”⁶

In recent years, Congress typically has provided the agencies with a portion of the acquisition funding for one or more related purposes. For instance, funds have been provided for acquisition management to cover the costs of land purchases, such as appraisals and title research. Acquisition funds also have been provided to cover the costs of land exchanges, as well as the acquisition of lands within the boundaries of federal land units (“inholdings”) that may become available throughout the year. Further, in some cases funds have been appropriated for “emergencies” or “hardships,” for acquisition of lands from an owner who must sell quickly and where the agency determines there is a need to purchase the lands quickly.⁷

Appropriations laws typically provide that LWCF funds for land acquisition remain available until expended, meaning the funds can be carried over from fiscal year to fiscal year. Often an appropriation is not used in the fiscal year provided, because the process for completing a land acquisition has many components and often takes more than one year.

Stateside Program

Traditional State Grants

Another portion of the LWCF, administered by the NPS, provides matching grants to states (including the District of Columbia and U.S. territories) for recreation planning, acquisition of lands and waters, and facility development. Grants are provided for outdoor recreation purposes

⁶ 16 U.S.C. §460l-9(b).

⁷ In addition, a portion of the NPS appropriation has been specified for the American Battlefield Protection Program for grants for non-federal acquisition of lands (and interests) in eligible Civil War battlefields. For additional information on these acquisition grants, see the NPS website at <http://www.nps.gov/abpp/grants/grants.htm>.

only, rather than for indoor facilities such as community centers. Through September 30, 2013, state and local governments received 42,216 grants for outdoor recreation projects. This figure includes 7,680 grants for acquisition; 27,382 grants for developing recreation facilities; 3,190 grants for redeveloping older recreational facilities; 3,259 grants for a combination of these activities; and 705 state planning grants for studies of recreation potential, need, opportunity, and policy.⁸ Acquisitions funded through LWCF state grants must remain in recreation use in perpetuity, unless the Secretary of the Interior approves of the conversion of the land to another use and acceptable replacement lands are substituted. Conversions occur due to changing state or local needs, such as to use park lands to build schools, widen roads, and develop civic facilities. When warranted, the NPS approves about 50-75 conversions yearly nationwide, typically involving a portion of the area funded with an LWCF state grant.⁹

Appropriations to the state grant program typically do not include earmarks or other directions to the NPS to guide how these funds should be distributed or spent. The Secretary of the Interior apportions the appropriation for state grants in accordance with a formula set out in the LWCF Act.¹⁰ The formula calls for a portion of the appropriation to be divided equally among the states.¹¹ The remaining appropriation is to be apportioned based on need, as determined by the Secretary.¹² Under law, the determination of need is to include the population of the state relative to the population of the United States, the use of outdoor recreation resources within a state by people outside the state, and the federal resources and programs within states. In current practice, population is the biggest factor in determining state need. No state can receive more than 10% of the total appropriation.

States have up to three years to use the money—the federal fiscal year in which the apportionment is made and the next two fiscal years. It is rare for a state not to use the money during this time, according to the NPS. Under law, the Secretary is to reapportion any amount that is not paid or obligated during the three-year period.

To be eligible for a grant, a state must prepare and update a statewide outdoor recreation plan. This plan must address the needs and opportunities for recreation and include a program for reaching recreational goals. It generally does not include specific projects. Under law, the plan is required to be approved by the Secretary; this responsibility has been delegated to the NPS. The states award their grant money through a competitive, open project selection process based on their recreation plans and their own priorities and selection criteria. They can use the money for state projects or for pass-through to localities. States send their ranked state or local projects to the NPS for formal approval and obligation of grant money. Under law, payments to states are limited to 50% or less of a project's total costs. The remaining cost is borne by the state or local project sponsor.¹³

⁸ These figures were provided by the NPS in a communication to CRS on July 14, 2014.

⁹ This information was provided by the NPS in a communication to CRS on July 14, 2014.

¹⁰ 16 U.S.C. §460l-8.

¹¹ Specifically, the law provides that 40% of the first \$225.0 million, 30% of the next \$275.0 million, and 20% of all additional appropriations are to be apportioned equally among the states.

¹² The apportionment among states (including the District of Columbia and U.S. territories), for FY2002 through FY2013, is available on the NPS website at <http://www.nps.gov/nrcr/programs/lwcf/funding.html>.

