

# Subcommittee on Federal Lands

Tom McClintock, Chairman

## Hearing Memo

April 13, 2015

To: All Natural Resources Committee Members

From: Terry Camp, Majority Staff, x6-7736  
Federal Lands Subcommittee

Hearing: Oversight hearing titled "*Federal Land Acquisition and its Impacts on Communities and the Environment*"

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The Subcommittee on Federal Lands will hold an oversight hearing to receive testimony on "*Federal Land Acquisition and its Impacts on Communities and the Environment*," on **Wednesday, April 15, 2015 at 9:00 a.m. in Room 1324 Longworth**. The hearing will focus on federal land acquisition through the Land and Water Conservation Fund Act of 1965, which expires on September 30, 2015.<sup>1</sup>

### Policy Overview

- Legitimate concerns are being raised about the impacts of increasing annual federal spending on land acquisition, (including land acquired through the Land and Water Conservation Fund (LWCF)), and whether increased land acquisition is consistent with the LWCF's statutory mission to "preserve, develop, and ensure access to outdoor recreation facilities to strengthen the health of U.S. citizens."<sup>2</sup>
- At a time when our national debt exceeds \$18 trillion, the Obama Administration's current budget seeks to spend millions of dollars to purchase more federal lands despite massive maintenance backlogs and increasing catastrophic wildfires costing billions of dollars on existing federally-owned lands.
- Federal land acquisition in certain areas adversely impacts local counties' budgets and results in lost or declining tax base to many of these counties.
- According to a recent study, federal land management agencies lose taxpayers nearly \$2 billion, while states are producing far greater financial returns from state land management, suggesting that federal land acquisition significantly impacts the resources available to manage public lands.<sup>3</sup>

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<sup>1</sup> Land and Water Conservation Fund Act of 1965, 16 U.S.C. § 4601-4

<sup>2</sup> Id.

<sup>3</sup> Regan, Shawn, and Holly Fretwell. "Divided Lands: State vs. Federal Management in the West." PERC Public Lands Report, 2015.

- While states often manage state lands more actively and provide better access to state lands than the federal government does with federal lands, states receive significantly less than federal agencies from the LWCF. For example, last year, 84% of LWCF funds were spent on federal land acquisition and other federal programs, while states received about 16% of LWCF funds through the “stateside” matching grant program.<sup>4</sup>

### **Witnesses Invited**

Panel I:

*Shawn Regan*, Research Fellow, Director of Publications  
Property and Environment Research Center

*Domenic Bravo*, CPM Administrator  
Wyoming Division of State Parks, Historic Sites & Trails

*Robert A. Lovingood*, Supervisor, First District  
San Bernardino County, California

*Randy Newberg*, CPA  
On Your Own Adventures

### **Background Information**

The federal government currently owns 640 million acres, or approximately three out of every 10 acres in the United States.<sup>5</sup> The Congressional Research Service (CRS) notes that, “Federal land ownership is concentrated in the West. Specifically, 62% of Alaska is federally owned, as is 47% of the 11 coterminous western states. By contrast, the federal government owns only 4% of lands in the other states.”<sup>6</sup> Of the 640 million acres owned by the federal government, 608.9 million acres are controlled by the Bureau of Land Management (BLM), Fish and Wildlife Service (FWS), National Park Service (NPS) and the Forest Service (FS).<sup>7</sup>

The acreages managed by the four principal land agencies are as follows:

**BLM:** 247.3 million acres, or 39 percent of all federal lands.

**FWS:** 89.1 million acres, or 14 percent of all federal lands.

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<sup>4</sup> Carol Hardy Vincent. *Land and Water Conservation Fund: Overview, Funding History, and Issues* (CRS Report No. RL33531). Washington, DC: Congressional Research Service, 2014.

<sup>5</sup> Carol Hardy Vincent, Laura A. Hanson, and Jerome P. Bjelopera. *Federal Land Ownership: Overview and Data* (CRS Report No. R42346). Washington, DC: Congressional Research Service, 2014.

<sup>6</sup> Id.

<sup>7</sup> Id.

