

**Testimony of
REED WATSON
EXECUTIVE DIRECTOR
PROPERTY AND ENVIRONMENT RESEARCH CENTER (PERC)**

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UNITED STATES SENATE**

“The Reauthorization and Potential Reforms to the Land and Water Conservation Fund”

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Introduction

Madame Chair Murkowski, Ranking Member Cantwell, and Members of the Committee, thank you for the opportunity to testify on the reauthorization of and potential reforms to the Land and Water Conservation Fund. My name is Reed Watson and I am the Executive Director of the Property and Environment Research Center (PERC), a nonprofit research institute in Bozeman, Montana, that has studied public land issues for more than three decades.

My testimony today will explain why reauthorizing the LWCF in its current form would likely do more harm than good for our federal lands. The reason is simple: we are failing to maintain most of the 635 million acres already owned by the federal government. Using the LWCF to acquire additional land—without first addressing the billions of dollars in deferred maintenance on the existing federal estate—will threaten the ecological health, public accessibility, and economic productivity of these precious lands.

Congress should reform the LWCF to address the critical yet unfunded needs that exist on lands currently administered by the federal government. In particular, Congress should require that the LWCF be used to reduce the massive backlog of deferred maintenance projects on existing federal lands before it can be used to acquire new federal lands.

Conservation, at its core, is about the care and maintenance of the land. Spending hundreds of millions of dollars each year from the LWCF to expand the federal estate when we are currently failing to maintain the existing federal estate is not responsible conservation. Reauthorization of the LWCF gives Congress an opportunity to prioritize conservation over acquisition.

LWCF Background

The Land and Water Conservation Fund (LWCF) is the principal funding source for federal land acquisitions for conservation and recreational purposes. Created in 1964, the LWCF is authorized at \$900 million per year, with the vast majority of revenues currently derived from oil and gas leasing on the Outer Continental Shelf. Through the appropriations process, LWCF funds are used for three general purposes: (1) federal acquisition of land and waters; (2) grants to states for recreational planning; acquiring recreational lands, waters, or related interests; and

developing outdoor recreational facilities, collectively the “stateside program;” and (3) related purposes. Rarely has Congress fully appropriated the LWCF for these purposes. Since 1965, more than \$36 billion has been credited to the LWCF, but less than half of that amount (\$16.8 billion) has been appropriated to LWCF programs.¹

Of the total LWCF appropriations since 1965, the majority (\$10.4 billion) has gone to federal land acquisitions. These acquisitions were made by four agencies—the National Park Service, the U.S. Forest Service, the Bureau of Land Management, and the Fish and Wildlife Service. Of the four agencies, the National Parks Service has received the most LWCF funding at \$4.4 billion, or 42 percent of the total LWCF federal land acquisition appropriations. Federal land acquisitions since the LWCF’s creation total approximately 5 million acres.²

The stateside program has received the second-largest portion of total LWCF appropriations (\$4.2 billion). In the early years of the program, more funds went to the stateside program than to federal land acquisition, but stateside appropriations have declined since the early 1980s.³ The stateside program received no appropriations in FY1996 through FY1999, with zero stateside budget requests in FY2001, FY2002, and FY2006 through FY 2008.⁴

The third category, generally described as “related purposes” or “other federal purposes,” has received the smallest portion of total LWCF appropriations (\$2.1 billion). No funds were provided for related purposes until FY1998, but Congress has since directed 29 percent of the total LWCF appropriations to this category. Some of these appropriations were directed to the Forest Service highway rehabilitation and maintenance, but the majority has supported other programs such as the Historic Preservation Fund, the Payments in Lieu of Taxes program, and various forestry and habitat programs off the federal estate.

With the LWCF set to expire on September 30th of this year, disagreement has emerged over whether, for how much, and for which purposes the Fund should be reauthorized. The Obama Administration has proposed amending the law to appropriate mandatory funding of \$900 million annually beginning FY2016.⁵ Many oppose reauthorization on the grounds that federal ownership restricts certain land uses and reduces local tax revenues.

Research conducted at PERC has shed light on an additional consideration: whether the LWCF should be used to acquire additional land when our federal agencies are unable to maintain the the existing federal estate. lands the backlog of deferred maintenance projects on the existing federal estate.