¹³ For more information on the stateside program, see the *Land and Water Conservation Fund State Assistance Program: Federal Financial Assistance Manual* on the NPS website at <http://www.nps.gov/nrcr/programs/lwcf/manual/lwcf.pdf>.

Competitive State Grants

The Obama Administration had proposed that a portion of the appropriations for state grants be provided through a new competitive grant program.¹⁴ For FY2014, Congress appropriated \$3.0 million for a nationally competitive grant program of the \$48.1 million total provided for stateside grants. As developed by the NPS, this new LWCF “Outdoor Recreation Legacy Partnership Program” will provide grants for land acquisition and development for outdoor recreation projects in densely settled areas with populations of 50,000 or more. Priority will be given to communities that are economically disadvantaged or are underserved in terms of outdoor recreation opportunities, and to projects that engage and empower youth including through opportunities for employment and training, among other priorities. Grants are expected to range from \$250,000 to \$500,000, with between 6 and 12 grants awarded. Projects must comply with the LWCF Act and other program requirements that apply to the traditional state grants. Such requirements include a nonfederal funding match, and land use for outdoor recreation in perpetuity except with the approval of the Secretary of the Interior, as noted above.¹⁵

Mandatory Appropriations

Additional monies are provided for state grants under provisions of the Gulf of Mexico Energy Security Act of 2006 (GOMESA).¹⁶ Specifically, 12.5% of the revenues from certain OCS leasing in the Gulf of Mexico are directed to the stateside program in accordance with the terms of the LWCF Act. The funds are to be in addition to any amounts appropriated by Congress for LWCF. The money is available without further appropriation, and is available until expended. An estimated \$8.2 million in proceeds from pertinent OCS leasing was collected in FY2008 and disbursed to the stateside program in FY2009. Since then, the disbursements to the stateside program under this authority have decreased. An estimated \$0.1 million in revenue from such OCS leasing was dispersed to the stateside program in FY2013, and \$1.4 million was projected to be dispersed in FY2014.¹⁷ Mandatory appropriations are expected to increase beginning in FY2018, due to additional revenues from leasing in the Gulf of Mexico.¹⁸ The funds are available to the states until expended, unlike the three-year duration of the funds appropriated annually for the stateside program.

Other Purposes

As noted above, the LWCF Act lists the federal purposes to which the President is to allot LWCF funds “unless otherwise allotted in the appropriation Act making them available.”¹⁹ A portion of the LWCF appropriation has been provided for other federal purposes (i.e., other than land acquisition) in FY1998 and each year since FY2000. Because there is no set of “other purposes” specified to be funded from LWCF, Presidents have sought funds for a variety of purposes and

¹⁴ See for example: U.S. Dept. of the Interior, National Park Service, *Budget Justifications and Performance Information, Fiscal Year 2013*, pp. LASA-34-35.

¹⁵ Details of the grant program are at <http://www.grants.gov/custom/viewOppDetails.jsp?oppId=257670>.

¹⁶ §105, Division C, P.L. 109-432.

¹⁷ U.S. Dept. of the Interior, National Park Service, *Budget Justifications and Performance Information, Fiscal Year 2015*, p. M-LASA-G-1.

¹⁸ *Ibid.* Revenues generated in one year are available in the next year.

¹⁹ 16 U.S.C. §460l-9(a).

Congress has chosen which, if any, other purposes to fund from LWCF. For instance, for FY2008, President George W. Bush sought LWCF funds for 11 programs within the FWS, FS, and other agencies, and Congress provided funding for two of these programs. Since FY1998, the LWCF has been used for a broad array of other purposes, including FS highway rehabilitation and maintenance, the Historic Preservation Fund, the Payments in Lieu of Taxes program, FS State and Private Forestry programs, FWS State and Tribal Wildlife Grants, and FWS Cooperative Endangered Species Grants.

Funding History

Overview of FY1965-FY2014

Total annual appropriations from the LWCF have fluctuated widely since the origin of the program over four decades ago (see **Figure 1** and **Table 1**, below).²⁰ Until FY1998, LWCF funding rarely exceeded \$400 million; from FY1977 to FY1980, funding ranged from \$509 million (FY1980) to \$805 million (FY1978), and averaged \$647 million annually. LWCF appropriations spiked dramatically in FY1998—to \$969 million—from the FY1997 level of \$159 million. FY1998 was the first year that LWCF appropriations exceeded the authorized level of \$900 million.²¹ They included \$270 million in the usual funding titles for land acquisition by the four federal land management agencies; an additional \$627 million in a separate title, funding both the acquisition of the Headwaters Forest in California and New World Mine outside Yellowstone National Park; and \$72 million for other purposes.

