



# **National Land Acquisition Plan**

US Department of the Interior  
and  
US Department of Agriculture

February, 2005

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*(Cover Photo: Atwood Basin — Ashley National Forest, Utah)*

# National Land Acquisition Plan

## Executive Summary

The House Report on the FY 2004 Appropriations Act for Interior and Related Agencies includes the following directive:

*“The Committee directs the Secretaries of the Interior and Agriculture to develop jointly a long-term national plan outlining the acreage goals and conservation objectives for Federal land acquisition. The plan must demonstrate how the agencies will work together to realize acreage goals and must include a schedule for monitoring progress in meeting Federal land acquisition goals. Additionally, the plan should: 1) evaluate existing authorities regarding the disposal and consolidation of Federal Lands ; 2) review the methods employed for receiving and evaluating public input on potential acquisitions; and 3) address the reimbursement of all costs associated with the transfer of former military and other Federal lands to the Department of the Interior and the Forest Service.”*

This report specifically focuses on the Committee’s directive to develop a long-term national plan that outlines the ultimate objectives (Departmental objectives) and demonstrates how land acquisition contributes both directly and indirectly to achieving these objectives.

The Departments<sup>1</sup> have identified three conservation objectives, all stemming from the DOI Strategic Plan. These Departmental conservation objectives are: 1) *Resource Protection*, 2) *Recreation*, and 3) *Serving Communities*. The Departments have also identified *Resource Use* and *Management Excellence* as Departmental objectives. While these are not Departmental *conservation* objectives, they have great importance to both Departments represented in the report. Land transactions play a direct and indirect role in management excellence and in resource use (e.g., through increased manageability of lands made possible through the acquisition and disposal of selected lands). Chapter 3 and Appendix A provide a more robust discussion of the Departmental objectives.

To respond to the Committee’s directive, an interdepartmental team<sup>2</sup> developed this report to explain how Departmental objectives set the focus and direction for land management decisions, and how agency decision processes incorporate this direction to ensure that land is effectively protected and managed. To accomplish these objectives, the agencies utilize a suite of land management tools, *of which land acquisition is just one*. To make efficient use of Federal resources, it is crucial that the most appropriate tool in the suite be selected.

This examination of the processes agencies employ for selecting the most appropriate tool, and for highlighting the nexus between these processes and the Departmental objectives, marks the first significant effort to compile this information. The evaluation showed that the agencies have a focus and direction for priorities concerning land acquisition. This report highlights the agency processes for selecting the most appropriate tool, along with some proposed improvements, so that it is clear to Congress, as well as the public, that land acquisition is used with discretion, extensive public input, and only when appropriate. However, the Departments also acknowledge that because this is a first effort, there may be opportunities for improving land acquisition processes that are not identified in this report. The Departments will continue to

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<sup>1</sup> For the purposes of this report, “Departments” refers to both the Department of the Interior (DOI) and the Department of Agriculture (USDA). Additionally, “agencies” refers to the bureaus within DOI as well as the Forest Service (FS).

<sup>2</sup> Staff from the National Park Service (NPS), Fish and Wildlife Service (FWS), Bureau of Reclamation (BOR), Bureau of Land Management (BLM), and the Office of the Secretary within DOI, and the US Forest Service (FS) within the USDA participated in the compilation of this report.

evaluate opportunities for improving land acquisition processes and will report to Congress on any significant changes in the future.

The graphic, or “roadmap,” shown to the right, outlines the sequence of steps the agencies follow in developing their land management strategies. As described in this report, each agency uses detailed processes to determine which land management strategy to implement, including when to use acquisition as a land management tool. These complex processes take into account a wide variety of factors, such as public values, accountability, transparency, and respect for private property, as well as other factors to help attain the Departmental objectives and agency goals. This roadmap is explained in greater detail in Chapter 1.



## Key Findings

- This joint long-term national plan presents the framework for land acquisition decisions based on strategic goals. Both Departments’ conservation objectives (resource protection, recreation, and serving communities) provide the basis for specific programmatic actions. Though the conservation objectives stem from the DOI strategic plan, the FS goals relating to land acquisition are largely analogous.
- This planning framework is complemented by four agency step-down plans, and specific programmatic plans, that consider the priority and future needs for a full spectrum of conservation tools, including land acquisition. Therefore, this national plan presents, by necessity, four separate yet interrelated agency plans.
- To meet the Departmental objectives and agency goals, the Departments use a suite of tools that include cooperative conservation and land acquisition. The Departments have significantly increased investments in cooperative conservation programs that allow for the achievement of conservation objectives and often preclude the need for acquisition. For example, the Departments utilize alternative tools to Federal acquisition such as partnerships (e.g., the Forest Legacy Program), state grants (e.g., the Landowner Incentive Program), and matching funds to landowners (e.g., the Challenge Cost Share Program).
- Land managing agencies’ planning processes provide an institutionalized, structured approach to plan for long-term conservation objectives tied to budget development. This approach provides a framework for prioritizing conservation actions and determining *whether and how* acquisition should be utilized. When land acquisition is selected as the appropriate tool, it plays a key role, both directly and indirectly, in achieving Departmental objectives and agency goals.
- Through these processes, the Departments monitor, on an annual basis, progress in achieving conservation goals. The approach proposed in Chapter 6 improves the Departments’ abilities to plan for the future, adapt to changing needs, and evaluate the effectiveness of land management outcomes. It further allows the Departments to maintain needed flexibility to adjust the blend of program tools used based on progress in achieving end outcome goals and addressing other strategic and practical considerations. The

proposed approach provides for monitoring of progress in achieving goals, including agency reports of accomplishments.

- The Departments will continue to improve their processes, thereby better identifying how these tools, including acquisition, lead to achievement of end outcome goals, i.e., the conservation objectives. Acreage goals are not an appropriate measure to determine if the conservation objectives are achieved, as they result in “outputs” and not “outcomes,” which as noted above, may be achieved by means other than acquisition. The Departments will work to improve measures and better quantify results in order to link results to inputs and outputs, or activities.
- The agencies’ existing legislative authorities provide them with tools and safeguards to discharge their responsibilities to the public for the acquisition, disposal and prudent administration of the Federal estate. See Annex 1 for a review of the authorities.
- The agencies’ methods for receiving, reviewing and evaluating public input are important components of their decision-making processes for determining if and how to acquire lands. While the processes the agencies use to solicit and receive public input differ slightly, in general, public input is solicited and considered at the planning stages, and public input is sought again if any land transactions deviate, or were unforeseen in the planning stage (e.g., for land exchanges). Annex 2 provides a discussion of the methods employed for receiving and evaluating public input on potential acquisitions.
- The DOI and the USDA receive the majority of transferred lands from the Department of Defense (DOD), but also receive some land from the Department of Energy (DOE). A major concern to both the DOI and the USDA is that many of these lands contain environmental contaminants stemming from past DOD and DOE activities. Often some of the burden of cleaning these lands to an acceptable level for DOI/USDA purposes falls to the receiving agencies. Annex 3 discusses the various issues, problems, and costs associated with these land transfers.
- While the Departmental objectives and agency goals provide a strong focus and direction for land acquisition, the agencies can improve in the following areas:
  - 1) Improved Coordination among Federal Agencies—While the agencies currently consult with each other, improvements are needed to better coordinate to ensure that lands are managed in the most appropriate manner and by the agency or entity best suited to manage the land. A new process for increased inter-agency as well as intra-agency consultation and coordination has been developed as a result of this report. (See page 41.)
  - 2) Improved Monitoring—The agencies each have various processes for monitoring and evaluating their land acquisition programs. These focus on the role acquisition plays in meeting Departmental objectives and agency goals, ensuring clear policies and guidance are provided, and determining if the outcomes are cost-effective. However, the agencies will strengthen these evaluations by augmenting their existing procedures with periodic retrospective assessments. (See Chapter 6 for more details.)
  - 3) O&M—While operations and maintenance costs (O&M) are well documented and evaluated when selecting and prioritizing projects, these costs have not been visibly incorporated into the Departments’ land acquisition project descriptions in budgets until the DOI began doing so in FY 2004. Beginning in FY 2006, the FS will also formally reflect O&M costs in their project descriptions of proposed LWCF land acquisitions in the budget justifications. Additionally, beginning in FY 2006, where relevant, both the DOI

and the FS will require agencies to fund O&M for newly acquired land in the year following acquisition of a parcel of land. (See page 34 for more specifics.)

- 4) Agency Criteria—The agencies recognize that any land acquisitions need to reflect Departmental objectives and agency goals. As part of the monitoring improvements suggested in Chapter 6, information garnered may be used to assess agency criteria in the future. The Forest Service has already determined that its ranking criteria for Land and Water Conservation Fund projects needed to better incorporate its Departmental conservation objectives and FS goals. As detailed in this report, the FS is updating its ranking criteria to ensure that these goals are taken into account. (See page 36 and Appendix B.)
- 5) Transfer of Military and other Federal Lands—This report contains recommendations to better address costs associated with the transfer of former military and other Federal lands: creating clearer policies and regulations regarding the cleanup of lands, engaging in early consultations with the Department of Defense to improve the transfer process, developing model language and policies related to land transfers, and developing a shared approach to infrastructure issues (such as the management of abandoned buildings and the remediation of safety hazards). See Annex 3 for a discussion of these issues and recommendations.