**NPS:** 79.6 million acres, or 12 percent of all federal lands.

**FS:** 192.9 million acres, or 30 percent of all federal lands.

### **Federal LWCF Program**

Over its lifespan, **\$16.8 billion** has been appropriated to the LWCF program.<sup>8</sup> Federal land acquisition has received the majority at 62%, the stateside program has received 25%, and other purposes have received 13%. Similarly, federal land acquisition funds have been allocated unevenly among the four federal agencies.<sup>9</sup>

From 1985 to 2010, the fund allocated \$6.6 billion for federal land acquisition. The federal portion of the fund is limited to land acquisition and is not authorized to be used for the maintenance and operational needs on current federal lands.<sup>10</sup>

### **Stateside Program**

Another piece of the LWCF is the stateside program, administered by the NPS, and arguably the most popular LWCF program. The stateside program is comprised of traditional state grants provided to states (including the District of Columbia and U.S. territories) for recreation planning, acquisition of lands and waters, and facility development. The grants require a match and many stateside projects are highlighted by members of Congress and Senators when they discuss LWCF and its successes.

According to CRS, 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.”<sup>11</sup>

Finally, though the vast majority of monies appropriated to the stateside program are discretionary, a small amount of revenues are allocated without an annual appropriation. These monies, provided under the Gulf of Mexico Energy Security Act of 2006, come from certain OCS leasing in the Gulf of Mexico.<sup>12</sup>

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<sup>8</sup> Carol Hardy Vincent. Land and Water Conservation Fund: Overview, Funding History, and Issues (CRS Report No. RL33531). Washington, DC: Congressional Research Service, 2014.

<sup>9</sup> Id.

<sup>10</sup> Id.

<sup>11</sup> Id.

<sup>12</sup> Id.

## **Other Purposes**

In recent years, a portion of the LWCF appropriation has also been provided for federal purposes other than land acquisition. CRS notes that as “there is no set of “other purposes” specified to be funded from LWCF, Presidents have sought funds for a variety of purposes and Congress has chosen which, if any, other purposes to fund from LWCF. Since Fiscal Year 1998, 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.”<sup>13</sup>

## **Expanded Land Acquisition and Other Budget Priorities**

Proponents of federal land acquisition through the Land and Water Conservation Fund state that it has improved the efficiency of land management by cleaning up checkerboard land ownership patterns, preventing development of ‘open space’, and enhancing access to federal lands by the public. This argument is true of a great deal of federal land where state, county, tribal and private lands are all intermixed. Rather than appropriating millions of dollars for the federal government to acquire these lands, however, Congress should instead encourage and facilitate land exchanges, whether done administratively or by Congress, to clean up and consolidate land ownership patterns. The agencies already have the authority to do this in some cases and the Committee is working to pass legislation expanding their authority in other cases.

Despite the arguments of LWCF proponents, the federal land acquisition program has sometimes negatively impacted states and localities in significant ways including: lost tax revenue and neglected management of federal lands. Take for example San Bernardino County, California. Like all western counties, San Bernardino County relies on Payments in Lieu of Taxes, commonly referred to as PILT. The PILT program provides needed revenue for counties with significant areas of tax-exempt federal land within their boundaries. However, the current PILT formula does not credit federal holdings in a county beyond approximately 1.3 million acres, and gives no credit to offset federal acquisitions except in National Park Service units. According to county officials, since the year 2000, San Bernardino County has lost 900,000 acres of private land from the tax rolls due to land being acquired and subsequently donated for conservation or mitigation purposes, or directly acquired by federal agencies. County officials estimate that federal land acquisition has resulted in a loss of \$15 to \$20 million dollars in annual tax revenue.

In addition to these impacts, LWCF competes with many other important federal land management agency priorities including deferred maintenance backlogs, fire suppression costs, and recovery of endangered species. The Fiscal Year 2016 Department of Interior Budget request exacerbates these concerns.

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<sup>13</sup> Carol Hardy Vincent. Land and Water Conservation Fund: Overview, Funding History, and Issues (CRS Report No. RL33531). Washington, DC: Congressional Research Service, 2014.

## **National Park Service**

The President's Fiscal Year 2016 budget requests \$296.2 million for NPS land acquisition and state assistance, comprised of \$117.5 million in discretionary funding and \$178.7 million in mandatory LWCF funding.<sup>14</sup> With this funding NPS would acquire 41,343 acres of land.<sup>15</sup> The NPS is requesting an increase in funding for land acquisition despite the NPS facing an estimated deferred maintenance backlog of \$11.5 billion (of which \$5.9 billion represents non-transportation assets).<sup>16</sup>