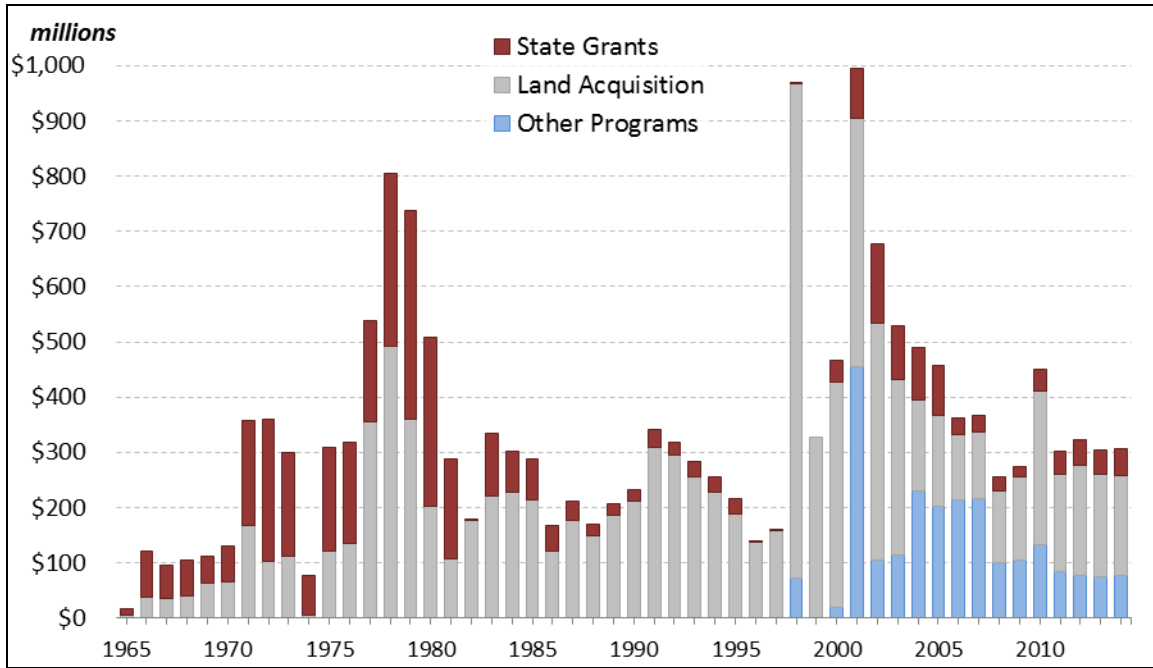
Another spike occurred in FY2001, when appropriations again exceeded the authorized level and totaled nearly \$1 billion. This record level of funding was provided partly in response to President Clinton's Lands Legacy Initiative, which sought \$1.4 billion for 21 resource protection programs including the LWCF. It also was provided in response to some congressional interest in securing increased and more certain funding for the LWCF. The 106th Congress considered legislation to fully fund the LWCF and to make it operate like a private sector trust fund. Such proposals sought to divert offshore oil and gas revenues to a Conservation and Reinvestment Act (CARA) Fund and to permanently appropriate receipts credited to the LWCF, among other related purposes.

When it became clear that CARA legislation would not be enacted, Congress included aspects of the legislation in the FY2001 Interior and Related Agencies Appropriations law (P.L. 106-291). These provisions established the Conservation Spending Category (CSC), with the LWCF as a major component in the CSC. The CSC provisions set a target for total funding for all the component programs in FY2001 at \$1.6 billion, including \$1.2 billion through Interior appropriations and \$400 million through Department of Commerce appropriations. Under law, the target was to increase each year until it reached \$2.4 billion in FY2006. However, Congress generally did not use the CSC structure in appropriating funds to the LWCF and related programs. The CSC was authorized in Interior Appropriations law through FY2006, while the Commerce Appropriations law authorized it for only FY2001.

²⁰ Figures in **Table 1** and elsewhere in this report do not always add to the totals indicated due to rounding.

²¹ The LWCF had accumulated receipts sufficient to cover an appropriation exceeding the annual authorization. Specifically, in 1997 the LWCF had a balance of \$11.9 billion in unappropriated receipts, which represented the difference between the receipts into the Fund and the appropriations from the Fund since its creation.