# CHAPTER 1:

## Introduction

### Report Language

The House Report on the FY 2004 Appropriations Act for Interior and Related Agencies includes the following directive:

*“The Committee directs the Secretaries of the Interior and Agriculture to develop jointly a long-term national plan outlining the acreage goals and conservation objectives for Federal land acquisition. The plan must demonstrate how the agencies will work together to realize acreage goals and must include a schedule for monitoring progress in meeting Federal land acquisition goals. Additionally, the plan should: 1) evaluate existing authorities regarding the disposal and consolidation of Federal Lands; 2) review the methods employed for receiving and evaluating public input on potential acquisitions; and 3) address the reimbursement of all costs associated with the transfer of former military and other Federal lands to the Department of the Interior and the Forest Service.”*

### Scope and Organization

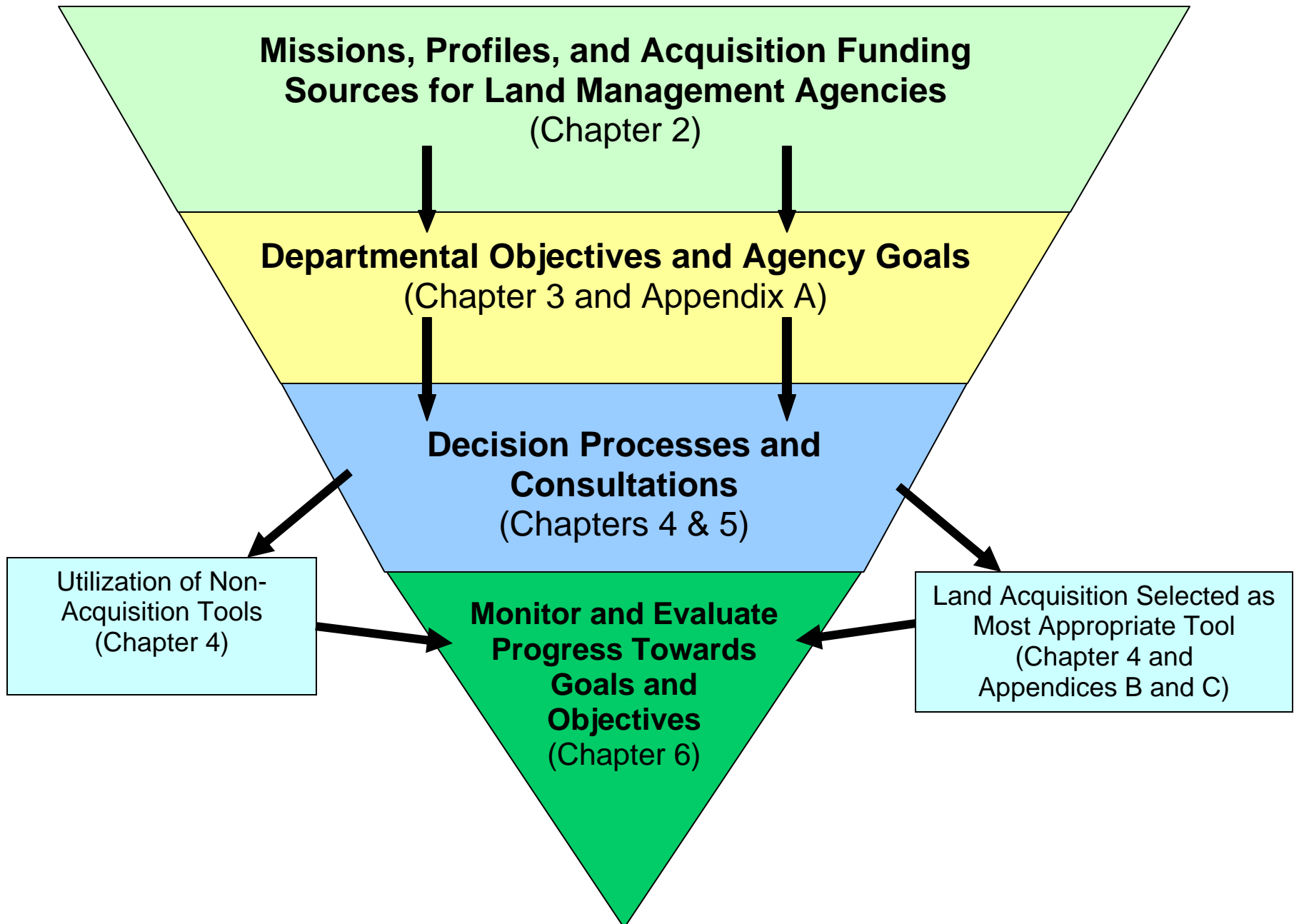
This report responds to the Committee’s directives outlined above by providing specific answers to the Committee’s questions and concerns as well as by providing an overview of how the Federal land acquisition process operates. Given the Congressionally mandated distinct differences among the agency missions, this joint long-term national plan is not one plan, but by necessity, four separate yet interrelated plans.

The following graphic is a “roadmap” depicting the sequence of steps the agencies use in their land management strategies. As described in this report, each agency has a process to determine which land management strategy to implement, including when to use acquisition as a land management tool. These complex processes take into account a wide variety of factors including available funding, public input, the effectiveness of various tools, biological issues, and several other relevant factors in order to help achieve Departmental objectives and agency goals. This roadmap is provided as a framework for the reader to highlight and link the major elements of the decision process.

This report is divided into six chapters with three annexes, followed by appendices which provide more detailed information. The roadmap depicts the linkages among the six chapters in the report, which respond to the Committee’s request for the development of a joint long-term national plan and conservation objectives. The annexes are not depicted in the roadmap as they are responses to the three discrete questions posed by the Committee regarding legislative authorities, public input processes, and the costs of Federal land transfers.



# “ROADMAP”



- Chapter 1: *Introduction*, provides a “roadmap” to the report outlining the sequence of steps in the agencies’ land management strategies;
- Chapter 2: *Background*, presents a brief overview of the mission of the four major land managing agencies and provides the context for why the agencies have different considerations for if and how they acquire land. The differences in agency missions shape the various agency goals and therefore decisions in determining which tool to use (including acquisition) to manage lands. Additionally, this chapter describes the acquisition authorities available to agencies, highlights examples of cooperative conservation tools, and provides an overview of the source and current amounts of acres managed;
- Chapter 3: *Goals and Departmental Objectives*, responds to the Committee’s directive to outline conservation objectives (Resource Protection, Recreation, and Serving Communities) and introduces other Departmental objectives, such as Resource Use and Management Excellence. This chapter illustrates the nexus between the Departmental objectives and specific agency goals, and highlights how land acquisition helps achieve these objectives and goals both directly and indirectly. As depicted in the roadmap, these goals and objectives lay the foundation for the land management strategy. Additionally, this chapter highlights that acreage goals are not appropriate for a long-term national plan, as acquisition is a tool, or output, rather than an intrinsic goal. The broader goal is to protect land for conservation and other purposes. A plan predicated on acreage goals would not accomplish these objectives and goals, but would instead simply produce outputs (e.g., number of acres acquired) rather than outcomes (e.g., restoration of wetland habitat). Details to supplement this chapter are included in Appendix A;
- Chapter 4: *Land Acquisition Strategy – Tools and Processes*, describes the processes agencies use to determine how best to manage and conserve public lands under their stewardship. As depicted in the roadmap, this chapter explains how agencies use a suite of tools to protect lands, of which acquisition is just one. Lastly, this chapter describes how agency goals and Departmental conservation objectives are considered when evaluating specific land acquisition projects. Specific information to supplement this chapter is included in Appendices B and C;
- Chapter 5: *Consultation and Coordination*, responds to the Committee’s request to demonstrate how the agencies coordinate on land acquisition activities and includes a proposal to strengthen this coordination. Additionally, this chapter includes information on how the agencies work with non-Federal partners; and
- Chapter 6: *Monitoring and Evaluation*, addresses the Committee’s request to show how the agencies monitor their progress in meeting their goals.

Annexes 1, 2 and 3 each cover the specific directives relating to existing authorities, public input, and the reimbursement of costs correlated with the transfer of Federal lands, respectively.

For the purposes of this report, “land acquisition” includes: acquiring fee, or less-than-fee interest by the following methods: purchase, donation, transfer, withdrawal, condemnation, and land exchange transactions. Land acquisition does not include sales; however, sales are discussed where appropriate in this report, as land disposal can be an important component of land management strategies.



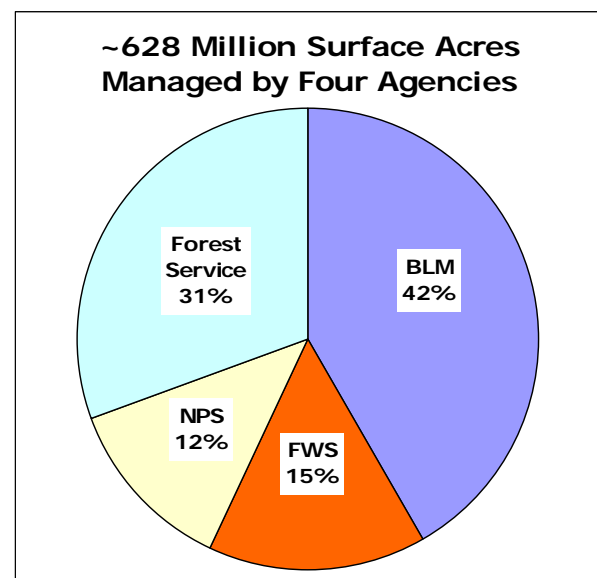
# CHAPTER 2: Background



## Missions and Profiles of Land Managing Agencies

This report focuses on the four major land-managing agencies, which administer approximately 632 million acres of lands, all funded through the Interior and Related Agencies Appropriations Subcommittee. They are the Bureau of Land Management (BLM), the U.S. Fish and Wildlife Service (FWS), and the National Park Service (NPS) in the Department of the Interior (DOI), and the U.S. Forest Service (FS) in the Department of Agriculture (USDA). Information regarding another DOI agency, the Bureau of Reclamation (Reclamation), which manages some 8.6 million acres, will be provided selectively. Background data on Reclamation is provided as summary information in Appendix D.

