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Federal Funding for Conservation and Recreation

The Land and Water Conservation Fund

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Introduction

The Land and Water Conservation Fund (LWCF) has been the principal funding source for federal land acquisitions for conservation and recreation purposes since 1965. The Bureau of Land Management, the Fish and Wildlife Service, the National Park Service, and the Forest Service all receive funds from the LWCF. The LWCF also serves as a major source of state and local funding for land acquisition and development of public outdoor recreation resources through a state matching grant program. However, funding for the state side of the program is far less today than in the early years of the program and has tended to fluctuate greatly from year to year. In this backgrounder, we provide some history of the LWCF, describe how the program works, show trends in funding over time, and assess the current status of the program and challenges for the future.

History of the LWCF

The LWCF was created in the Land and Water Conservation Fund Act (P.L. 88–578), passed in 1964. A dedicated source of federal funding for outdoor recreation resources was recommended by the highly influential Outdoor Recreation Resources Review Commission (ORRRC), which was established by President Dwight Eisenhower in 1958. The Commission operated over a four-year period that ended with release of a 27-volume report on the state of America’s outdoor resources that included recommendations for the future.¹ The ORRRC also recommended comprehensive state planning for recreation, and this too was adopted into law in

*Senior Fellow, Resources for the Future. I appreciate the helpful comments of Gordon Binder of World Wildlife Fund and assistance with data and information about the stateside program of the Land and Water Conservation Fund from Pat Gillespie, Wayne Strum, and Michael Wilson of the National Park Service. This backgrounder is one in a series of backgrounders for the Outdoor Resources Review Group (see www.rff.org/orrg).

¹ Other key pieces of legislation influenced by the ORRRC recommendations were the Wilderness Act (P.L. 88–577), passed and signed into law in 1964, and the Wild and Scenic Rivers Act (P.L. 90–542) and the National Trails Act (P.L. 90–543), both passed in 1968. For more information on the ORRRC and subsequent recreation review commissions, see Siehl (2008). The National Park Service also provides historical information on the LWCF at www.nps.gov/lwcf.

the LWCF Act, as was a formulation for allocating annual LWCF appropriations to states and U.S. territories.

The LWCF initially had three sources of revenue: proceeds from sales of federal properties, motorboat fuel taxes, and fees for recreation use of federal lands. However, it quickly became clear that the \$100 million per year raised through these sources was insufficient for meeting the goals of the program. In 1968, the LWCF's funding level was raised to \$200 million per year for five years, and revenues from leasing of Outer Continental Shelf (OCS) oil and gas resources were tapped as an additional funding source. The LWCF was increased again in 1971 to \$300 million annually (P.L. 91-485). The new law passed in that year emphasized the need for more and better urban parks and more close-to-home recreation. Finally, in 1977, the funding level was increased again (P.L. 95-42), this time to \$900 million annually, where it has stayed to this date.

It is important to understand that although \$900 million is accumulated annually into the fund, this money is not necessarily spent on federal land acquisition and stateside programs. The LWCF is not a true "trust fund" in the sense that money collected must be allocated to specific targeted uses. In fact, in most years, LWCF programs have received far less than the \$900 million accumulated into the fund. The "unappropriated balance," or the difference between the cumulative amount deposited into the fund and what actually has been appropriated for the LWCF state and federal programs, is over \$16 billion. As seen below, Congressional appropriators may, and do, tap the LWCF for a variety of purposes.