¹ Carol Vincent Hardy. 2014. “Land and Water Conservation Fund: Overview, Funding History, and Issues.” Congressional Research Service. RL33531. <http://nationalaglawcenter.org/wp-content/uploads/assets/crs/RL33531.pdf>

² Zinn, Jeffrey. 2005. “Land and Water Conservation Fund: Current Status and Issues.” Congressional Research Service Report for Congress, June 10. Zinn reports acquisitions as of 2005 was 4.5 million acres.

³ Margaret Walls. 2009. “Federal Funding for Conservation and Recreation: The Land and Water Conservation Fund.” Resources for the Future Background. http://www.rff.org/RFF/Documents/RFF-BCK-ORRG_LWCF.pdf.

⁴ Despite receiving no stateside budget requests, Congress appropriated \$319 million to the stateside program in those years, with 2002 stateside funding of \$144 million, the most stateside appropriations since 1980.

⁵ U.S. Dept. of the Interior, National Park Service, Budget Justifications and Performance Information, Fiscal Year 2015, p. LASA-1.

Unfunded Projects on Existing Federal Lands

Spanning some 635 million acres, the federal estate accounts for 28 percent of the total land area in the United States. That is an area roughly nine times the size of Nevada—a state that, itself, is 81 percent federally owned. Federal ownership is concentrated in the West, where nearly half of the land is owned by the federal government. Besides Nevada, western states where the federal government owns more than half of all land include: Oregon at 53 percent federal, Alaska and Idaho, each at 62 percent federally owned, and Utah at 67 percent.⁶

As the federal estate has grown, so too has the backlog of maintenance projects on federal lands. In 2010, the Department of the Interior estimated that its total deferred maintenance backlog may be as high as \$20 billion.⁷ Last month, the National Park Service announced that its deferred maintenance backlog has reached a total of \$11.5 billion.⁸ The agency estimates that 90 percent of its roads are in “fair” or “poor” condition, dozens of bridges are “structurally deficient” and in need of reconstruction, and 6,700 miles of trails are in “poor” or “seriously deficient” condition.⁹

As the National Park Service (NPS) prepares to celebrate its 100-year anniversary in 2016, this deferred maintenance backlog represents a glaring blemish in a system known for the “crown jewels” of Yellowstone, Yosemite, and Grand Canyon. Aging infrastructure and facilities, increased visitor use, and insufficient funding all contribute to the growth of the NPS backlog. Table 1 lists the deferred maintenance backlogs in several popular national parks as of September 2014.

Yellowstone	\$656,547,010
Yosemite	\$552,778,696
Grand Canyon	\$329,458,168
Rainier	\$298,372,137
Grand Teton	\$201,840,685
Glacier	\$178,517,042

Consider a few of these backlogged NPS projects: More than \$20 million is needed to fix the deteriorated condition of the waste water facilities in Yellowstone.¹¹ As much as \$200 million is

⁶ Gorte, Ross W., et al. 2012. “Federal Land Ownership: Overview and Data.” Congressional Research Service. <http://fas.org/sgp/crs/misc/R42346.pdf>

⁷ Government Accountability Office. 2011. “Department of the Interior: Major Management Challenges.” GAO-11-424T. <http://www.gao.gov/products/GAO-11-424T>

⁸ The NPS defines the deferred maintenance backlog as the cost of maintenance that is not performed when it should have been or was scheduled and which, therefore, is put off or delayed, most often due to funding constraints.

⁹ National Park Service. “Critical Maintenance Backlog.” http://www.nps.gov/transportation/maintenance_backlog.html

¹⁰ “NPS Deferred Maintenance by State and by Park.” http://www.nps.gov/subjects/plandesignconstruct/upload/FY14-DM-by-State-and-Park_2015-03-13.pdf

needed to fix busted water pipelines and ensure safe drinking water for visitors at Grand Canyon National Park.¹² More than \$3 billion in high-priority road repairs are needed across the national park system.¹³ According to the latest NPS estimates, the backlog consists of \$1.8 billion in building repairs, \$62 million in campground maintenance, \$472 million in trail maintenance, \$255 million in waste water systems, and \$5.6 billion in unfunded transportation-related infrastructure needs.¹⁴

In addition to unfunded maintenance projects, federal land agencies also face operational constraints that prevent the agencies from adequately managing and protecting the lands under their control. For instance, in Region 1 of the National Forest Service, budget cuts have created at least 15 law enforcement vacancies.¹⁵ The Forest Service has been forced to cut full-time employees in non-fire programs by 35 percent over the last decade, and the agency expects further employment cuts in 2016. The result is a diminished capacity for the agency to appropriately monitor and protect our national forests.