## **Fish and Wildlife Service**

The FWS Fiscal Year 2016 budget request seeks hundreds of millions of dollars to add new lands to the federal estate, despite significant maintenance backlogs on National Wildlife Refuge System (NWRS) lands. Specifically, the Administration has requested \$164.8 million, which includes \$106 million in new permanent funding derived from the LWCF, to acquire over 100,000 acres.<sup>17</sup> Meanwhile, the FWS is currently facing a deferred maintenance backlog of \$1.3 billion on NWRS lands<sup>18</sup> and the Administration has only requested \$139 million for refuge maintenance.<sup>19</sup> Instead of spending hundreds of millions of taxpayer dollars to acquire more and more federal lands, FWS should focus their resources on addressing the NWRS deferred maintenance backlog, in addition to recovering and removing species currently listed under the Endangered Species Act.

## **Bureau of Land Management**

The Fiscal Year 2016 BLM budget requests a 373% increase for federal land acquisition.<sup>20</sup> The budget requests a total of \$93 million for BLM land acquisition (\$38 million in discretionary funding and \$55.4 million in mandatory funding).<sup>21</sup> This is \$73.7 million, or 373 percent more than the \$19.7 million enacted in FY15. Specifically, in 2016 BLM plans to acquire approximately 90,000 acres in 33 different areas.<sup>22</sup> Going forward, however, BLM is interested in acquiring another 647,000 acres at an estimated cost of nearly \$630 million.<sup>23</sup> Only \$20 million (5%) is proposed for sportsmen's access and just \$47 million (less than 12%) for stateside grants.<sup>24</sup>

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<sup>14</sup> Page Overview-48, Fiscal Year 2016 Budget Justification – National Park Service, February 2015.

<sup>15</sup> Page LASA-18, Fiscal Year 2016 Bureau Highlights – National Park Service, February 2015.

<sup>16</sup> SpecEx-14, Fiscal Year 2016 Budget Justifications – National Park Service, February 2015

<sup>17</sup> Page NWR-31, Fiscal Year 2016 Budget Justification – Fish and Wildlife Service, February 2015.

<sup>18</sup> Page NWR-31, Fiscal Year 2016 Budget Justification – Fish and Wildlife Service, February 2015.

<sup>19</sup> Page NWR-1, Fiscal Year 2016 Budget Justification – Fish and Wildlife Service, February 2015.

<sup>20</sup> Page BH-11, Fiscal Year 2016 Budget in Brief – Department of Interior (percentage increase tabulated by staff)

<sup>21</sup> Page I-9, Fiscal Year 2016 Budget Justification –Bureau of Land Management

<sup>22</sup> Page VIII 17-49, Fiscal year 2016 Budget Justification - Bureau of Land Management

<sup>23</sup> Id.

<sup>24</sup> Page 125, Forest Service Fiscal Year 2016 Budget Justification – Forest Service

## **Forest Service**

The Administration's Fiscal Year 2016 budget almost triples the USFS land acquisition budget, while failing to address millions of acres of dangerously fire-prone forest conditions across the nation.<sup>25</sup> Specifically the agency is proposing 63 million dollars in appropriated funds, a 33% increase, and an additional transfer of almost \$65 million in land acquisition funds from the Department of Interior to acquire land.<sup>26</sup> All the while, the agency unofficially estimates it has 60 million acres at high risk to catastrophic fire danger while only having treatments planned are for an anemic 5% of that acreage.<sup>27</sup>

As a result of the increased fire risk, the administration is proposing an increase to the wildland fire management account totaling a record 2.4 billion dollars--almost half of the agency's budget.<sup>28</sup>

Further the agency has a land ownership pattern that is exceedingly difficult to manage including some 25,000 small parcels, isolated from the national forests, many of which are among subdivisions and commercial real estate with numerous trespass and encroachment challenges.<sup>29</sup> The agency's limited number of real estate professionals spend most of their time trying to acquire more land for the federal government, often at cross-purposes to local county interests, instead of working on a land adjustment program which would provide a more manageable and county-supported land ownership situation.

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<sup>25</sup> Page 125, Forest Service Fiscal Year 2016 Budget Justification – Forest Service

<sup>26</sup> Page 19, Fiscal Year 2016 Budget Justification – Forest Service

<sup>27</sup> Forest Service internal estimate provided to Subcommittee on Federal Lands staff

<sup>28</sup> Page 258, Wild Land Fire Management, Fiscal Year 2016 Budget Justification – Forest Service

<sup>29</sup> Forest Service internal estimate provided to Subcommittee on Federal Lands staff