

# CRS Report for Congress

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## Land and Water Conservation Fund: Current Status and Issues

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### Summary

The Land and Water Conservation Fund (LWCF) has been the principal source of monies for four federal agencies — the National Park Service, Bureau of Land Management, Fish and Wildlife Service, and Forest Service — to acquire recreational lands since 1965. The LWCF also funds a matching grant program to assist states (and localities) in acquiring recreational lands and developing facilities. The fund accumulates \$900 million annually from designated sources. Congress allocates these funds through appropriations each year.

Current congressional issues include (1) deciding the amount to appropriate each year to each of the four federal agencies, and to the state grant program; (2) identifying which lands should be acquired; and (3) determining whether LWCF funds should be appropriated for additional related purposes. The primary context for debating these issues is Interior appropriations legislation, which is tracked in CRS Report RL32893. This report will be updated periodically.

### Introduction

The Land and Water Conservation Fund (LWCF) was created in 1964 and took effect January 1, 1965.<sup>1</sup> It has been the principal federal source of funds for acquiring new recreation lands. Some supporters assert that it was originally intended to be a revolving fund, but it has never operated as one. The fund's basic purpose has not been altered even though the authorizing legislation has been amended, mainly in the early years, most notably to raise the funding ceiling and to mandate that offshore oil and gas leasing revenues should make up any shortfall from other specified financing sources.

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

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

and the National Park Service (NPS), Fish and Wildlife Service (FWS), and Bureau of Land Management (BLM) in the Department of the Interior, using funds appropriated from the LWCF.<sup>2</sup> These four agencies manage about 94% of all federally owned lands. These agencies have used LWCF funds to acquire approximately 4.5 million acres, an area slightly smaller than New Jersey. (Viewed in a different way, 4.5 million acres is less than 1% of the almost 672 million acres owned by the federal government.) Another portion of the LWCF, administered by the NPS, provides matching grants to states for recreation planning, land acquisition, and facility development. These grants have funded about 38,000 state and local projects. Recipients have acquired approximately 2.3 million acres and have developed recreation facilities at about 27,000 of these projects. Acquisitions funded through LWCF grants must remain in recreation use in perpetuity. A final portion has been appropriated for other related federal purposes since FY1998.

## How the Fund Works

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

The LWCF is not a true trust fund in the way “trust fund” is generally understood in the private sector. The fund is credited with revenues totaling \$900 million annually, but Congress must appropriate funds; unappropriated funds remain in the U.S. Treasury and can be spent for other federal activities. Interest is not accrued on the accumulated unappropriated balance that has been credited to the LWCF account. In addition, the LWCF is subject to earmarks and other directions from Congress during the annual appropriations process. From FY1965 through FY2005, \$28.1 billion has been credited to the LWCF. However, only about half that amount — \$14.3 billion — has been appropriated.

## Funding History

The \$14.3 billion appropriated from the fund has been unevenly allocated among the states, the four federal land management agencies, and for other purposes, as shown on the chart on the next page. States have received less than 30% of the total, about \$3.7 billion. In the early years, more funds went to state grants than to the four federal agencies combined. State grants have declined as a portion of the total since the early 1980s and received no appropriations from FY1996 through FY1999. The four federal agencies have received about two-thirds of the total, divided as follows: the NPS has received \$4.0 billion; the FS has received almost \$2.5 billion; the FWS has received