As highlighted below, the Congressionally mandated missions of the four major land-managing agencies in the DOI and the USDA are quite diverse and create disparity in the reasons for acquisition of land and its management. These differences set the context for this report.



**The Mission of the Bureau of Land Management** is to sustain the health, diversity, and productivity of the Nation's public lands for the use and enjoyment of present and future generations.

**The Mission of the Fish and Wildlife Service** is to conserve, protect, and enhance fish and wildlife and their habitats for the continuing benefit of the American people.

**The Mission of the National Park Service** is to preserve, unimpaired, the natural and cultural resources and values of the national park system for the enjoyment, education and inspiration of this and future generations. The NPS cooperates with partners to extend the benefits of natural and cultural resource conservation and outdoor recreation throughout this country and the world.

**The Mission of the Forest Service** is to sustain the health, diversity, and productivity of the Nation's forests and grasslands to meet the needs of present and future generations.

Given the diverse missions, the lands administered by the four agencies are managed for a variety of purposes. The BLM and FS lands are designated for multiple-use and as such provide diverse recreational opportunities, commodity uses, and an abundance of cultural resources. The FWS lands are managed primarily for flora and fauna resource protection, and the NPS protects natural and cultural resources for the visiting public. Details concerning each of the agencies follow:

**The Bureau of Land Management** manages about one-eighth of the total land in the United States. In the Federal Land Policy and Management Act of 1976 (Public Law 94-579), Congress recognized the value of the public lands by declaring that these lands would generally remain in long-term public ownership and recognized the importance of the multiple-use management of these public lands.

The following charts depict the acres currently administered by the BLM as well as the number of units and size of “BLM special management areas.”

<b>Acres Administered by BLM</b>	
<b>Acres Currently Managed by BLM</b> (surface estate)	262 million acres
<b>Acres of On-Shore Federal Mineral Estate</b> (on or underlying both Federal surface ownerships and privately owned surface)	700 million acres

Over 7 million acres of non-Federal inholding lands lie within National Monuments and National Conservation Areas, as well as several million acres of non-Federal lands located in other BLM “special management areas,” or in areas that have special public access needs.

<b>BLM Special Management Area</b>	<b>No. of Units</b>	<b>Area / Distance</b>
National Monuments	15	4,806,947 acres
National Conservation Areas	13	13,976,146 acres
Wilderness Areas	161	6,515,287 acres
Wilderness Study Areas	604	15,566,656 acres
National Wild & Scenic Rivers	38	1,005,652 acres
ACEC Areas	907	12,939,368 acres
National Natural Landmarks	45	417,429 acres
Research Natural Areas	184	426,566 acres
Herd Management Areas	206	29,649,100 acres
National Historic Trails	10	4,563 miles
National Scenic Trails	2	640 miles
National Recreation Trails	29	441 miles
National Backcountry Byways	56	3,028 miles

Over the years, the BLM has maintained a relatively constant number of acres of public land in Federal ownership. However, the BLM does have a variety of land disposal and land acquisition authorities available to improve the management efficiencies of the public lands and meet local community expansion and development needs. In fact, the BLM’s land acquisitions are typically more than offset by the disposal of acreage. For example, from FY 2001 - FY 2003, net disposals by BLM exceeded net acquisitions by more than 430,000 acres.

**The U.S. Fish and Wildlife Service** manages migratory bird populations, restores interjurisdictional fisheries, conserves and restores wildlife habitat, administers the Endangered Species Act (P.L. 93-205), and assists foreign governments with their conservation efforts. Its lands provide essential habitat for numerous wildlife species, recreational opportunities for the public, and a variety of benefits to local communities.

The following chart depicts the acreage currently administered by the FWS within the approved acquisition boundaries for the National Wildlife Refuge System (NWRS), as well as the remaining acreage that has or has not been identified for acquisition.

<b>Acres Administered by FWS<sup>1</sup></b>	
<b>Acres Currently Managed by FWS</b> (85% of these acres were withdrawn from the public domain)	96.0 million acres
<b>Acres not Administered by FWS (Inholdings)</b>	
<b>Acres Adequately Protected through Means Other than Acquisition</b> (e.g., partnerships with States)	10.7 million acres
<b>Acres Identified for Protection</b> (protection may be achieved through FWS acquisition or by others in the conservation community)	
Within the next 15 years <sup>2</sup>	3.6 million acres
At the end of 15 years <sup>2</sup>	3.0 million acres
<b>Total acres within approved acquisition boundaries for NWRS</b>	<b>113.3 million acres</b>
<sup>1</sup> New units may be added, or additions can be made to existing units, as indicated by biological situations, Congress, or the Administration. <sup>2</sup> Acreage projections are based on a 15 year cycle.	

### **The National Park Service**

cooperates with partners to extend the benefits of natural and cultural resource conservation and outdoor recreation throughout this country and the world. The Land Resources Program, which manages the Federal acquisition of land and interests in land within the authorized boundary of National Park System units, works to support the mission of the National Park System. Acquisition of lands within the boundaries of units enables the NPS to maintain the physical

resources at each site, interpret the site in accordance with the individual unit's mission and goals, and provide visitor access where appropriate for education and recreation purposes.



*Manatee and calf (photo: USGS)*

Over the past ten years, 25 new units have been established by Congress. These range from the Flight 93 National Memorial to the Cedar Creek and Belle Grove National Historical Park.

The following chart depicts the acreage currently administered by the NPS within the National Park System as well as the remaining acreage that has or has not been identified for acquisition within the Land Protection Plans for individual units:

<b>Acres Administered by NPS</b>	
<b>Acres Currently Managed by the NPS within the National Park System<sup>1</sup></b> (in fee or less-than-fee)	78 million acres
<b>Acres Not Administered by NPS (Inholdings)</b>	
<b>Acres Adequately Protected through Means Other than Acquisition</b> (e.g., through zoning, therefore the NPS has no plans to acquire)	4.8 million acres
<b>Acres Identified for Either Fee or Less-than-Fee Acquisition</b> (therefore recommended for purchase)	1.7 million acres
<b>Total Acres within NPS Boundaries</b>	<b>84.5 million acres</b>
<sup>1</sup> Includes submerged marine area acreage donated or transferred.	

**The U.S. Forest Service** manages over 192.4 million acres of lands. The purposes of National Forests have been set out in various Acts, beginning with the Organic Act of 1898 (P.L. 84-979), which established four basic purposes of Forest Reserves (now called National Forests):

- 1) Improve and protect the forests;
- 2) Secure favorable conditions of water flows;
- 3) Furnish a continuous supply of timber; and
- 4) Open the Forest Reserves for development and use.

Other legislation broadened the mission for the FS by providing for:

- Acquisition of lands needed for the regulation of water flow of navigable streams or for the production of timber;
- Establishment and administration for outdoor recreation, range, timber, watershed, and wildlife and fish purposes;
- Multiple uses in the combination that will best meet the needs of the American people;
- Control of soil erosion, reforestation, preservation of natural resources, protection of fish and wildlife, development and protection of recreational facilities, mitigation of floods, prevention of impairment of dams and reservoirs, development of energy resources, conservation of surface and subsurface moisture, protection of the watersheds of navigable streams, and protection of the public lands health, safety and welfare;

- Acquisition of lands as Research and Experimental Areas for the purpose of conducting research relating to the protection, management, utilization, and conservation of renewable resources on forests and rangelands; and
- Designation of special areas such as wilderness, wild and scenic rivers, recreation areas, trails, and scenic areas.

The following chart depicts the total national acreage and units of land within the National Forest System:

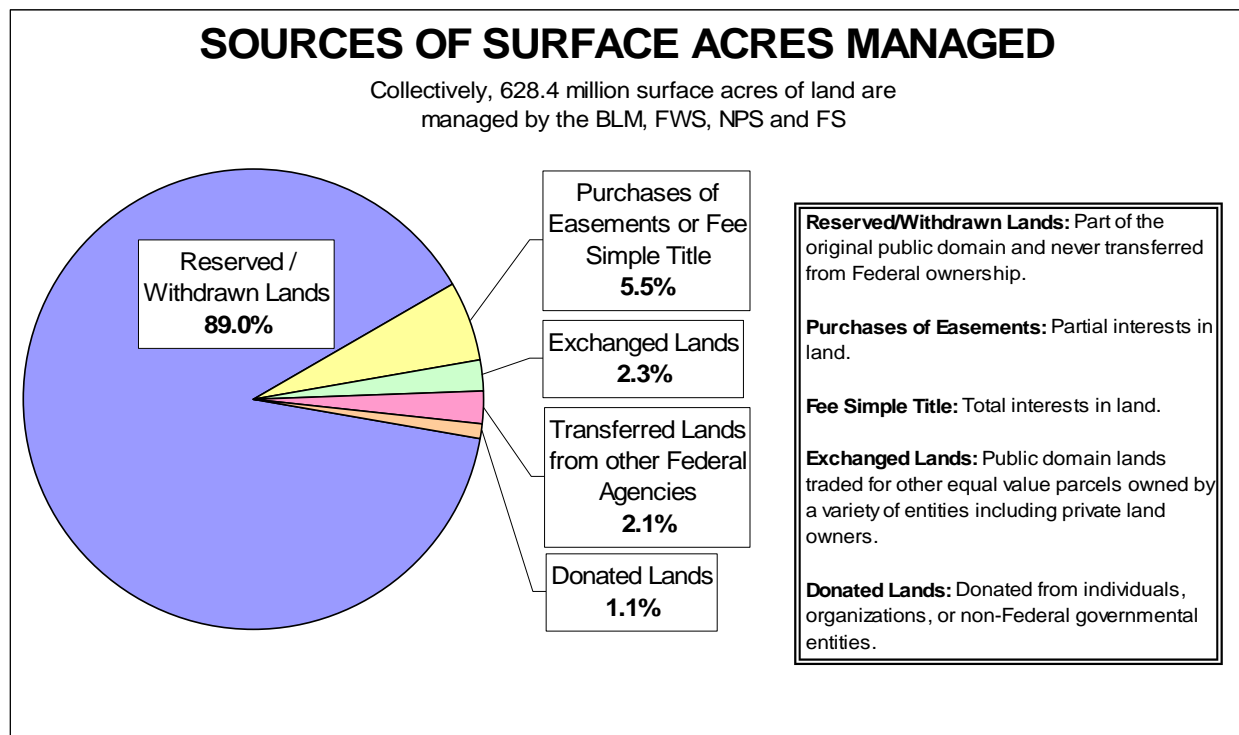
<b>National Forest System</b>	<b>No. of Units</b>	<b>Area (acres)</b>	<b>Acres not Administered by NFS within boundaries (inholdings)</b>
National Forests *	155	187,811,680	37,654,870
Purchase Units	59	361,688	1,879,606
National Grasslands	20	3,839,174	425,489
Land Utilization Projects	6	1,876	
Research and Experimental Areas	20	64,871	8,283
Other Areas	34	295,814	592
National Preserves	1	89,716	
<b>TOTAL</b>	<b>295</b>	<b>192,464,819</b>	<b>39,968,840</b>