Figure I. LWCF Appropriations, FY1965-FY2014



Source: The primary source for these data is the DOI Budget Office, at <http://www.doi.gov/budget/budget-data.cfm>. See the entry for “Land and Water Conservation Fund Receipts: MS Excel Spreadsheet.” Data updated on March 5, 2014.

Notes: The graph does not reflect \$76 million provided for the transition quarter from July 1, 1976, to September 30, 1976. Also, dollars are not adjusted for inflation.

Table I. LWCF Appropriations, FY1965-FY2014

(in millions of dollars)

| Fiscal Year | Land Acquisition | State Grants | Other Purposes | Total |
|-------------|------------------|--------------|----------------|-------|
| 1965 | \$6 | \$10 | \$0 | \$16 |
| 1966 | \$38 | \$84 | \$0 | \$122 |
| 1967 | \$36 | \$59 | \$0 | \$95 |
| 1968 | \$40 | \$64 | \$0 | \$104 |
| 1969 | \$64 | \$48 | \$0 | \$112 |
| 1970 | \$66 | \$65 | \$0 | \$131 |
| 1971 | \$168 | \$189 | \$0 | \$357 |
| 1972 | \$102 | \$259 | \$0 | \$361 |
| 1973 | \$113 | \$187 | \$0 | \$300 |
| 1974 | \$5 | \$71 | \$0 | \$76 |
| 1975 | \$122 | \$186 | \$0 | \$308 |
| 1976 | \$136 | \$181 | \$0 | \$317 |
| 1977 | \$356 | \$182 | \$0 | \$538 |
| 1978 | \$491 | \$314 | \$0 | \$805 |
| 1979 | \$361 | \$376 | \$0 | \$737 |

| Fiscal Year | Land Acquisition | State Grants | Other Purposes | Total |
|-------------|------------------|--------------|----------------|-------|
| 1980 | \$202 | \$307 | \$0 | \$509 |
| 1981 | \$108 | \$180 | \$0 | \$288 |
| 1982 | \$176 | \$4 | \$0 | \$180 |
| 1983 | \$220 | \$115 | \$0 | \$335 |
| 1984 | \$227 | \$75 | \$0 | \$302 |
| 1985 | \$213 | \$74 | \$0 | \$287 |
| 1986 | \$121 | \$47 | \$0 | \$168 |
| 1987 | \$176 | \$35 | \$0 | \$211 |
| 1988 | \$150 | \$20 | \$0 | \$170 |
| 1989 | \$186 | \$20 | \$0 | \$206 |
| 1990 | \$212 | \$20 | \$0 | \$232 |
| 1991 | \$309 | \$33 | \$0 | \$342 |
| 1992 | \$294 | \$23 | \$0 | \$317 |
| 1993 | \$256 | \$28 | \$0 | \$284 |
| 1994 | \$228 | \$28 | \$0 | \$256 |
| 1995 | \$189 | \$28 | \$0 | \$217 |
| 1996 | \$137 | \$1 | \$0 | \$138 |
| 1997 | \$158 | \$1 | \$0 | \$159 |
| 1998 | \$896 | \$1 | \$72 | \$969 |
| 1999 | \$328 | \$0 | \$0 | \$328 |
| 2000 | \$406 | \$41 | \$20 | \$467 |
| 2001 | \$449 | \$90 | \$456 | \$995 |
| 2002 | \$429 | \$144 | \$105 | \$677 |
| 2003 | \$316 | \$97 | \$115 | \$529 |
| 2004 | \$165 | \$94 | \$230 | \$488 |
| 2005 | \$164 | \$91 | \$203 | \$459 |
| 2006 | \$119 | \$30 | \$213 | \$362 |
| 2007 | \$120 | \$30 | \$216 | \$366 |
| 2008 | \$129 | \$25 | \$101 | \$255 |
| 2009 | \$152 | \$19 | \$104 | \$275 |
| 2010 | \$278 | \$40 | \$132 | \$450 |
| 2011 | \$177 | \$40 | \$84 | \$301 |
| 2012 | \$199 | \$45 | \$78 | \$322 |
| 2013 | \$187 | \$43 | \$74 | \$303 |
| 2014 | \$180 | \$48 | \$78 | \$306 |

Source: The primary source for these data is the DOI Budget Office, at <http://www.doi.gov/budget/budget-data.cfm>. See the entry for “Land and Water Conservation Fund Receipts: MS Excel Spreadsheet.” Data updated on March 5, 2014.