Funding Trends

Figure 1 shows LWCF appropriations over the 1965–2007 time period in inflation-adjusted 2007 dollars. The light yellow bars show the level of stateside funding each year, and the dark green show the amount allocated to federal land acquisition. Beginning in 1998, LWCF funds have been appropriated for other programs; these amounts are shown in red. Since 2000, the use of the LWCF for these peripheral programs has increased and in 2007 accounted for 58 percent of total LWCF spending. These other uses have included, among other things, the maintenance needs of the four land management agencies, Forest Service highway work, the

Historic Preservation Fund, the Forest Service State and Private Forestry Programs, and Fish and Wildlife Service Endangered Species grants (Vincent 2006).²

The stateside program is a matching grant program for public outdoor recreation projects. States select high priority state and local projects using criteria from their Statewide Comprehensive Outdoor Recreation Plans, or SCORPs, as required in the LWCF Act. They request funds from the National Park Service, which manages the program, for specific projects; by law, those projects must receive at least 50 percent of their funding from the state and local project sponsors. The stateside money is apportioned to the individual states using an established formula. The formula allocates some of the money on an equal basis across all states and territories, with the remainder apportioned based on needs; needs are determined, in part, based on a state's population relative to the U.S. population. No more than 10 percent of total stateside funds can go to a single state.

The SCORPs required by law must include an assessment of the demand for and supply of recreation resources and a clear program for implementation of the recreation plan. These SCORPs have become standard practice for many states even as federal appropriations for LWCF state grants have diminished.³

² Amendments to the LWCF Act in 1976 (P.L. 94-322) specified that "no less than 40 percent" of appropriations must be available for federal purposes (implying that no more than 60 percent can go to the state grant program). Using the federal side funds for "other" purposes is allowed under the Act if the appropriation bill specifically allots the funds; otherwise, section 7 of the Act requires the funds be used for acquisition or go to the Treasury to cover capital costs associated with water-related recreation projects.

³ In many states, SCORPs often help to guide planning for state land conservation efforts and parks and recreation activities beyond their usefulness for LWCF grants. Two good examples are the SCORPs for Virginia and New York, available at http://www.dcr.virginia.gov/recreational_planning/vop.shtml and <http://nysparks.state.ny.us/agency/scorp/>, respectively. However, the attention to SCORPs and recreation planning in general varies widely across states.