\* Included in the National Forest System acreages above are a significant number of Congressionally established Special Designated areas. These areas are identified in the following table.

<b>Special Designated Areas within <u>National Forests</u></b>	<b>No. of Units</b>	<b>Area (acres)</b>	<b>Acres not Administered by NFS within boundaries (inholdings)</b>
Wilderness Areas	420	34,752,767	452,200
National Primitive Area	1	173,762	1,350
National Scenic Areas	4	130,435	166,600
National Wild, Scenic & Recreation Rivers	45	946,321	251,530
<b>TOTAL</b>	<b>470</b>	<b>36,003,285</b>	<b>871,680</b>



The following two tables show sources of land by percentages and acres of managed surface lands for the BLM, FWS, NPS and FS:



### ORIGIN OF SURFACE ACRES OF LANDS MANAGED BY THE AGENCIES

		Reserve / Withdrawn	Purchase <sup>1</sup>	Exchange	Transfer	Donation	Total
<b>BLM</b>	<b>Percent</b>	<b>98.0 <sup>2</sup></b>	<b>1.1</b>	<b>0.9 <sup>3</sup></b>			<b>100.0</b>
	Acres in Millions	256.8	2.9	2.3			262.0
<b>FWS</b>	<b>Percent</b>	<b>85.5 <sup>4</sup></b>	<b>7.3</b>	<b>0.5</b>	<b>4.9</b>	<b>1.8</b>	<b>100.0</b>
	Acres in Millions	82.1	7.0	0.5	4.7	1.7	96.0
<b>NPS</b>	<b>Percent</b>	<b>85.0 <sup>4</sup></b>	<b>4.0</b>	<b>1.0</b>	<b>4.0</b>	<b>6.0</b>	<b>100.0</b>
	Acres in Millions	66.3	3.1	0.8	3.1	4.7	78.0
<b>FS</b>	<b>Percent</b>	<b>80.1 <sup>5</sup></b>	<b>11.1 <sup>6</sup></b>	<b>5.7 <sup>7</sup></b>	<b>2.8</b>	<b>0.3</b>	<b>100.0</b>
	Acres in Millions	154.2	21.3	11.0	5.4	0.5	192.4
<b>TOTAL</b>	<b>Percent</b>	<b>89.0</b>	<b>5.5</b>	<b>2.3</b>	<b>2.1</b>	<b>1.1</b>	<b>100.0</b>
	Total Acres in Millions	559.4	34.3	14.6	13.2	6.9	628.4

<sup>1</sup> Total includes easements and fee simple acquisitions.

<sup>2</sup> Reserved lands in the public domain.

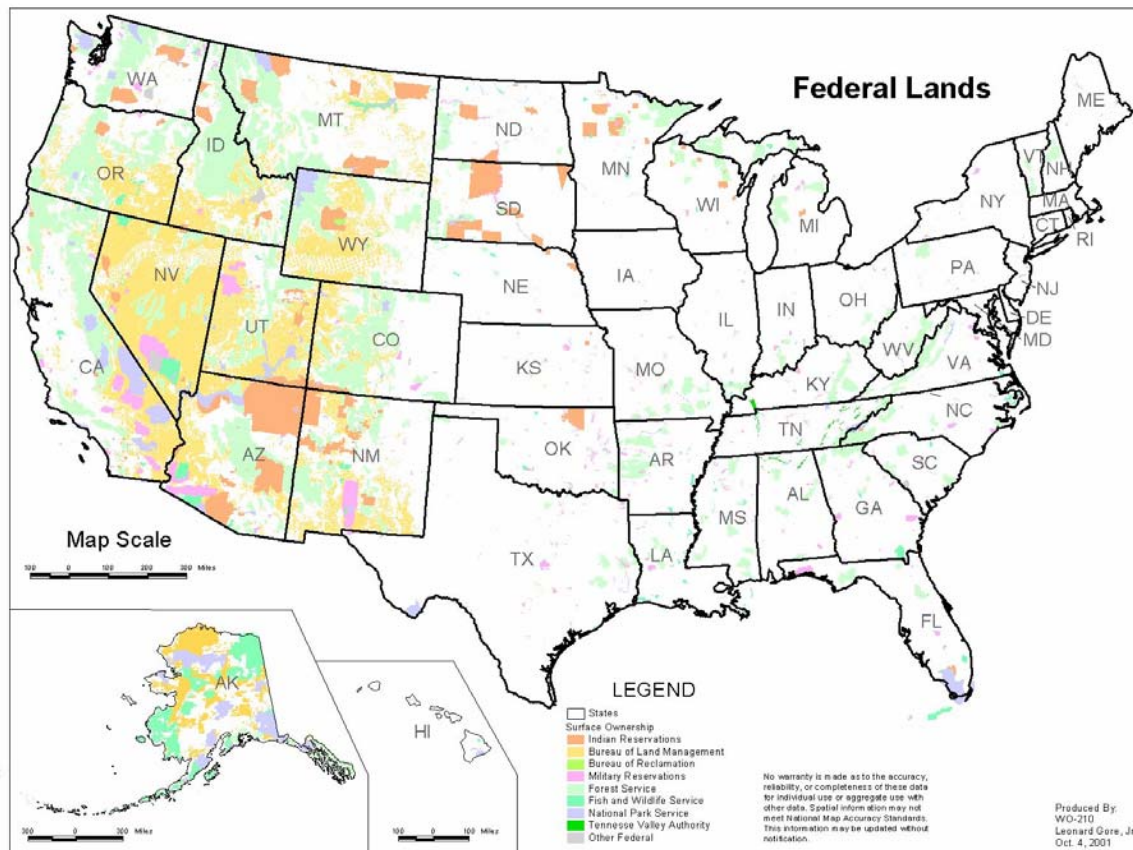
<sup>3</sup> Represents data only since 1990. Other exchange lands would be reflected in purchase column.

<sup>4</sup> Withdrawn from the public domain.

<sup>5</sup> Includes 65,649 riparian reserved acres.

<sup>6</sup> Includes 19,972 riparian acquired acres.

<sup>7</sup> The U.S. Forest Service distinguishes between "exchange acquired lands," which were previously patented out of Federal ownership (a U.S. government deed conveying legal title to public lands to the patentee) and then are re-acquired and "exchange reserved lands," which are lands that have never been patented.



Produced by: Bureau of Land Management, WO-210 Planning, Assessment and Community Support, October 2001

## Funding Sources

A variety of authorities and funding sources are available to support the land acquisition goals and objectives of the agencies. The following list of funding sources provides an introduction to each source, and briefly describes how priorities are set and decisions are made. Additionally, a chart depicting the acreage and associated costs for acquired land by source, as well as a chart highlighting disposals are included on pages 14-15. Specific information on how acquisition decisions are made for each source, including agency priority ranking systems and criteria, can be found in Appendix B.

- The Land and Water Conservation Fund (LWCF, P.L. 88-578)** – This fund was established for acquisition of lands or for other uses (as determined by Congress) to ensure public access to outdoor recreational resources and to provide protection of critical resources. The NPS, FWS, FS, and BLM all utilize LWCF to support their agency goals and Departmental objectives. Each agency has created its own ranking system based on its mission to determine which projects should receive the highest priority for acquisition. These ranking systems are the primary tools by which agencies establish their annual land acquisition budget request. Nominations for LWCF projects stem from the local level and nationwide rankings are compiled at the Departmental level from regional submissions.
- The Southern Nevada Public Land Management Act (SNPLMA) of 1998 (P.L. 105-263) and the Federal Land Transaction Facilitation Act (FLTFA) of 2000 (P.L. 106-248)** – With the enactment of these laws, the BLM has new authorities to generate funds from public land sales that may benefit land acquisitions by the BLM, FWS, NPS, and the FS. The revenues from public land sales in the Las Vegas area, under SNPLMA, are made

available for land acquisitions, and for other local recreation and conservation benefits, to the agencies in Nevada without the need for separate appropriations from Congress. Between November, 1999 (first sale), and June, 2004 (most recent sale), 8,142 acres were sold, for a total of \$1,383,744,611. As shown on the chart on page 14, 1,019 acres (for a total of over \$10.8 million) have been acquired by BLM with these funds. However, an existing balance of over \$300 million of obligated projects have been approved by the Secretary of the Interior and await completion.