Notes: Figures do not reflect \$76 million provided for the transition quarter from July 1, 1976, to September 30, 1976. Also, dollars are not adjusted for inflation.

Total LWCF appropriations, and the funding levels for each federal agency, the stateside program, and other purposes, have declined over the past decade (from FY2005 to FY2014). During this decade, appropriations declined by 44% from the FY2005 high (\$459.0 million) to the FY2008 low (\$255.1 million), while ending the decade in FY2014 with a 30% decrease (to \$306.0 million). **Table 2** lists appropriations from FY2005 through FY2014.

Table 2. Total LWCF Appropriations, FY2005-FY2014
(in millions of dollars)

| Purpose | FY2005 | FY2006 | FY2007 | FY2008 | FY2009 | FY2010 | FY2011 | FY2012 | FY2013 | FY2014 |
|-------------------------------|----------------|----------------------------|----------------|----------------|----------------------|----------------|----------------|----------------|----------------|----------------|
| Land Acquisition | | | | | | | | | | |
| Bureau of Land Management | \$11.2 | \$8.6 | \$8.6 | \$8.9 | \$14.8 | \$29.7 | \$22.0 | \$22.3 | \$21.2 | \$19.5 |
| Fish and Wildlife Service | \$37.0 | \$28.0 | \$28.0 | \$34.6 | \$42.5 | \$86.3 | \$54.9 | \$54.6 | \$50.8 | \$54.4 |
| National Park Service | \$55.1 | \$34.4 ^a | \$34.4 | \$44.4 | \$45.2 | \$86.3 | \$54.9 | \$57.0 | \$52.8 | \$50.0 |
| Forest Service | \$61.0 | \$40.9 | \$41.9 | \$41.2 | \$49.8 | \$63.5 | \$32.9 | \$52.5 | \$49.8 | \$43.5 |
| DOI OVS ^b | — | \$7.3 | \$7.4 | — | — | \$12.1 | \$12.1 | \$12.7 | \$12.0 | \$12.2 |
| <i>Total Land Acquisition</i> | <i>\$164.3</i> | <i>\$119.2</i> | <i>\$120.4</i> | <i>\$129.1</i> | <i>\$152.2</i> | <i>\$277.9</i> | <i>\$176.8</i> | <i>\$199.1</i> | <i>\$186.6</i> | <i>\$179.6</i> |
| State Grants | \$91.2 | \$29.6 | \$29.6 | \$24.6 | \$19.0 ^c | \$40.0 | \$39.9 | \$44.9 | \$42.6 | \$48.1 |
| Other Purposes | \$203.5 | \$213.1 | \$216.1 | \$101.3 | \$104.1 ^d | \$132.5 | \$83.8 | \$78.3 | \$74.2 | \$78.4 |
| Total | \$459.0 | \$361.9^a | \$366.1 | \$255.1 | \$275.3 | \$450.4 | \$300.5 | \$322.3 | \$303.3 | \$306.0 |

Source: The primary source for these data is the DOI Budget Office, at <http://www.doi.gov/budget/budget-data.cfm>. See the entry for “Land and Water Conservation Fund Receipts: MS Excel Spreadsheet.” Data updated on March 5, 2014.

Note: Dollars are not adjusted for inflation.

- The NPS land acquisition and total appropriation figures are reduced by \$9.8 million due to the use of prior year funds for NPS federal land acquisition.
- OVS is the Office of Valuation Services. Figures reflect appropriations from LWCF to DOI Departmental Management for land acquisition appraisal services.
- This figure has been reduced by \$1.0 million due to the use of prior-year funds.
- This figure has been reduced by \$8.0 million due to the use of prior-year funds.

Allocation Among Land Acquisition, State Grants, and Other Purposes

The \$16.8 billion appropriated from the fund through FY2014 has been unevenly allocated among federal land acquisition, the stateside program, and other purposes, as shown in **Figure 1**. The largest portion of the total—\$10.4 billion (62%)—has been appropriated for federal land acquisition. The four federal land management agencies have received differing portions of this \$10.4 billion. Specifically, the NPS has received \$4.4 billion (42%); the FS, \$2.8 billion (27%); the FWS, \$2.2 billion (21%); and the BLM, \$0.9 billion (8%).²²

²² A relatively small amount (less than 1%) of the total appropriations for federal land acquisition was provided to other agencies or offices (e.g., to the Office of the DOI Secretary for land appraisal services).