The care and maintenance of existing federal lands is an appropriations decision that often loses out to other political considerations. Congress has shown more interest in appropriating funds to acquire new federal lands than it is to provide funding for routine maintenance projects on those lands. Similarly, presidents have been more likely to seek new federal land acquisitions or create new federal designations under their executive authority—as President Obama did in December with the creation of seven new units of the national park system—than they are to prioritize the maintenance of existing federal lands. These political considerations have contributed to the steady increase in the deferred maintenance backlog over the last several decades, despite claims by several recent administrations to begin addressing the issue.

The continued expansion and acquisition of new federal lands has contributed to a steady growth in the maintenance backlog across the federal estate. As the NPS recently noted, “[N]ew legislation and executive orders have transferred to the NPS additional assets in poor condition compounding the NPS already limited capacity to provide stewardship to existing assets.”¹⁶ Since 2005, more than a dozen additional parks with transportation assets were added to the national park system, in addition to land acquisitions funded by the LWCF. The agency anticipates that the backlog will continue to grow as a result of additional land acquisitions combined with the unavoidable effects of inflation and asset deterioration.

¹¹ “NPS Asset Inventory Summary - By Park.” <http://www.nps.gov/subjects/plandesignconstruct/upload/NPS-Asset-Inventory-Summary-By-Park-FY14-1.pdf>

¹² Associated Press. May 21, 2014. “Water pipes top Grand Canyon’s maintenance list.” http://www.eastvalleytribune.com/arizona/article_d28cc93e-e05a-11e3-925a-0019bb2963f4.html

¹³ Statement of Jonathan B. Jarvis, Director, National Park Service, Department of the Interior, Before the Senate Committee on Energy and Natural Resources, for an Oversight Hearing to Consider Supplemental Funding Options to Support the National Park Service’s Efforts to Address Deferred Maintenance and Operational Needs. July 25, 2013. http://www.energy.senate.gov/public/index.cfm/files/serve?File_id=6d4ed073-b1f5-42cf-a61a-122be71e67b9

¹⁴ “NPS Asset Inventory Summary” <http://www.nps.gov/subjects/plandesignconstruct/upload/NPS-Asset-Inventory-Summary-FY14-1-2.pdf>

¹⁵ Chaney, Rob. 2014. “Forest Service law enforcement takes budget hit; Region 1 reviews 15 vacancies.” *Missoulian*. March 9. http://missoulian.com/news/local/forest-service-law-enforcement-takes-budget-hit-region-loses-jobs/article_898ca5cc-0117-5342-9808-153a05431cd1.html

¹⁶ National Park Service. 2014. “Deferred Maintenance Backlog.” Park Facility Management Division. <http://www.nps.gov/transportation/pdfs/DeferredMaintenancePaper.pdf>

Opportunities for Reform

As currently authorized, the federal portion of the LWCF allows the federal government to purchase additional lands, but it makes no explicit provision for the care and maintenance of existing federal lands or the lands to be acquired with LWCF funds. Throughout its 50-year history, the LWCF has added approximately 5 million acres to the federal estate, almost all in the West. In so doing, the LWCF has created additional maintenance and operational needs without providing a means to address those needs. In FY2015, federal land agencies sought a combined total of 163 land acquisitions through the LWCF.

Given the current size of the federal estate, and the extent of the management needs on those lands, spending hundreds of millions of dollars annually through the LWCF to acquire new lands is irresponsible. These acquisitions exacerbate the problem by creating even more unfunded maintenance projects and by stretching already insufficient maintenance budgets over even more acres.