Similarly, FLTFA provides authority to the BLM to generate funds from public land sales that would be available for land acquisitions by the agencies without the need for further appropriations from Congress. However, the potential to generate substantial funds from public land sales in other States, similar to the level of activity in Las Vegas, is not as great since land in Las Vegas is so high in value. In addition, FLTFA generally limits the provision of funds to land acquisitions in the western States. Priorities for both SNPLMA and FLTFA acquisitions are based on local nominations for resource conservation. Interagency committees at the local level then rank and prioritize the recommendations, which are eventually reviewed by the agency managers and the Departments.

- **The Migratory Bird Conservation Fund (MBCF)** – This is another major funding source available to the FWS and is funded principally by the sale of “Duck Stamps” and import duties on arms and ammunition. Funds available from the Migratory Bird Conservation Fund for acquisition within existing refuge boundaries are generally in the range of \$40 million to \$50 million per year, and the goals and objectives for the land acquisition effort are driven by the wetlands and migratory bird habitat needs of the units in the National Wildlife Refuge System. The FWS prepares an annual plan, based on immediate acquisition opportunities identified, to be approved by the Director. The proposals in this plan are then brought to the Migratory Bird Conservation Commission, established under the provisions of the Migratory Bird Conservation Act of 1929 (P.L. 70-770), for approval.
- **The North American Wetland Conservation Act (NAWCA) of 1989 (P.L. 101-233)** – NAWCA also provides some funding to the FWS for land acquisitions within approved boundaries to support the protection of wetlands habitat. This major source of Federal funding is to encourage partnership efforts to protect, enhance, restore, and manage wetlands and other habitats for migratory birds and other fish and wildlife to carry out the objectives of the North American Waterfowl Management Plan. Funds available from NAWCA usually range between \$40 million to \$50 million per year; however, very few of these funds are used for refuge land acquisition, as most of the funding is allocated to partners in Canada, the United States, and Mexico. The North American Wetlands Council reviews and approves the grant proposals, based on specific criteria, which are then presented to the Migratory Bird Conservation Commission for approval.
- **Land exchanges** – While not a funding source, land exchanges are included in this list because they are the tool often used by both the BLM and the FS to acquire lands for resource benefits as well as to improve land ownership configuration for management efficiencies. These are generally authorized under the Federal Land Policy and Management Act of 1976 (P.L. 94-579) (coupled with the Weeks Act (P.L. 61-435) or the General Exchange Act (P.L. 67-173) for the FS) and are funded within existing agency appropriations. Land exchanges can also be used by the NPS and the FWS to acquire lands and may provide some opportunities to offset the need for LWCF appropriations from Congress for other agency land acquisition needs. Land exchanges by their very nature are complex transactions and involve both the disposal of Federal land and the acquisition of non-Federal land. Public input, consistency with land use plans, and screening criteria help to determine whether an agency will enter into an agreement to initiate a land exchange.

## **Cooperative Conservation**

Both Departments believe that conservation neither can, nor should, rely solely on the Federal government. By partnering with States, Tribes, community organizations, and individual citizens through a host of programs, the Departments are encouraging a stewardship ethic for America that is citizen-led and landscape-based. These cooperative programs offer alternative tools to protect and manage lands without turning directly to Federal acquisition. Moreover, they result in significant leveraging of Federal funds and often broaden the ways in which lands are managed and conservation goals are achieved. In the last several budget cycles, DOI has made a conscious effort to balance Federal LWCF funding with funding for other programs, particularly cooperative conservation programs. Further, the future availability of better information on strategic plan outcomes should, over time, provide a more reliable basis to gauge the relative effectiveness of different tools and thus improve the linkage to budget formulation.

The Forest Service's Forest Legacy Program (FLP), now funded as part of the LWCF, is an example of such cooperative conservation and is an integral part of the broader FS Land Acquisition Program. The FLP, established in the 1990 Farm Bill to protect environmentally important forest areas that are threatened by conversion to non-forest uses and to promote private forestland protection through the use of conservation easements and fee-simple purchase, involves a partnership between State and Private Forestry and National Forest System mission areas of the Forest Service, State Foresters, local governments, land trusts, and interested landowners to conserve environmentally important forests. The FLP assures that both traditional uses of private lands and the public benefits of America's forests are protected for future generations. It provides an incentive-based mechanism to protect critical wildlife habitat, conserve watershed functions, and maintain recreation opportunities. The program uses a national competition to determine priority projects for funding.

The Department of the Interior also has a variety of Cooperative Conservation Programs, such as the Landowner Incentive Program, the Cooperative Endangered Species Conservation Fund, and the Partners for Fish and Wildlife Program. The latter has allowed the FWS to establish productive relationships with communities, conservation partners, Tribes, and over 30,000 landowners while providing them with both financial and technical assistance. Through this voluntary grant program, landowners are given the tools they need to make private lands working landscapes that benefit wildlife while maintaining productive activities. Since its creation in 1987, the Partners for Fish and Wildlife Program has established over 28,000 agreements with landowners resulting in the restoration of 1,060,000 acres of uplands, 649,300 acres of wetlands, and 4,670 miles of riparian and in-stream habitat. Under an Executive Order on Cooperative Conservation signed by President Bush in August 2004, agencies are enhancing their capacity to partner with others to achieve conservation goals.

## **Acreage Charts**

The chart on the following page shows the acres acquired by the BLM, FWS, NPS, and FS between FY 2001 - FY 2003, along with the associated costs, and sources of funds.

Acres Acquired and Associated Costs (FY 2001 – FY 2003)								
Bureau	FY 2001		FY 2002		FY 2003		Three Year Total	
	Acres	Cost	Acres	Cost	Acres	Cost	Acres	Cost
<b>BLM</b>								
Exchange <u>a/</u>	209,883	\$10,000,000	77,039	\$11,234,000	13,191	\$12,241,000	300,113	\$33,475,000
Purchase								
FLTFA (Baca II) <u>b/</u>	0	\$0	0	\$0	0	\$0	0	\$0
LWCF								
Fee <u>c/</u>	111,381	\$34,143,896	112,904	\$22,033,896	12,274	\$21,862,715	236,559	\$78,040,507
Easement	4,963	\$6,152,044	4,924	\$9,881,466	3,588	\$4,517,370	13,475	\$20,550,880
SNPLMA	0	\$0	551	\$1,976,000	468	\$8,893,000	1,019	\$10,869,000
Other Purchases <u>d/</u>								
Fee	101	\$165,000	2,246	\$344,231	3,441	\$1,400,815	5,788	\$1,910,046
Easement	202	\$102,570	1,171	\$1,649,677	77	\$32,479	1,450	\$1,784,726
Donation								
Fee <u>e/</u>	715	\$0	7,997	\$0	64,162	\$0	72,874	\$0
Easement	0	\$0	1	\$0	393	\$0	394	\$0
<b>Total BLM</b>	<b>327,245</b>	<b>\$50,563,510</b>	<b>206,833</b>	<b>\$47,119,270</b>	<b>97,594</b>	<b>\$48,947,379</b>	<b>631,672</b>	<b>\$146,630,159</b>
<b>FWS</b>								
Purchase								
LWCF								
Fee	26,476	\$66,006,537	42,502	\$64,613,508	35,517	\$66,660,614	104,495	\$197,280,659
Easement	16,972	\$3,553,170	49,128	\$6,894,719	31,640	\$4,496,024	97,740	\$14,943,913
MBCF								
Fee	23,110	\$22,580,867	24,760	\$28,909,581	37,178	\$24,612,753	85,048	\$76,103,201
Easement	79,228	\$12,052,420	49,222	\$9,398,349	38,815	\$8,696,745	167,265	\$30,147,514
NAWCA								
Fee	1,419	\$1,073,222	563	\$941,896	128	\$242,500	2,110	\$2,257,618
Easement	5,219	\$308,775	12,356	\$678,075	2,931	\$288,160	20,506	\$1,275,010
SNPLMA <u>f/</u>								
Fee	0	\$0	0	\$0	0	\$0	0	\$0
Easement	0	\$0	0	\$0	0	\$0	0	\$0
Other Funding <u>g/</u>								
Fee	4,249	\$6,165,178	3,351	\$4,309,037	1,308	\$4,250,222	8,908	\$14,724,437
Easement	9,483	\$6,518,300	2,124	\$6,783,750	2,922	\$288,160	14,529	\$13,590,210
Transfer & Donation								
Fee	970,943	\$0	41,641	\$0	348,195	\$0	1,360,779	\$0
Easement	24,167	\$0	6,566	\$0	11,078	\$0	41,811	\$0
<b>Total FWS</b>	<b>1,161,266</b>	<b>\$118,258,469</b>	<b>232,213</b>	<b>\$122,528,915</b>	<b>509,712</b>	<b>\$109,535,178</b>	<b>1,903,191</b>	<b>\$350,322,562</b>
<b>NPS</b>								
Exchange <u>h/</u>								
Fee	94	\$0	10	\$0	1,047	\$0	1,151	\$0
Easement	63	\$0	7	\$0	16	\$0	86	\$0
Purchase								
LWCF <u>i/</u>								
Fee <u>j/</u>	15,235	\$83,247,000	9,425	\$94,404,422	131,122	\$109,838,355	155,782	\$287,489,777
Easement	75	\$0	743	\$0	304	\$0	1,122	\$0
SNPLMA	0	\$0	0	\$0	0	\$0	0	\$0
Donation								
Fee	5,709	\$0	7,819	\$0	1,898	\$0	15,426	\$0
Easement	507	\$0	206	\$0	337	\$0	1,050	\$0
Transfer	41,749	\$0	187	\$0	7	\$0	41,943	\$0
Withdraw	47,353	\$0	0	\$0	0	\$0	47,353	\$0
<b>Total NPS</b>	<b>110,785</b>	<b>\$83,247,000</b>	<b>18,397</b>	<b>\$94,404,422</b>	<b>134,731</b>	<b>\$109,838,355</b>	<b>263,913</b>	<b>\$287,489,777</b>
<b>USFS</b>								
Exchange <u>k/</u>	35,132	\$0	10,915	\$0	25,981	\$0	72,028	\$0
Purchase								
LWCF <u>l/</u>	128,913	\$119,835,350	42,817	\$106,138,233	75,476	\$171,949,482	247,206	\$397,923,065
SNPLMA	0	\$0	0	\$0	1,789	\$29,000,000	1,789	\$29,000,000
Donation	12	\$0	207	\$0	1,858	\$0	2,077	\$0
<b>Total USFS</b>	<b>164,057</b>	<b>\$119,835,350</b>	<b>53,939</b>	<b>\$106,138,233</b>	<b>105,104</b>	<b>\$200,949,482</b>	<b>323,100</b>	<b>\$426,923,065</b>
<b>GRAND TOTAL</b>	<b>1,763,353</b>	<b>\$371,904,329</b>	<b>511,382</b>	<b>\$370,190,840</b>	<b>847,141</b>	<b>\$469,270,394</b>	<b>3,121,876</b>	<b>\$1,211,365,563</b>
<u>a/</u> Administrative costs shown are overall costs for all land exchanges and include some cash equalization payments. Value of exchanged lands are not included as there are no purchase costs. <u>b/</u> There is a \$16.3 M outstanding balance in the land acquisition portion of BACA. Of this balance, a \$5.2 M request is currently pending with the Secretary of the Interior. <u>c/</u> Includes an FY 2001 97,865 acre purchase, valued at \$10,889,439 within the California Wilderness project and includes an FY 2002 93,095 acre purchase, valued at \$3,100,000 within the California Wilderness project. <u>d/</u> From resource program activities and mitigation funds. <u>e/</u> Includes an FY 2003 63,288 acre donation, valued at \$11,100,387 within the California Wilderness project. <u>f/</u> No funds for acquisitions, restoration only. <u>g/</u> Includes other non-specified funding sources. <u>h/</u> NPS does not track administrative costs or equalization payments for exchanges. The value of exchanged lands are not included as there are no purchase costs. <u>i/</u> Costs include both fee and easement purchases. <u>j/</u> Includes an FY 2003 115,788 acre purchase at Hawaii Volcanos NP. <u>k/</u> In FY 2005, FS will begin tracking administrative costs per acre for all exchanges and acquisitions. Value of exchanged lands are not included as there are no purchase costs. <u>l/</u> Fee title and easement. Costs reflect total spending for the LWCF program.								