The stateside program has received the second-largest portion of LWCF appropriations—\$4.2 billion (25% of the total, which includes funds for grant administration and funds under GOMESA). In the early years, more funds generally went to the stateside program than to the four federal agencies combined. For instance, stateside appropriations exceeded federal land acquisition appropriations during 12 of the 16 years from FY1965 to FY1980. The stateside program has declined as a portion of total LWCF appropriations since the early 1980s, and received no appropriations (except for program administration) from FY1996 through FY1999. Over the past decade (FY2005-FY2014), funding for the stateside program has ranged from a low of \$19.0 million (FY2009) to a high of \$91.2 million (FY2005). Stateside funding has averaged 12% of total LWCF appropriations over the decade.

Other purposes have received the remaining portion of total LWCF appropriations—\$2.1 billion (13%). No funds were provided for other purposes until FY1998. By contrast, 29% of LWCF appropriations from FY1998 through FY2014 have been for other purposes. The FWS and FS have received the largest shares: about \$1.2 billion and \$0.6 billion, respectively, of the \$2.1 billion appropriated for other purposes since FY1998.

Both the dollar amount and percentage of LWCF appropriations provided to other purposes have varied widely throughout this period, as shown in **Table 3**. The dollar value of the appropriations for other purposes was much higher in FY2001 than any other year, when these appropriations were used to fund programs in the Clinton Administration’s Lands Legacy Initiative. The highest percentage of funds provided for other purposes occurred in FY2006 and FY2007, in response to President Bush’s request for funding for an array of other programs. In some years, Congress has appropriated significantly less for other purposes than the Administration has requested. For instance, for FY2008 the Bush Administration sought \$313.1 million for other purposes of a total request of \$378.7 million. Congress appropriated \$101.3 million for other purposes of a total of \$255.1 million.

Table 3. LWCF Appropriations for Other Purposes, FY1998-FY2014
(in millions of dollars)

| Fiscal Year | Total LWCF Appropriation | Appropriation for Other Purposes | Other Purposes as % of Total Appropriation |
|-------------|--------------------------|----------------------------------|--|
| FY1998 | \$969.1 | \$72.0 | 7% |
| FY1999 | \$328.2 | \$0 | 0% |
| FY2000 | \$466.9 | \$20.0 | 4% |
| FY2001 | \$995.4 | \$455.9 | 46% |
| FY2002 | \$677.2 | \$104.6 | 15% |
| FY2003 | \$528.9 | \$115.5 | 22% |
| FY2004 | \$488.1 | \$229.7 | 47% |
| FY2005 | \$459.0 | \$203.5 | 44% |
| FY2006 | \$361.9 | \$213.1 | 59% |
| FY2007 | \$366.1 | \$216.1 | 59% |
| FY2008 | \$255.1 | \$101.3 | 40% |
| FY2009 | \$275.3 | \$104.1 ^a | 38% |
| FY2010 | \$450.4 | \$132.5 | 29% |

| Fiscal Year | Total LWCF Appropriation | Appropriation for Other Purposes | Other Purposes as % of Total Appropriation |
|-------------|--------------------------|----------------------------------|--|
| FY2011 | \$300.5 | \$83.8 | 28% |
| FY2012 | \$322.3 | \$78.3 | 24% |
| FY2013 | \$303.3 | \$74.2 | 24% |
| FY2014 | \$306.0 | \$78.4 | 26% |

Source: The primary source for these data is the DOI Budget Office, at <http://www.doi.gov/budget/budget-data.cfm>. See the entry for “Land and Water Conservation Fund Receipts: MS Excel Spreadsheet.” Data updated on March 5, 2014.

Note: Dollars are not adjusted for inflation.

- a. This figure has been reduced by \$8.0 million due to the use of prior-year funds.

Legislation

A variety of measures pertaining to the LWCF have been introduced in the 113th Congress. One bill (S. 338 as introduced) seeks to permanently authorize the LWCF at \$900 million; the program is currently authorized through September 30, 2015. It also would provide permanent appropriations at the authorized level, rather than continue the current procedure of providing discretionary appropriations each year. The bill does not make explicit how the appropriations would be allocated among LWCF purposes or agencies.

