

# 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), an account created in 1964, has been the principal federal source of monies to acquire recreation lands. Four federal agencies—the Park Service, Bureau of Land Management, Fish and Wildlife Service, and Forest Service—receive money from this fund each year. In addition, the LWCF funds a matching grants program to assist states (and localities) in acquiring recreational lands and developing facilities. The fund accumulates revenues from designated sources. These monies become available only after Congress appropriates them. The concept of this fund has always enjoyed widespread support.

Congressional issues include: (1) deciding the amount of appropriations each year; (2) determining which lands should be acquired; and (3) spending a portion for purposes other than land acquisition in recent years. One context for debating these issues is the annual Interior Appropriations bill, and a second is a legislative proposal, known as CARA, that could provide full appropriations and could make funding mandatory. The House Resources Committee passed a version of CARA, H.R. 701. The Bush Administration has not announced a position on this measure, but it called for full LWCF funding in FY2002. This report will be updated as events warrant.

### Introduction

The Land and Water Conservation Fund (LWCF) was created in September 1964 and took effect January 1, 1965.<sup>1</sup> It has been the principal federal source of funds for acquiring new recreation lands. 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 frequently, most notably to raise the funding ceiling, and to mandate that offshore oil and gas leasing revenues should make up any shortfall from other authorized financing sources.

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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.

Most appropriations in recent years have been to the four major federal land management 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.<sup>2</sup> These agencies have purchased or acquired through exchange with LWCF funds a total of about 4.5 million acres, an area slightly smaller than New Jersey. The NPS also administers a LWCF program providing matching grants to states for recreation planning, land acquisition, and facility development. These grants have funded more than 37,000 state and local projects and helped conserve approximately 2.3 million acres. Recreation facilities have been developed at about 27,000 of these projects. Acquisitions funded through LWCF grants must remain in recreation use in perpetuity.

## 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.

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 to \$900 million annually, but Congress must authorize appropriations; if appropriations are not made from the fund, the revenues remain in the U.S. Treasury and can be spent for other federal activities. If these funds are spent for other activities, no interest is accrued in the LWCF account. In addition, the funds are subject to earmarks and other directions from Congress during the annual appropriations process. Through FY2001, the total amount that could have been appropriated to the LWCF since 1965 was \$25.4 billion, but only \$12.5 billion has been appropriated.

## Funding History

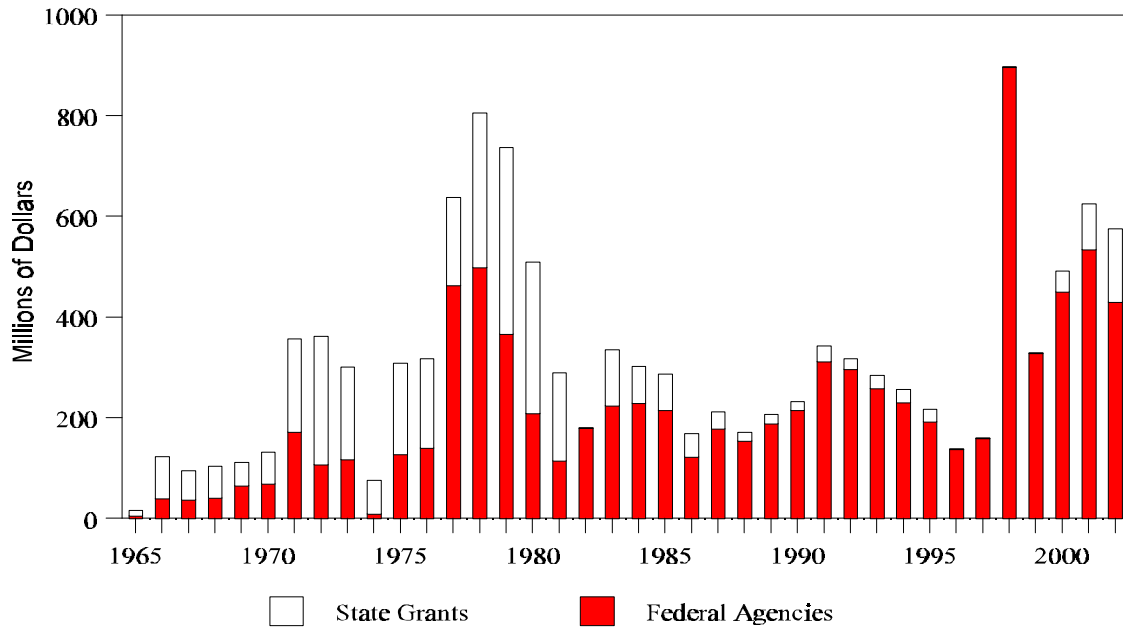
Annual appropriations from the LWCF have fluctuated widely over the past 35 years, as shown on the chart on the next page. Except during the Carter Administration (FY1977-FY1980), when appropriations exceeded \$500 million each year, and reached a high of \$805 million in FY1978, they have only approached the authorized level of \$900 million once, in FY1998. (They exceeded \$900 million in FY2001, but almost half the amount, \$456 million, was for purposes other than land acquisition.) Over the past 20 years, annual appropriations have generally ranged between \$150 million and \$350 million.