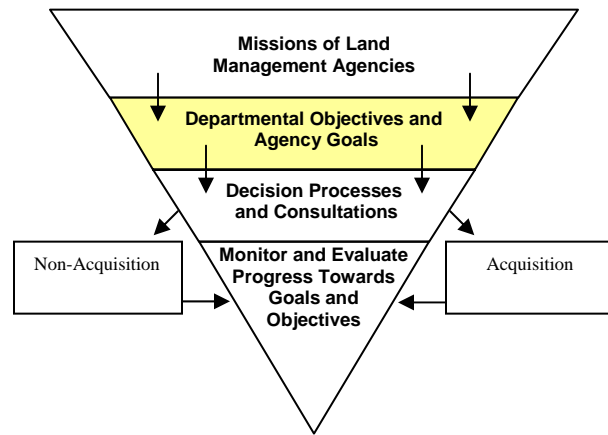
The following chart displays the land disposals by the BLM, NPS, and FS between FY 2001-2003:

<b>Disposals by Land Managing Agencies (Acres) *</b>				
	<b>FY 2001</b>	<b>FY 2002</b>	<b>FY 2003</b>	<b>Total</b>
<b>BLM</b>				
Exchanges	245,721	230,719	21,701	498,141
Sales	181,304	353,736	29,467	564,166
<b>NPS</b>				
Disposals	3,547	18	25	3,590
<b>FS</b>				
Exchanges	25,340	7,514	7,654	40,508
<b>TOTAL</b>	<b>455,912</b>	<b>591,987</b>	<b>58,847</b>	<b>1,106,405</b>
* FWS and NPS do not engage in land sales. Land is disposed through exchanges.				
FWS did not have significant disposals during this period.				



## CHAPTER 3:

# Goals and Departmental Objectives



In the House report accompanying the FY 2004 appropriations bill, the Committee articulated questions concerning the land acquisition goals and conservation objectives for the land management agencies. Specifically, the Committee expressed interest in how land acquisition goals and conservation objectives are established, and how the land acquisition goals are prioritized. This chapter and the associated appendix (Appendix A) outline Departmental objectives, focusing on the conservation objectives, and describe how these objectives and agency goals set the direction for potential land acquisition. This chapter also explains that the concept of “acreage goals” is not appropriate as a component of a long-term land acquisition plan. Finally, this chapter highlights DOL’s seven “principles” that guide land acquisition and provides examples of how agencies currently integrate these principles into their land transaction processes.

### Departmental Objectives

In responding to the Committee’s charge to develop a long-term plan outlining conservation objectives, the Departments determined that broader, mission-oriented goals are the most appropriate to set the context for the four related land acquisition plans. The following three Departmental conservation objectives, stemming from the DOL’s Strategic Plan (FY 2003-2008), best outline the mission responsibilities and ultimate conservation objectives of the various agencies. Although the objectives are derived from the DOL’s Strategic Plan, they also serve as Departmental conservation objectives for the FS, as these are shared priorities across the Departments. The Departmental *conservation* objectives are as follows:

- 1) **Resource Protection**—Protect the Nation’s natural, cultural, and heritage resources;
- 2) **Recreation**—Provide recreation opportunities for America; and
- 3) **Serving Communities**—Safeguard lives, property and assets, advance scientific knowledge, and improve the quality of life for communities we serve.

Resource Use, while not a Departmental *conservation* objective, is another Departmental objective important to the agencies as highlighted in the matrix on pages 20-21. Additionally, the ways in which the land acquisition programs support Management Excellence, another Departmental objective, are woven throughout the rest of this report.

Each agency has goals stemming from a variety of sources (strategic plans, GPRA goals, and others) which support overall Departmental objectives. These agency goals were formulated through various processes, usually commencing at the local level with significant public input.



The nexus between the Departmental objectives and the agency goals sets the focus and direction for any potential land acquisitions.

The matrix on pages 20-21 highlights how each agency's goals, specifically as they relate to land acquisition and management, support the Departmental conservation objectives. In general, land acquisition serves three main functions:

- 1) To create more manageable units;
- 2) To set aside nationally significant areas; and
- 3) To help achieve broader resource protection goals.

For example, land acquisition provides management efficiency through the consolidation of ownership, which in turn results in the reduction of boundary management costs, an increase in flexibility, and the effectiveness of large-scale prescribed treatments (e.g., invasive species, fuel treatment, and species reintroductions). A narrative that provides more specific information on how agency land acquisitions directly and indirectly benefit agency goals and Departmental conservation objectives is provided in Appendix A.



*Colorado River and Slickrock near Moab, Utah (BLM land)  
(Photo, Jerry Sintz)*

## Goals

As discussed throughout this report, the overarching goal of land transactions is to help achieve the Departmental objectives as well as agency goals for the units managed by the agencies. Although the FWS, NPS and FS have established acreage targets, it is not appropriate to define them as “land acquisition goals” because that implies that these targets represent ends in themselves. In fact, land acquisition is not a goal in itself, but rather a means to help achieve the Departmental objectives. Thus, while the acreage target may appear to be the objective, the acreages are actually outputs as agencies pursue the desired outcomes (greater manageability, preservation of areas of national significance, and resource protection), that support Departmental objectives, with land acquisition as one of the tools. Another way to frame acreage targets is as instrumental, near-term goals designed to advance, along with use of other tools, the broader, long-term conservation and land management outcomes.

The identification of inholding acreages for potential acquisition has some benefits – the project boundaries and identified acreages serve as a common point of reference and understanding for the public as well as agency and elected officials, and the identified acreage is useful for quantification, qualification, prioritization, evaluation, monitoring, and budgeting purposes. However, while these benefits make acreage targets a useful measure on one level, acreage targets cannot be meaningfully isolated from the context of their underpinnings and ultimate outcomes – the Departmental and national objectives.

Acreage targets have distinct disadvantages that make them inappropriate for a long-term national plan. In the resource protection and management arena, not all acreages are created

equal. One strategically located acre within a project could be more valuable than 1,000 acres spread out over ten projects from administrative and resource management standpoints. Or, resource protection, recreation, and other goals may be better achieved through management partnerships, grants, or other tools that leverage Federal funds, skills, and human resources with non-Federal efforts. In such instances, a very small amount of Federal acreage — or no Federal acreage — may be an appropriate goal. Moreover, any purchases require landowner interest and willingness to sell, prerequisites that simple identification of inholdings or other acreage do not capture.

Therefore, as discussed in the following chapter, agencies use established processes to determine which tools will best manage the lands and fulfill their legislated mandates. These processes ensure that the chosen tool (which may or may not include acquisition) will best help attain the Departmental objectives as well as agency goals.