Several bills specify that a portion of LWCF funding would be used for acquisitions that increase access to federal lands for recreational purposes, such as hunting and fishing. The bills differ as to whether they provide for a minimum percentage and/or dollar amount of funding; pertain to requested, authorized, or appropriated funding; or contain other provisions affecting LWCF. For instance, in addition to the provisions noted above, S. 338 also would amend the LWCF Act to provide not less than 1.5% of the authorized funding for projects that would secure recreational public access to federal land. S. 1554, on which hearings were held, provides that not less than 1.5% of LWCF funds appropriated for federal purposes would be used for recreational public access projects. It also would direct the heads of the BLM, FWS, NPS, and FS to prepare and make available to the public reports on public access to federal lands for recreational purposes. S. 2363 (Sec. 201) provides that not less than 1.5% of the appropriation for LWCF, or \$10.0 million—whichever is greater—would be used for recreational access projects identified on priority lists developed by the Secretary of the Interior and the Secretary of Agriculture. The bill was considered on the Senate floor in July, but no vote on final passage has occurred. Three other measures are similar to S. 2363, except that they pertain to funding requested for the LWCF: H.R. 3962 and S. 1660 (Sec. 201), both as introduced, and S. 1996 (Sec. 201), which is on the Senate calendar.

Other 113th Congress bills would direct additional sources of funds to the LWCF. For instance, S. 199 (as introduced) would direct a portion of revenues from energy development in certain Arctic offshore areas to the LWCF, to be used for the state grant program. S. 279 (Sec. 204), on which hearings were held, would make revenues from solar or wind energy development on public lands and National Forest System lands available for activities authorized under LWCF. H.R. 1686 (as introduced) would establish a new treasury fund consisting of taxes paid on disposable carryout bags, and direct payments from this fund into the LWCF.

Additional measures pertain to the LWCF state grant program. H.R. 2727, as introduced, would require that not less than 40% of LWCF appropriations be available for the state grant program. This would be parallel to the provision in law which provides that not less than 40% of LWCF appropriations are for federal purposes. Other bills would amend provisions of GOMESA pertaining to the distribution of OCS revenues to the LWCF for the state grant program; these revenues provide a source of mandatory funding for this program. Such bills include S. 17 (Sec. 105) as introduced, and S. 1273, on which hearings were held. Still other measures would expand the purposes for which state grants could be used. Under H.R. 4765 (Sec. 307), as introduced, state grants could be used for programs that increase access to and use of parks and open space in low-income communities and on or near Indian reservations.

Some pending bills would expand or otherwise alter the federal purposes for which LWCF appropriations could be used. H.R. 2424 (Sec. 213) as introduced, for example, would authorize appropriations of \$50.0 million (for specified fiscal years) for the Secretary of Housing and Urban Development to provide financial assistance to entities to carry out park and infrastructure projects. H.R. 5220 (as introduced) would authorize LWCF funds to be used for maintenance of federal lands and waters (and interests) instead of for acquisitions.

Current Issues

There are differing opinions as to the appropriate level of LWCF appropriations and for what purposes these funds should be used. The LWCF has broad support from resource protection advocates, many of whom seek stable and predictable funding through consistent levels of appropriations. Most of these advocates seek higher appropriations in general. For instance, the Obama Administration proposed discretionary appropriations of \$900 million for FY2012. Some advocates have specific priorities, such as higher acquisition funding for one of the four federal agencies, the state grant program, or a particular site or area. Advocates of higher federal land acquisition funding promote a strong federal role in acquiring and managing sensitive areas and natural resources.

Some advocates of higher LWCF funding seek partial or full permanent appropriations. For instance, the Obama Administration proposed \$900 million for LWCF for FY2015 through a combination of discretionary (\$350.0 million) and mandatory (\$550.0 million) appropriations. Further, the Administration proposed amending current law to appropriate mandatory funding of \$900 million annually beginning in FY2016.²³ Questions include how to offset any new permanent appropriations and how to allocate permanent appropriations among different LWCF programs and purposes.