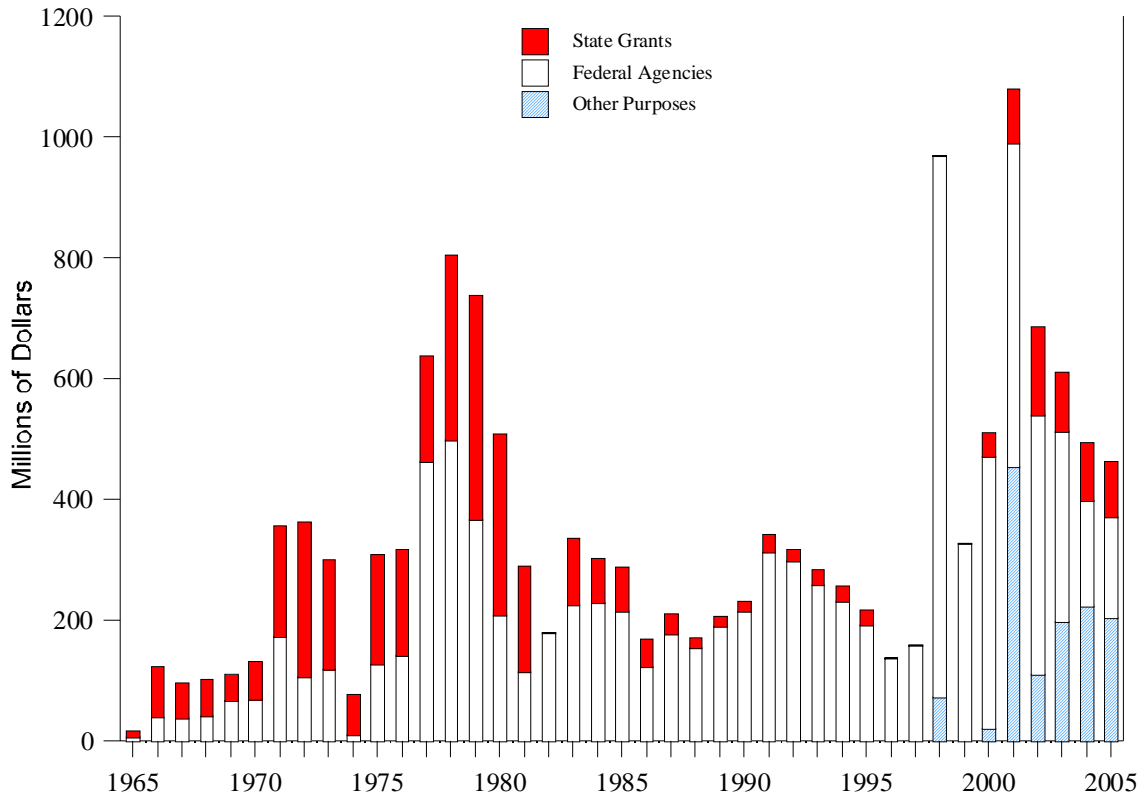
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<sup>2</sup> For an introduction to these agencies and their responsibilities, see CRS Report RL32393, *Federal Land Management Agencies: Background on Land and Resource Management*.

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

almost \$2.2 billion; and the BLM has received around \$0.7 billion. The remainder, about \$1.3 billion, has been appropriated for other purposes, starting in FY1998.

### Total LWCF Appropriations: FY1965-2005



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

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

Over the past decade, total annual appropriations have risen and fallen in multi-year periods. Between FY1996 and FY2001, the total generally rose, with spikes in FY1998 and FY2001. FY1998 was the first year that appropriations exceeded \$900 million; they included \$270 million in the usual funding titles for the four land management agencies, 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 activities that did not involve land acquisition. The total (and, in general, the funding levels for each federal agency and the state grant program) has declined every year since FY2001. The table below lists appropriations from FY2001 to FY2005 and shows this decline for each federal agency and the state grant program.

**LWCF Appropriations for Land Acquisition and State Grants,  
FY2001-FY2005**

(in millions of dollars)

<b>Agency</b>	<b>FY2001</b>	<b>FY2002</b>	<b>FY2003</b>	<b>FY2004</b>	<b>FY2005</b>
Forest Service	\$150.9	\$149.7	\$133.8	\$66.8	\$61.0
National Park Service	\$215.1	\$274.1	\$172.5	\$141.5	\$146.3
(State Grants)	(\$88.8)	(\$144.0)	(\$98.0)	(\$94.4)	(\$91.2)
Fish and Wildlife Service	\$121.5	\$99.1	\$73.4	\$43.3	\$37.0
Bureau of Land Management	\$47.3	\$49.9	\$33.5	\$18.5	\$11.2
<b>Total</b>	<b>\$534.5</b>	<b>\$572.8</b>	<b>\$413.2</b>	<b>\$270.0</b>	<b>\$255.5</b>

**Sources:** Data for FY2001 and FY2002 from National Park Service Budget Office, May 1, 2002, and data for FY2003 through FY2005 from conference committee reports.

**Note:** Appropriations for purposes other than land acquisition are not included in the table.

Congress appropriated LWCF funds for purposes other than land acquisition in FY1998 and each year since FY2000. Appropriations for other purposes were much higher in FY2001 than any other year, when they were used to fund programs in the Clinton Administration's Lands Legacy Initiative proposal. Most recently, for FY2005, Congress provided approximately \$204 million. The FWS has received more than \$850 million of the \$1.3 billion appropriated for other purposes since FY1998. The amounts and purposes, by year, include:

- In FY1998, \$72 million for critical maintenance needs to the four land management agencies, and to the FS for the Beartooth Highway (Montana) rehabilitation and maintenance;
- In FY2000, \$20 million for programs administered by the NPS and FS;
- In FY2001, \$456 million for several federal and state programs, such as the Historic Preservation Fund and the Payment-in-Lieu-of-Taxes Program;
- In FY2002, \$135 million for three FWS programs;
- In FY2003, \$197 million for four FWS programs;
- In FY2004, \$223 million, predominantly for FWS and FS programs; and
- In FY2005, \$204 million, predominantly for FWS and FS programs.