The following matrix displays individual agency goals within the context of Departmental objectives.

## Departmental Objectives \*

Blue cells indicate that land acquisition or disposal *directly* supports the Departmental Objective

	Conservation Objectives			Resource Use
	Resource Protection	Recreation	Serving Communities	
<b>BLM Agency Goals</b>	The BLM land acquisition program directly supports this Departmental conservation objective. The acquisition of land is an important tool to support the agency goal of "Preserving Natural and Cultural Heritage Resources." Most BLM land acquisitions are within or adjacent to Congressionally or administratively designated "special management areas" – areas created to preserve their natural and cultural heritage values.	The BLM land acquisition program directly supports this Departmental conservation objective. The acquisition of land and access to land is a critical tool in improving recreation opportunities for visitors and supports the agency goal of "Providing Opportunities for Environmentally Responsible Recreation."	The BLM land disposal program directly supports this Departmental conservation objective. The land disposal program confers economic benefits and assistance to local communities, Tribes and States, and supports the agency goal of "Providing Economic and Technical Assistance." Additionally, land disposals (through exchanges and sales) also improve manageability of Federal holdings.	The BLM does not acquire or dispose of lands specifically for resource use. However, secondary benefits of land acquisition and disposal create opportunities for improved resource use and management efficiency, other Departmental objectives. For example, disposal of lands allows for improved grazing management and opportunities for increased mineral leasing and development.
<b>FWS Agency Goals</b>	The FWS supports this Departmental conservation objective directly through land acquisition. It does so by acquiring land and water to conserve, protect, and enhance the nation's fish and wildlife and their habitats for the continuing benefit of people. The FWS's major responsibilities are for migratory birds, endangered species, certain marine mammals, and fish.	The FWS does not acquire lands specifically for recreation. However, the Refuge Improvement Act of 1997 elevated wildlife-dependent compatible public uses of National Wildlife Refuges as a program focus. Hunting, fishing, environmental education, photography, wildlife observation, interpretation, and a variety of other compatible outdoor uses are additional benefits of land acquisition which support this conservation objective.	The FWS does not acquire lands specifically to serve communities. However, secondary benefits of land acquisition and long term land management support this conservation objective. For example, conserving land decreases building densities and demand on community infrastructure and services. It also aids fire management. Additionally, an annual refuge revenue sharing payment is made to the local taxing authority for land held in fee.	The FWS does not acquire land specifically for resource use. However, secondary benefits of land acquisition and long term land management, such as crop production, grazing, and timber harvest, occur and support this and the Management Excellence Departmental objectives when compatible and part of an approved habitat management plan for fish and wildlife. Hunting, fishing, and other outdoor opportunities create an economic destination and financial opportunities that are based on the compatible use of renewable natural resources.

<b>NPS Agency Goals</b>	<p><b>The NPS land resources program directly supports this Departmental conservation objective.</b> It does so by allowing the NPS professionals, in collaboration with local communities, to manage the lands to meet the needs of the individual units. This also supports the NPS agency goal to “Protect Natural, Cultural and Heritage Resources.”</p>	<p><b>The NPS land resources program directly supports this Departmental conservation objective.</b> The NPS also meets the agency goal to “Provide Recreation for America” by acquiring lands which provide recreational resources and opportunities where appropriate.</p>	<p><b>The NPS does acquire land to support this Departmental conservation objective.</b> Collaborative efforts with neighboring communities at each unit identify the resources that, when managed by the NPS, will enhance the overall community life and contribute to management excellence. This supports the NPS goal of “safeguarding property and financial assets, advancing scientific knowledge, and improving the quality of life for communities we serve.”</p>	<p><b>The NPS does not specifically acquire lands for resource use.</b> However, secondary benefits of land acquisition would fall under the “public use” mission of the NPS. For example, outdoor activities such as hiking, boating and camping, as well as hunting and fishing in some units of the System provide a use of the resource. Extraction of resources like mining and timber harvesting are not generally allowed in units of the National Park System unless specifically authorized by Congress or through a pre-existing right prior to the creation of the park.</p>
<b>FS Agency Goals</b>	<p><b>The FS supports this Departmental conservation objective directly through land acquisition.</b> It does so by securing the interests in land needed to protect the integrity of undeveloped lands for the prevention of incompatible conversion of use, protection of critical habitats, and the sustainability of renewable resources. This is illustrated through the agency goal to “Maintain the environmental, social, and economic benefits of forests and grasslands by reducing their conversion to other uses” and the USDA Strategic Goal to “Protect and enhance the Nation's natural resource base and environment.”</p>	<p><b>The FS supports this Departmental conservation objective directly through land acquisition.</b> This is illustrated through the agency goals of providing high-quality outdoor recreational opportunities on forests and grasslands, while sustaining natural resources, to meet the Nation's recreational demands; and improving public access to FS land and water and providing opportunities for outdoor health-enhancing activities.</p>	<p><b>The FS does not acquire lands specifically to serve communities.</b> However, secondary benefits of land acquisition, such as enhanced public recreational opportunities and increased tourism and job creation tied to consumptive industries (forest and mineral products) support this Departmental conservation objective. Additionally, land disposal through exchanges and sales contributes to the Departmental objective of Management Excellence through improved manageability of Federal lands.</p>	<p><b>The FS does not acquire lands specifically for resource use.</b> The agency does not acquire fee title to lands specifically for resource uses; however, secondary benefits, such as acquisition of lands with productive timber and mineral resources providing increased opportunities for development and extraction, support this objective.</p>

**\*Departmental conservation objectives are: Resource Protection, Recreation, and Serving Communities. Resource Use is a Departmental objective, but not a Departmental *conservation* objective.**

The Department of the Interior has identified seven principles (“principles”) to guide land acquisitions. These principles have been developed to enhance public confidence and improve agency management accountability in agency transactions pursued in the public interest. Definitions of the principles are followed by examples of how agencies currently integrate these principles into their land transaction processes.

### **How DOI Land Transaction Principles are Integrated into Agency Land Acquisitions**

#### **1) Integrity—Transactions meet the highest ethical standards**

*This principle is present in the land acquisition programs of all the agencies.*

- *The recent reorganization of the DOI agency appraisal organizations into the DOI Appraisal Services Division is an example of Department’s commitment to achieving and maintaining integrity in the land acquisition process. The new Appraisal Services Division was formed to enhance and protect the integrity of real estate appraisals and transactions by reducing potential conflicts of interest.*
- *The acquisition of land or interest in land must comply with title standards to meet the Department of Justice guidelines.*

#### **2) Good Faith—Transactions occur in good faith and ordinarily with willing partners**

- *All agencies strive to conduct land transactions with willing partners. Highlighting the importance of this principle is the “willing seller” criterion in agency LWCF ranking systems; the FWS and BLM will not even rank a project without known willing sellers.*
- *Condemnation is used only in extremely limited circumstances.*

#### **3) Transparency—Transactions pursue transparency with appropriate opportunities for public participation**

- *As discussed in Annex 2 of this report, each agency provides several opportunities for the public to provide input on land use planning and land acquisitions and carefully considers and evaluates input received.*
- *Agencies fully disclose to the public the reasons for any land acquisition, the resources to be protected, and the properties involved.*

#### **4) Mission—Transactions promote the mission of the Department**

- *As discussed earlier in this report, land acquisitions are used as a tool to support various Departmental objectives as well as agency goals. These goals and objectives are derived from strategic plans and other sources created to support the missions of each agency.*
- *For example, all of Reclamation's land transactions are done in accordance with their mission—to manage, develop and protect water and related resources in an environmentally and economically sound manner in the interest of the American public.*
- *The FWS uses the Land Acquisition Priority System (LAPS) to annually compare and rank land conservation opportunities for the National Wildlife Refuge System. The LAPS helps compare the “best to the best” and establish biologically based land protection priorities for the National Wildlife Refuge System. The LAPS is based on the objectives for FWS trust resources as well as legislated responsibilities.*

#### **5) Citizen Stewardship—Transactions are consistent with the promotion of citizen stewardship**

- *All agencies give priority to transactions involving non-Federal partners. This is exemplified through each agency's LWCF ranking system, which assigns weight to projects with non-Federal partnerships.*
- *The FWS has almost 300 citizen-based “Friends Groups” that form very close and productive partnerships with the refuge employees – benefiting the plants, fish, wildlife, and public that depend upon the land base.*
- *All park superintendents work closely with State, county and local groups within the neighborhood of his/her park. Congress has authorized advisory groups for many units of the National Park System.*

#### **6) Innovation—Transactions use innovative approaches, encouraging acquisition of easements, donations, and other alternatives to fee title**

- *All agencies recognize the benefits of using alternatives to fee title. (See chart on pages 27-28.) When appropriate, agencies give priority to transactions employing exchanges, donations, easements, and other alternatives to fee title.*
- *Agencies obtain the appropriate, least intrusive interest necessary to protect resources.*

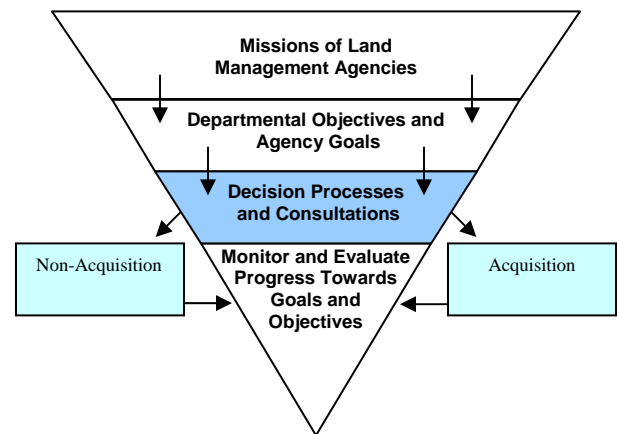
#### **7) Congressional Direction—Provide technical assistance and policy recommendations to Congress for Congressionally directed acquisitions.**

- *All agencies are committed to working with Congress on Congressionally directed acquisitions.*



# CHAPTER 4:

## Land Acquisition Strategy – Tools and Processes



This chapter will explain the processes and steps agencies employ to determine how to best manage and conserve their lands from the national to the local level. Additionally, this chapter will describe how each agency uses various tools (including acquisition) to accomplish its respective legislated mandates. It will outline the consideration given to the projected additional demands on limited operational and maintenance funding if acquisition is selected, as well as highlight the ways in which agencies help ensure that land acquisition supports goals and objectives in the selection of projects.