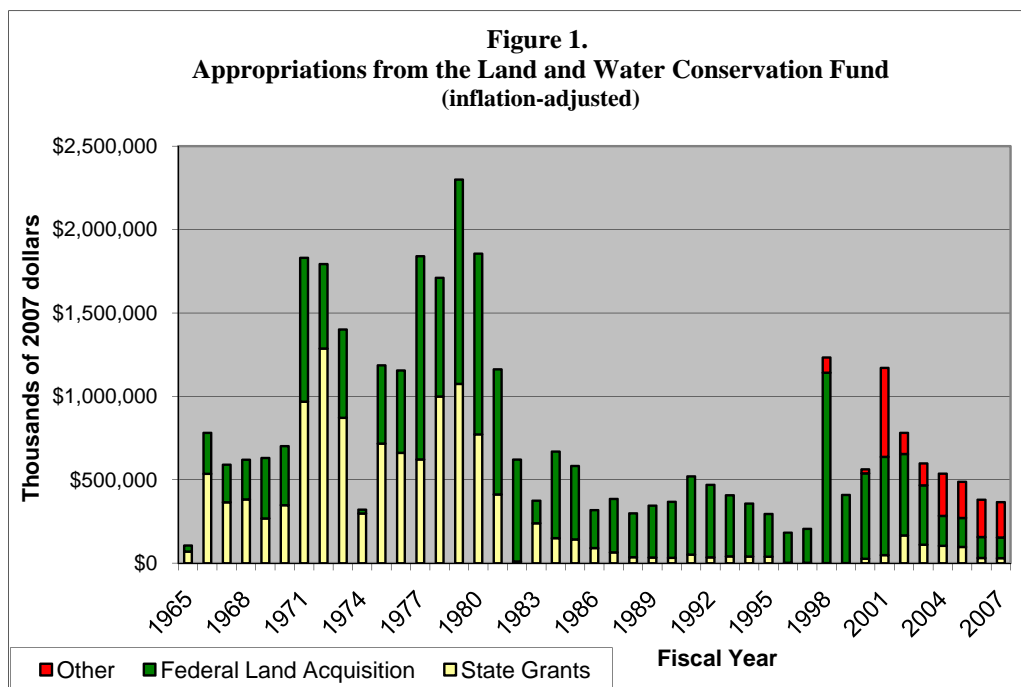


Figure 1 makes clear how the state grants program has diminished. At its peak in 1972, nearly \$1.3 billion was spent (in 2007\$) on the stateside portion of the LWCF, or 72 percent of total appropriations. From the program’s beginning through 1981, state grants averaged \$626 million annually (in 2007\$). Since that time, the annual average has dropped to one-tenth of that level. Funding for the state grant program has also varied widely over that time, dropping to zero funding for several years but reaching \$166 million as recently as 2002 (in 2007\$).

Interestingly, budget requests for the stateside program were zero in 2001 and 2002 but Congress appropriated the highest amount in over 20 years in 2002. Requests were zero again in 2006–2008 but Congress again appropriated funds, albeit relatively small amounts. The zero requests in recent years result from the administration’s notion that past LWCF funds have already provided adequate resources to states and that additional funding for state and local recreation lands should be funded through local taxes or bonds. In addition, the administration expressed the view that with a growing federal budget deficit, federal agencies should focus on

what are considered “core” functions, which in the National Park Service’s case, apparently does not include the LWCF.⁴ Because several members of Congress continue to support the stateside program, however, funds have been appropriated.

Program Accomplishments

In total, over 41,000 grants have been made since 1965 to the 50 states, District of Columbia, and five U.S. territories. The grants can be used for state planning, land acquisition, development of land, redevelopment of land, or a combination. Over the program’s history, 65 percent of the grants have been used for development and 18 percent for land acquisition; however, only 58 percent of the funding *dollars* has gone toward development while 33 percent has gone to acquisition.

Because the states share money with localities, the impacts of the LWCF have been far-reaching. The National Recreation and Park Association states that 98 percent of the counties in the United States have at least one park or recreation project that has received LWCF funding (National Recreation and Park Association 2008). According to National Park Service statistics, the stateside program has protected 2.6 million acres of state and local parkland through direct acquisition, and many times that number of acres is statutorily protected through development projects which protect lands acquired and developed from non-outdoor recreations uses in perpetuity. Section 6(f)(3) of the LWCF Act (36 CFR 59.3) requires public agency recipients of federal LWCF state matching grants to agree to maintain the land area receiving the grant in public outdoor recreation use in perpetuity unless other uses are approved by the Secretary of the Interior.

The four federal agencies that receive LWCF money through the federal side of the program—the National Park Service, Fish and Wildlife Service, Bureau of Land Management, and Forest Service—have protected over 4.5 million acres of land (Zinn 2005). Thus, in total, over 7 million acres of new parks and recreational lands have been added to the American recreation estate and thousands more protected with LWCF dollars through the state and local development projects.

⁴ See the LWCF discussion in the Department of the Interior budget documents for the 2006-2008 period—for example, page DH-59 of U.S. Department of the Interior (2007).

Efforts to Revitalize the LWCF

The problems created by the fact that the LWCF is not a true trust fund—wide swings in appropriations, decreasing funds for state and local governments, and money in recent years used for purposes beyond the original intent of the enabling legislation—have not gone unrecognized. In the mid-1980s, the reports of the independent Outdoor Recreation Policy Review Group and the subsequent President’s Commission on Americans Outdoors (PCAO) both highlighted the declines in LWCF funding and argued that the loss of funding was hampering the ability to provide adequate recreation resources to the American public.⁵ The PCAO recommended that Congress dedicate at least \$1 billion a year from offshore oil and gas drilling revenues to the LWCF.