There is also broad opposition to the LWCF based on varied concerns, with opponents generally seeking reduced levels of funds for LWCF. Some of the opposition stems from an interest in reducing the current size of the federal estate and minimizing further acquisition of privately owned land by the federal government either generally or at specific sites, especially in the West, where federal ownership is already concentrated. The concerns involve preferences for private ownership, impacts of federal land ownership on uses of private lands, and reduced local tax revenues that result from public ownership. Some opponents believe that maintaining (and

²³ U.S. Dept. of the Interior, National Park Service, *Budget Justifications and Performance Information, Fiscal Year 2015*, p. LASA-1.

rehabilitating) the land and facilities that federal agencies already own should take priority over further acquisitions. For instance, a pending House bill (H.R. 5220) seeks to bar funding for federal acquisitions while authorizing funding for maintenance. Further, for FY2015, the House Budget Committee supported focusing on eliminating the maintenance backlog before acquiring additional federal lands.²⁴ Since federal agencies cannot use LWCF funds for maintenance, some supporters of this priority favor more funding to other accounts that can be used for maintenance and less for LWCF. Others have sought LWCF reductions as part of a broader focus on reducing the large federal deficit, or on the grounds that there is inadequate cooperation among LWCF programs and between LWCF and other programs.²⁵

One area of congressional focus has been the stateside program, with debate over the level of funds for grants. In some years, Congress and/or the Administration have not supported funds, or have supported relatively low levels of funds, for new stateside grants. Reasons include that state and local governments have alternative sources of funding for parkland acquisition and development, the current program could not adequately measure performance or demonstrate results, and large federal deficits require a focus on core federal responsibilities. Stateside supporters assert that the program contributes significantly to statewide recreation planning; state leadership in protection and development of recreation resources; and long-term outdoor recreation overall, and particularly through locally sponsored projects that are readily accessible to communities. They see the program as a way to help fiscally constrained local governments and leverage state and local funds for recreation. Further, advocates assert that investments in recreation save money in other areas; for instance, they say that these investments promote healthier lifestyles and thus save health care expenditures. A related issue is how LWCF funding should be split between federal purposes and state grants.

Whether to change the way that funds are apportioned to the states has been under consideration. Under the traditional state grant program, a portion of the appropriation is to be distributed equally among the states, with the percentage varying depending on the total amount of appropriations.²⁶ Further, the Secretary of the Interior has discretion to apportion the balance based on need, and population has been the biggest factor in determining need. For FY2014, Congress approved a portion of the state grant funds for a competitive grant program. While the Administration and some in Congress have supported continuing this program, the extent to which it will continue is uncertain.²⁷

Another focus has been on which, if any, purposes other than land acquisition and stateside grants should be funded through the LWCF. Some seek to channel LWCF funding to a broader array of

²⁴ House Committee on the Budget, *Concurrent Resolution on the Budget—Fiscal Year 2015*, H.Rept. 113-403 on H.Con.Res. 96, pp. 53-54.

²⁵ See, for example, the report of the House Appropriations Committee on H.R. 2584, providing FY2012 appropriations for Interior, Environment, and Related Agencies: H.Rept. 112-151, pp. 14-15.

²⁶ The LWCF Act provides that 40% of the first \$225.0 million, 30% of the next \$275.0 million, and 20% of all additional appropriations are to be apportioned equally among the states.

²⁷ The Obama Administration, the House Appropriations Committee, and the chair of the Senate Appropriations Subcommittee on Interior, Environment and Related Agencies supported continuing this program for FY2015. For the Administration's proposal, see U.S. Dept. of the Interior, National Park Service, *Budget Justifications and Performance Information, Fiscal Year 2015*, pp. LASA-92. For the recommendation of the House Appropriations Committee, see H.Rept. 113-551 on H.R. 5171, pp. 35-36 and p. 153. For the Senate Subcommittee chair's recommendation, see the draft explanatory statement, p. 20 and p. 88, at <http://www.appropriations.senate.gov/sites/default/files/INTFY15Report.pdf>.

purposes to protect federal lands. For instance, the Bush Administration sought LWCF funds for cooperative conservation programs through which federal land managers partner with other landowners to protect natural resources and improve recreation on lands under diverse ownership. The Obama Administration also has supported the use of LWCF funds for other purposes, although generally fewer than the Bush Administration. A factor in the debate has been the unappropriated balance in the fund, and whether to allow these funds to be used for broader purposes beyond those currently authorized. Traditional fund beneficiaries have expressed concern about expanding the uses of appropriations if that expansion is accompanied by reductions in the amount available for federal land acquisition or state grants.

Author Contact Information

Carol Hardy Vincent
Specialist in Natural Resources Policy
chvincent@crs.loc.gov, 7-8651