Congress is considering the Bush Administration's FY2006 request for LWCF appropriations. This overall request is for additional reductions. It includes \$40.0 million for the FS (a reduction of \$21.0 million), \$54.5 million for the NPS (a reduction of \$91.9 million in total, which includes a reduction of \$89.6 million for state grants and a reduction of \$2.3 million for federal land acquisition), \$41.0 million for the FWS (an increase of \$4.0 million), and \$13.4 million for the BLM (an increase of \$2.2 million). For information on appropriations in the current fiscal year, see CRS Report RL32893, which is tracking these accounts through each step of the FY2006 appropriations process.

## Current Issues Associated with Appropriations

**Appropriation Levels.** Between FY1998 and FY2002, funding for land acquisition generally returned to higher levels not seen since the Carter Administration. It has subsequently declined each of the past four years, and is now closer to average funding levels historically (when appropriations for other purposes is not included), as shown in the figure on page 3. However, even if Congress started to provide \$900 million annually, and only for land acquisition, it would take more than a decade to address the backlog of identified acquisitions, recently estimated to exceed \$10 billion for the three DOI agencies alone.

The concept of the fund enjoys widespread bipartisan support, led by resource protection advocates who seek higher appropriations levels as well as stable and predictable funding. These advocates join together to seek higher appropriations in general. Many of them have more specific priorities, such as higher funding for one of the four federal agencies or the state grant program, or for a specific site or area.

Others oppose higher levels based on concerns about 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. These concerns involve preferences for private ownership, limits that federal agencies may place on uses of their lands, and reduced local tax revenues that result from public ownership. Some opponents believe that maintaining (and rehabilitating) the land and facilities that federal agencies already own should take priority over further acquisitions. Since federal agencies can not use LWCF funds for maintenance, supporters of this priority favor more funding to other accounts that can be used for maintenance and less for LWCF.

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

**Which Lands to Acquire.** The annual budget submission from each of the four federal agencies includes proposals of which lands the agencies seek to acquire with requested funds. The four FY2006 requests, for example, identify a total of 54 sites. Section 7 of the LWCF Act (16 U.S.C. 460l-9) provides that federal funds may be used to acquire lands in national park, national forest, and national wildlife system units, and for water development projects with recreational benefits. The large backlog of potential acquisitions at these sites where LWCF spending is authorized provides each agency with many options in its annual request. Congress reviews agency requests, then determines the appropriations level and earmarks almost all appropriations to specific sites. In recent years, Congress also has provided each agency with small amounts for “emergencies,” “inholdings,” “hardships,” and “exchanges,” and a larger amount for acquisition management. (Appropriations to the state grant program, by contrast, almost never include earmarks or other directions to the NPS to guide how these funds should be distributed or spent.)

**Spending for Other Purposes.** Starting in FY1998, Congress has allocated some LWCF appropriations to federal agencies for purposes other than land acquisition, and in the past few years, the Bush Administration has requested LWCF funds for other programs. The FY2006 budget request continues this trend. Section 7 (16 U.S.C. 4601-9) on allocation of the fund for federal purposes, states that “moneys appropriated from the fund for federal purposes shall, unless otherwise allotted in the appropriations Act making them available, be allotted by the President for the following purposes and subpurposes.” The listed purposes define which lands are eligible. Traditional fund beneficiaries have expressed concern about expanding the uses of appropriations if it reduces the amount available for federal land acquisition and state grants.

## LWCF Funding in Recent Legislation

Legislation to fully fund the LWCF and to make it operate like a private sector trust fund was first introduced near the end of the 105<sup>th</sup> Congress. Such proposals were revised and reconsidered by every subsequent Congress. These 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, with total annual funding of approximately \$3 billion in many of the proposals. In the 106<sup>th</sup> Congress, one CARA bill, H.R. 701, passed the House, the only time either Chamber has approved it. That version would have provided an additional \$900 million annually from the CARA Fund to the LWCF, giving it a total of \$1.8 billion annually. (For details on the history of congressional deliberations of CARA, see CRS Report RL30444, *Conservation and Reinvestment Act (CARA) (H.R. 701) and a Related Initiative in the 106<sup>th</sup> Congress.*, by Jeffrey Zinn and M. Lynne Corn.)

When it became clear that CARA legislation would not be enacted in 2001, as the 106<sup>th</sup> Congress was drawing to a close, it included aspects of CARA in FY2001 appropriations legislation. These provisions established the Conservation Spending Category (CSC), and some referred to it as “CARA lite.” The LWCF is a major component in the CSC. The CSC provisions set a target for total funding for all the component programs in FY2001 at \$1.6 billion, including \$1.2 billion through Interior appropriations and \$400 million through Commerce appropriations. Under law, the target increases each year until it reaches \$2.4 billion in FY2006. However, while the Interior Appropriations bill authorized the CSC through FY2006, the Commerce Appropriations bill authorized it for only FY2001. (For more information on the CSC, including funding by program, see CRS Report RS20471, *The Conservation Spending Category: Funding for Natural Resource Protection*, by Jeffrey Zinn.)

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