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<sup>2</sup> For an introduction to these agencies and their missions, organizations, and responsibilities, see CRS Report RL30867, *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.

## LWCF Funding for Federal Land Acquisition and State Grants: Fiscal Years 1965-2002



Amounts provided from the fund for purposes other than land acquisition were \$72 million in FY1998, \$15 million in FY2000, \$456 million in FY2001, and \$135 million in FY2002. These funds are excluded from the table. Source: Data through FY2001 compiled by the National Park Service Budget Office, April 6, 2001.

The \$12.5 billion appropriated from the fund has been unevenly allocated among the states and the four federal agencies. Less than 30% of the total, about \$3.5 billion, has gone to the state-side grant program. In the early years more funds went to state grants than to the four federal agencies, combined, almost every year. But state grants have declined as a portion of the total since the early 1980s, and received no funds from FY1996 through FY1999. The remaining funds have been distributed unevenly among the four federal agencies: the NPS has received almost \$3.9 billion; the FS has received more than \$2.3 billion; the FWS has received almost \$1.8 billion; and the BLM has received more than \$0.7 billion. The remainder, about \$300 million has been spent on administrative costs.

Appropriations also have been uneven from year to year, as shown in the chart. Disregarding the earliest decade, the lowest years were FY1996 and FY1997, when appropriations totaled \$138.2 million and \$159.4 million, respectively. But since FY1996, the total has been rising. Appropriations for FY1998 were an anomaly as they included \$270 million in the usual funding titles for the four land management agencies, and an additional \$627 million in a new Title V to fund the acquisition of the Headwaters Forest in California and New World Mine outside Yellowstone National Park.

Appropriations for land acquisition in FY2001 were located both in the usual funding titles and in a new Title VIII in Interior Appropriations law. The allocations for the four agencies in their usual appropriations totaled \$310.9 million (including \$41 million for the state grant program). Title VIII was added by the conference committee to fund numerous programs, including the LWCF, that were a part of the Clinton Administration's FY2001 Lands Legacy Initiative proposal. It provided an additional \$229.0 million for land acquisition, increasing total LWCF funding to \$540 million. Title VIII also combined about two dozen programs (including the LWCF) into a new Land Conservation,

**LWCF Appropriations for Land Acquisition; FY2000 – FY2002<sup>1</sup>**  
(in millions of dollars)

Agency	FY2000 Enacted	FY2001 Enacted	FY2002 Proposed	FY2002 Enacted
Forest Service	\$160.4	\$150.9	\$130.9	\$149.7
Park Service	\$181.8	\$215.1	\$557.0	\$274.1
(State Grants)	(\$41.0)	(\$88.8)	(\$450.0)	(\$144.0)
Fish and Wildlife Service	\$61.9	\$121.5	\$104.4	\$99.1
Bureau of Land Management.	\$47.8	\$47.3	\$47.7	\$49.9
<b>Total</b>	<b>\$451.9</b>	<b>\$534.5</b>	<b>\$840.0</b>	<b>\$572.8</b>

<sup>1</sup>Appropriations for purposes other than land acquisition amounted to \$15 million in FY2000, \$456 million in FY2001, and \$135 million in FY2002. These amounts are not included in the table. Source: Data for FY2000 and FY2001 compiled by National Park Service Budget Office, dated April 6, 2001; data for FY2002 from conference report on H.R. 2217, reproduced on H6524 of the *Congressional Record* (10/11/01).

Preservation, and Infrastructure Improvement Fund, now called the Conservation Spending Category (CSC). It set funding for these programs in FY2001 at \$1.2 billion through Interior appropriations and \$400 million through Commerce appropriations. The total amount, \$1.6 billion in FY2001, is to increase each year until it reaches \$2.4 billion in FY2006.

In FY2002, the Bush Administration sought full funding at \$900 million for the LWCF. Half these funds, \$450 million, were to be divided among the four federal land management agencies, and the other half would have gone to the state grant program. Of the federal portion, \$60 million was not for land acquisition. Rather, the Administration proposed to dedicate \$50 million to grants to states to help landowners who wish to enhance habitat for rare species “while continuing to engage in traditional land management practices,” and \$10 million for a new stewardship grant program to support local, private conservation activities. (It did not recognize the CSC structure in its budget request, although it sought funding for many of the programs that Congress had placed within that structure.) Congress appropriated \$428.9 million for federal land acquisition, but only \$144 million for state grants. It also provided \$135 million to the FWS for other purposes, split between State Wildlife Grants (\$85 million) and FWS Incentive Grants (\$50 million, as requested by the Administration). The LWCF remains a major component of the CSC, which it funded at a total of \$1.32 billion.