In 1999, a nearly successful effort to change matters and create a stable, long-term funding source for conservation and recreation lands was the Conservation and Reinvestment Act, or CARA, introduced in the 106th Congress. CARA would have combined the LWCF with other funding sources to create guaranteed funds of approximately \$2.4 billion per year for 15 years; \$900 million of those funds would have been split evenly between federal land acquisition and a state grants program.⁶ In addition to money for parks and recreation, CARA would have created stable funding for other conservation programs focused on wildlife habitat, wetlands, forests, and coastal resources. CARA passed the House of Representatives but failed in the Senate.

During the same year that the Congress was considering CARA, President Clinton proposed a similar comprehensive land funding program called the Lands Legacy Initiative. Like CARA, the goal of Lands Legacy was to secure a reliable funding stream for lands acquisition and conservation-related activities. Congress approved funding for this Presidential initiative of \$727 million for the first year (FY2000) for a set of programs that were mostly already authorized under existing legislation.⁷

⁵ See Outdoor Recreation Policy Review Group (1983) and The President’s Commission on Americans Outdoors (1987).

⁶ The text of the bill is available at <http://thomas.loc.gov/cgi-bin/query/z?c107:H.R.701>.

⁷ See Zinn and Corn (2001) for a comparison of Lands Legacy and CARA and information on FY2000 and FY2001 funding.

In FY2001, when it became apparent that CARA would fail, Congress approved a five-year special Conservation Spending Category (CSC)—often referred to as “CARA Light”—to fund LWCF and a range of other conservation programs. However, it stopped short of passing legislation to create the entirely new Lands Legacy program proposed by the president. The funding targets in the CSC started at \$1.6 billion in FY2001 and rose to \$2.4 billion by FY2006. However, actual funding levels fell below the targets starting in FY2003 and the CSC faded away beginning in FY2004. In that year, although the agencies made requests for CSC funding, Congressional budget documents did not make clear the actual appropriations. In FY2005, the Forest Service and Department of Commerce, both of which had received CSC funding in previous years, did not use the CSC when making funding requests; only the Department of the Interior formulated a request in this way. Finally, in FY2006, all of the agencies abandoned the approach.⁸

Another attempt to secure more stable funding for the LWCF occurred in 2006 and this one, though much less ambitious in its design, met with more success. The “Gulf of Mexico Energy Security Act of 2006” opens up oil and gas leasing in two areas of the Eastern Gulf of Mexico OCS known as Area 181 and Area 181 South.⁹ Proceeds from those lease sales are to be split in the following way: 50 percent to the general fund of the U.S. Treasury; 37.5 percent to Gulf-producing states for specified programs and activities; and 12.5 percent to the state side of LWCF. Moreover, the law requires that these funds for the LWCF be in addition to any normal amounts appropriated under the program; thus the funding from these lease sales is a secure source of revenue explicitly designated for states. Senator Lamar Alexander (R-TN) advocated strongly on behalf of the LWCF in support of this bill.¹⁰ The Department of the Interior’s Minerals Management Service, which manages the OCS, plans for the first least sale in Area 181 South to be held in March 2009.¹¹ Expected LWCF revenues from the sale are \$6.4 million;

⁸ See Vincent and Boren (2003, 2006) for more information and CSC budget figures for each year.

⁹ The Act is Title I of “The Tax Relief and Health Care Act of 2006” (P.L. 109-432), which passed both Houses of Congress and was signed by President Bush in December 2006. The Gulf of Mexico Energy Security Act originally passed the Senate under the same title as S.3711.

¹⁰ Senator Alexander’s August 1, 2006, floor speech includes strong support for the LWCF, particularly the stateside program; it is available at <http://www.govtrack.us/congress/record.xpd?id=109-s20060801-9&bill=s109-3711#sMonofilemx003Ammx002Fmmx002Fmhomemx002Fmgovtrackmx002Fmdatamx002Fmusmx002Fm109mx002Fmcrmx002Fms20060801-9.xmlElementm7m0m0m>.