Conservation, at its core, is about the care and maintenance of the land. As such, the federal government has a responsibility to maintain and adequately fund the land it owns for conservation and recreational purposes. The relevant question is whether Congress should give federal land managers the resources they need to maintain and conserve the *existing* federal estate, or whether we should burden them further, and stretch their budgets thinner, with additional land acquisitions.

There is ample evidence that Westerners value the care and maintenance of existing federal lands. The latest “Conservation in the West” survey, conducted by Colorado College, found that 95 percent of voters in the West believe that Congress should ensure that public land managers “have the resources they need to take care of public lands and provide services to visitors.”¹⁷ While the survey is commonly cited as evidence that conservation programs such as the LWCF are popular among Westerners, this finding suggests that properly maintaining and caring for existing federal lands is a top priority among Western voters.

Conservationists and lawmakers should acknowledge the tradeoffs that are inherent in appropriation decisions over conservation measures such as the LWCF reauthorization. Funding that is allocated to land acquisition means less funding is available for other purposes such as deferred maintenance backlogs and operational needs on existing federal lands. Deferred maintenance has not been a political priority, at least not measured by the history of congressional appropriations. Therefore, arguing that the LWCF should be used exclusively for federal acquisitions or the stateside program, and that the deferred maintenance backlog should be addressed in the general appropriations process is not a credible policy position.¹⁸ Rather, conservationists must recognize these tradeoffs and seek out opportunities that enable federal land agencies to meet these challenges.

¹⁷ The 2015 Conservation in the West Poll: A Survey of the Attitudes of Voters in Six Western States.

<https://www.coloradocollege.edu/stateoftherockies/conservationinthewest/>

¹⁸ See, for example, Hiar, Corbin. 2015. “Jewell defends efforts in Alaska, opposes LWCF changes,” *Greenwire*, April 17, quoting *Interior Secretary Sally Jewell*: “As a result, Jewell said, “We do not support the idea of using land and water conservation fund dollars for maintenance or operations. We think that’s a part of the regular budget.”

LWCF reauthorization is one such opportunity. Reauthorization presents an opportunity for Congress to address many of the critical needs on existing federal lands and to prevent further increases in the deferred maintenance backlog. To do this, Congress must first clarify that maintenance counts as a “related purpose” for which LWCF can be used. Second, Congress should prioritize the allocation of LWCF funds for maintenance before we devote additional funds to land acquisition

Even with these changes, the LWCF is not sufficient at its current funding level of \$900 million to erase the entire maintenance backlog. Indeed, the NPS estimates that it would have to spend nearly \$700 million each year on deferred maintenance projects just to hold its backlog steady at \$11.5 billion.¹⁹ Given this reality, Congress must identify and tap additional funding sources that can help federal land managers tackle the maintenance backlog.

One funding source that has already given federal land managers much needed budget flexibility is user fees.²⁰ Allowing managers to charge (or, in some instances, continue to charge) user fees and retain the majority of the fees collected on-site would better align the incentives of land managers and land users. Retained receipts would also help land managers prioritize maintenance projects in a way that would complement and perhaps direct any LWCF funds appropriated exclusively for maintenance.

Conclusion

The reauthorization of the LWCF presents an opportunity for Congress to address many of the critical unfunded needs on existing federal lands and prevent further increases in the deferred maintenance backlog. As Congress considers reauthorizing the LWCF, policymakers should seek to reform the program to provide a steady and reliable source of funding for maintenance, repairs, and revitalization of existing federal lands before those funds are used to expand the federal estate.

Thank you again for the opportunity to testify and present my views on this important subject.

¹⁹ Statement of Jonathan B. Jarvis, Director, National Park Service, Department of the Interior, Before the Senate Committee on Energy and Natural Resources, for an Oversight Hearing to Consider Supplemental Funding Options to Support the National Park Service’s Efforts to Address Deferred Maintenance and Operational Needs. July 25, 2013. http://www.energy.senate.gov/public/index.cfm/files/serve?File_id=6d4ed073-b1f5-42cf-a61a-122be71e67b9

²⁰ See, for example, Donald Leal and Holly Fretwell. 1997. “Back to the Future to Save Our Parks.” *PERC Policy Series*. <http://www.perc.org/articles/back-future-save-our-parks-full>.