### **Current Issues Associated with Appropriations**

**Appropriation Levels.** In the early and mid 1990s, appropriations generally were reduced each year as part of efforts to reduce the federal budget deficit. Even though they started to increase in FY1997, the state grant program was not funded again until FY2000. Since FY1998, funding for land acquisition returned to levels not seen since the Carter Administration. However, even if Congress started to provide \$900 million annually, it

would still take more than a decade to address the backlog, now estimated to exceed \$10 billion by the DOI for its three agencies.

There is generally widespread, bipartisan support for the concept of the fund, especially from resource protection advocates who seek higher levels and stable, predictable funding. However, others oppose higher appropriations levels based on concerns about further acquisition of privately owned land by the federal government generally or at specific sites, especially in regions of the country where federal ownership is 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.

During the 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 in terms of either larger areas with multiple land owners -- such as ecosystems, landscapes, or watersheds -- or in terms of managing systems where only a portion of the land is to be placed in public ownership. Managing larger areas with multiple owners usually involves more interests; success depends on cooperation and partnerships, and there is often uncertainty about how much land the federal agencies will eventually try to acquire using the LWCF.

**Which Lands to Acquire.** The annual budget submission from each of the four agencies includes proposals of which lands each agency would acquire, barring further congressional direction, if it receives the requested amount. The large backlog provides many options for earmarks for each agency. Congress reviews these proposals, then determines the appropriations level, and earmarks almost all LWCF appropriations for specific acquisitions. Earmarks are based on the agency recommendations and other considerations. In recent years, Congress has also provided small amounts for “emergencies”, “inholdings”, “hardships”, and “exchanges”, and a larger amount for acquisition management.

**Spending for Other Purposes.** Starting in FY1998, some LWCF appropriations to federal agencies have been for purposes other than land acquisition. The amounts and purposes include:

- In FY1998, \$72 million was provided to the four land management agencies for critical maintenance needs, and to the Forest Service for the Beartooth Highway rehabilitation and maintenance;
- in FY2000, \$15 million was provided to the National Park Service for maintenance and the Elwa River ecosystem restoration;
- in FY2001, \$456 million was provided for numerous federal and state programs, such as the Historic Preservation Fund and the Payment-in-lieu-of-taxes Program; and

- in FY2002, \$135 million was provided to the Fish and Wildlife Service for State Wildlife Grants and Incentives Grant Programs.

The law creating the LWCF allows for alternative uses. It states, in §7 (16 U.S.C. 460l-9) on allocation of the fund for federal purposes, 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. Expanding the uses of appropriations has attracted little apparent concern, probably because these uses are for closely-related resource protection purposes, and because these appropriations have not been viewed as competition that has reduced the allocations for land acquisition.

### **LWCF Funding in the Future**

Legislation to fully fund the LWCF and to make it a true trust fund was first introduced near the end of the 105<sup>th</sup> Congress. It proposed to divert offshore oil and gas revenues to a Conservation and Reinvestment Act Fund (CARA Fund), to make the LWCF a true and fully funded trust fund, among other purposes. In the 106<sup>th</sup> Congress, one CARA bill, H.R. 701, passed the House. It would have provided \$900 million annually from the CARA Fund to the LWCF. It would not have replaced the old LWCF, but rather been in addition to it, giving the LWCF a total of \$1.8 billion annually. The portion funded through the CARA Fund would have been split equally between the federal agencies and the state grant program. The federal portion would have been fully earmarked and could only be spent on projects that were specified in appropriations legislation. Acquisition could occur only when the seller concurs and the purchase has been approved by Congress.

In the 106<sup>th</sup> Congress, the Senate Committee on Energy and Natural Resources reported an amended version of H.R. 701, which was generally similar. However, it would have replaced the old LWCF (keeping the amount available at \$900 million), and would not have provided funds for state grants until after the appropriations to federal agencies had been approved. The full Senate did not consider this legislation. (For details on provisions in both proposals, see CRS Report RL30444, *Conservation and Reinvestment Act (CARA) (H.R. 701) and a Related Initiative in the 106<sup>th</sup> Congress.*)

CARA legislation has been reintroduced in the 107<sup>th</sup> Congress, again as H.R. 701 in the House. The House Resources Committee held a hearing on June 20, 2001, and completed markup on July 25. The bill has more than 240 cosponsors. Senators Murkowski and Landrieu introduced different versions of CARA on August 2, 2001 (S. 1318 and S. 1328, respectively). The Bush Administration has not taken a position on CARA legislation.

Many LWCF proponents support legislative proposals that would provide full and certain funding to the LWCF each year. The annual appropriations process has proven to be unpredictable. 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 the CARA legislation seems less intense in this Congress, possibly because of growing concern about a likely federal budget deficit in future years.