¹¹ The Minerals Management Service Proposed Notice of Sale was released in October 2008 and is available at <http://www.gomr.mms.gov/homepg/lseale/208/pnos208.pdf>.

preliminary estimates of total disbursements through FY2017 are approximately \$21.8 million, so the contributions to the LWCF will be relatively small.¹²

The Future of the LWCF

There seems to be general agreement that the LWCF has achieved great success over the years in protecting lands for parks and recreation. It has been the sole program for federal land acquisitions for parks and the only federal grant program that specifically addresses state and local outdoor recreation needs. Many of the federal government's most important additions to the National Park System have been accomplished with LWCF money. And as we stated at the beginning of this background, the state grant program has been responsible for park acquisition and development projects located in 98 percent of the counties in the United States. By law, these projects must remain available and protected for public outdoor recreation in perpetuity. Many observers feel also that the LWCF is responsible for getting states and localities to plan for recreation and conservation, something that was virtually nonexistent when the LWCF Act was passed, and to engage the public in the provision of recreation amenities at all levels of government.

But in recent years, there has been disagreement on the purpose of the LWCF and the appropriate level of funding for both the federal and state sides of the program. Some feel, for example, that federal land acquisition is a less critical need than maintenance, repairs, and revitalization of existing parks. Others feel that fee purchase of properties is a relatively costly way to protect lands and that the federal government should move more toward conservation easements, as has been done for protection of wetlands, farmland, wildlife habitat, and forests at both the federal and state levels. Many argue for a more coordinated and comprehensive approach to land conservation, including a focus on larger areas such as watersheds and ecosystems, rather than the single properties for parks and recreation that the LWCF has traditionally funded.

The LWCF has also suffered from a variety of opinions about how the program should be split between federal acquisitions and state grants and also about whether the federal program should remain a Congressional "earmark" program, in which members can designate funds for their favorite projects, or whether it should be handed to the Department of the Interior to

¹² These figures are reported in Vincent et al. (2008). Unpublished estimates from the National Park Service budget office are slightly higher at \$35 million (Strum 2009).

manage. In the West, where private property rights advocates are numerous and the proportion of land that is in federal ownership is high, more money for federal land acquisitions is not widely supported. This has been another obstacle for the LWCF.

As we stated above, there is also a view that funding for state and local parks should come from non-federal sources and this view has led to diminished funding for the stateside program. Indeed, since the late 1980s—perhaps in response to declining federal funds, though it is difficult to say -- some state and local governments have come up with ways to generate their own funds for land protection. In a 2008 Resources for the Future survey of state park directors, 58 percent of respondents reported that they have a dedicated source of funds specifically for land acquisition.¹³ Over the past 20 years, more than \$54 billion for conservation has been raised through local ballot initiatives approved by voters.¹⁴ Not all of these funds have been used for parks and recreation lands, however; a sizeable fraction goes toward easements to protect farmland and other private lands. Moreover, some states have tapped into conservation land budgets for other purposes, particularly in lean budget times.¹⁵

And despite these fundraising efforts, states continue to report a staggering need for parks and recreation funding to augment state and locally generated revenues. The National Park Service, in its management of the LWCF state assistance program, asks states each year for a list of “unmet needs,” both the dollar funding shortfall and descriptions of projects. In 2008, these needs totaled approximately \$27 billion (National Park Service 2008).

FY2008 funding for the LWCF continues the downward trend of the decade. Appropriations for both the federal and stateside programs total \$255.5 million, 30 percent less than FY2007; only \$24.6 million has been allocated to the stateside program (Vincent et al. 2008). Funding for other programs not addressed in the enabling legislation continues to be a relatively large share of the total. Although interest in and demand for state assistance under the program remains high, the future of the LWCF and federal funding for parks and recreation at the state and local level remains uncertain.

¹³ See Walls (2009) for more detail about the survey. The survey did not ask how much money was available for land acquisition.

¹⁴ Figures available from the Trust for Public Land’s LandVote database. See http://www.tpl.org/tier3_cd.cfm?content_item_id=12010&folder_id=2386.

¹⁵ Maryland’s Program Open Space is a well-known example.

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