### National Approaches

Given the Congressionally mandated differences in the missions of the agencies and their goals outlined in the previous chapter, the national land acquisition plan is, by necessity, four separate yet interrelated plans. As highlighted below, the processes agencies use to create their land acquisition plans begin at the local level and (after a sequence of steps, including prioritization of projects at the local and regional levels) effectively become “nationwide strategies” after they are reviewed at the Departmental level. However, two agencies, the FWS and BLM, are beginning to incorporate national land tenure strategies into their decisions at the beginning of the process. Additionally, the improved interagency coordination proposal (discussed in the next chapter) among the agencies will provide an impetus for increased strategic national planning.

- The FWS initiated a national strategic planning approach with the passage of the Refuge Improvement Act of 1997 (P.L. 105-57), which directed the agency to strategically expand the National Wildlife Refuge System (NWRS). The FWS recently convened a “Conservation in Action Summit,” involving a wide variety of organizations and individuals, to develop an outline and strategy for the strategic growth of the NWRS over the next 100 years. A report on the conclusions and recommendations from this Summit will be forthcoming.
- The BLM is in the process of preparing a National Land Tenure Strategy, which will focus on a better balance between land exchanges and disposal actions. At this point, drafts are being prepared at the Departmental level.
- Most of the NPS land acquisition activity is within the boundaries of the 388 units of the system. The NPS sent Congress a priority list of units to study for potential addition to the National Park System in 1999 and 2000 as required by Public Law 105-391. However, in 2001, the Administration instituted a new policy whereby the NPS would not recommend any new areas for study so priority could be given to address the maintenance backlog in the National Park System. At this time, the NPS utilizes its LWCF prioritization system as a tool



to nationally rank land acquisition tracts within authorized boundaries. Its LWCF prioritization system does not prioritize new units for inclusion into the System.

- As discussed below, the FS encourages State-wide and regional planning but utilizes its strategic plan to set specific goals and measures. The FS also uses the LWCF prioritization system as a tool for national planning.

## **Tools**

Each land management agency has essentially the same land protection tools available to discharge its responsibilities to the public and accomplish its legislated mandates. This is the greatest similarity among agencies, while the legislated mandates create the greatest differences among the agencies. These legislated differences subsequently impact resource protection and agency goals, strategies, and especially which tools are effective and how they are used. While fee acquisition may be needed to accomplish a legislated mandate for one agency in a dependable and cost effective manner, an easement or lease, or a cooperative agreement, may be equally effective for another.

Agencies use a suite of land protection tools. Each tool has advantages and disadvantages which need to be taken into consideration by the agencies when evaluating how best to approach resource conservation. The following matrix portrays the advantages and disadvantages of these tools. (Definitions of each tool can be found in Appendix F.)

## Advantages/Disadvantages of Land Management Tools

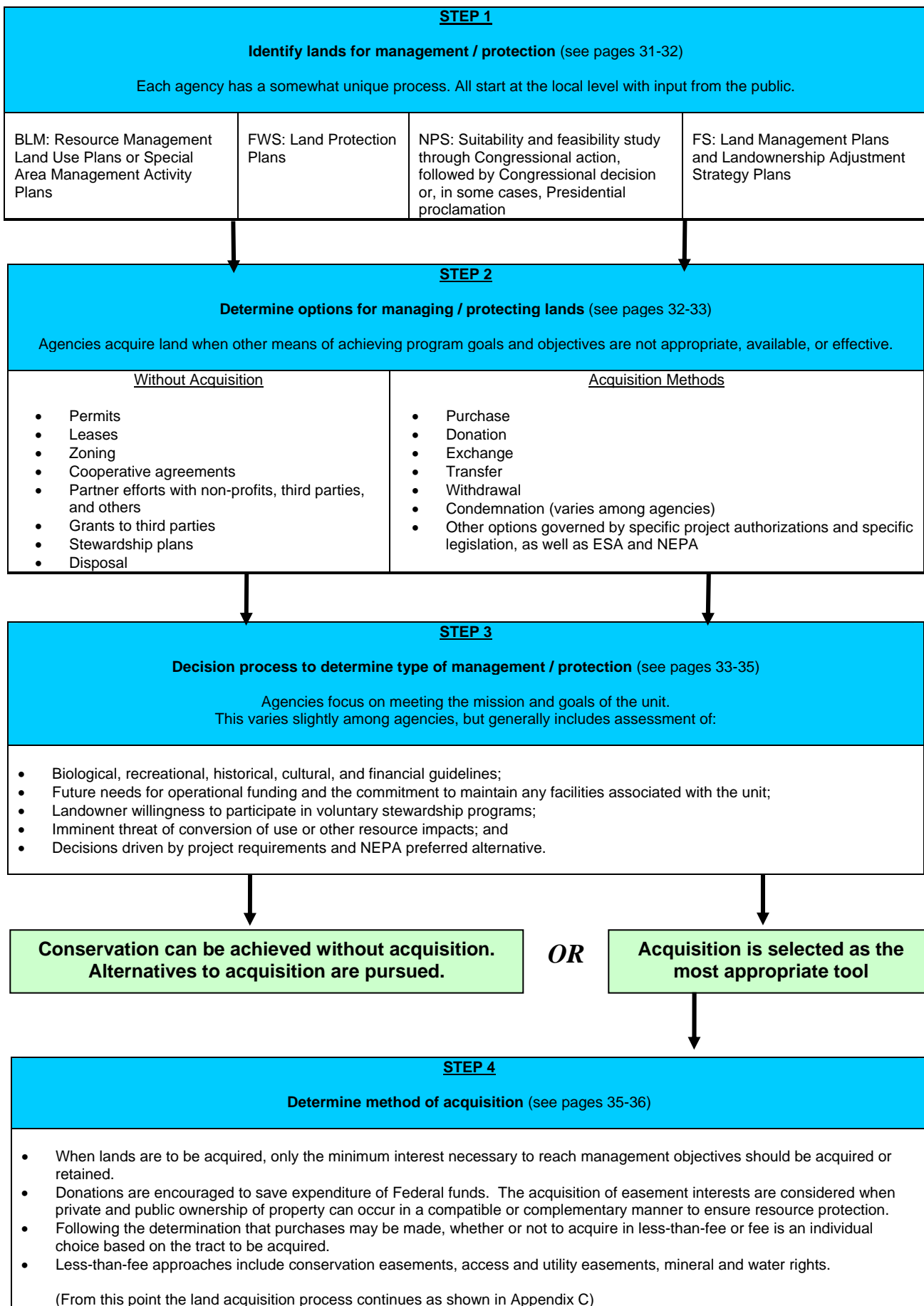
Non-Acquisition Tools:	Advantages:	Disadvantages:
<b>Zoning:</b>	<ul style="list-style-type: none"> <li>• Property remains in private ownership</li> <li>• Property remains on the tax rolls</li> <li>• Local Control</li> <li>• Fiscal impacts are lower for higher levels of government</li> <li>• "Down zoned" land generates less tax revenue, but not less than public ownership, which yields no revenue.</li> </ul>	<ul style="list-style-type: none"> <li>• Somewhat undependable because it can change</li> <li>• Use of zoning regulation is sometimes not well received by the public due to lack of financial compensation</li> <li>• May not include land restoration and management opportunities</li> <li>• May not provide public access</li> </ul>
<b>Partnerships:</b>	<ul style="list-style-type: none"> <li>• Broad base of support</li> <li>• Potentially lower or shared costs</li> <li>• Limits expansion of Federal ownership</li> <li>• Co-location can reduce facility costs and increase the array of services and opportunities available to the visiting public at one destination</li> <li>• May enable flexible management options</li> </ul>	<ul style="list-style-type: none"> <li>• May not be permanent because partnership may dissolve</li> <li>• Requires more coordination, which increases demands on limited finances of the agency and may potentially reduce the level of resource protection preferred by the Federal agency</li> <li>• May confuse visitors and diminish recognition for the partners</li> <li>• O&amp;M cost sharing arrangements must be developed and maintained</li> </ul>
<b>Grants:</b>	<ul style="list-style-type: none"> <li>• Cost savings (especially with matching grants)</li> <li>• May increase public involvement in conservation</li> <li>• May facilitate flexible management options by grantee</li> </ul>	<ul style="list-style-type: none"> <li>• May increase monitoring, enforcement, and legal expenditures</li> <li>• May decrease ability to ensure agency objectives are met</li> </ul>
<b>Leasing:</b>	<ul style="list-style-type: none"> <li>• Protect resource values where the acquisition of a perpetual interest in the property is not an option</li> <li>• Property remains on local tax rolls</li> </ul>	<ul style="list-style-type: none"> <li>• Temporary</li> <li>• Must operate within time frame of the lease</li> <li>• Requires a regular and reoccurring expenditure of funds to manage and renew the lease</li> <li>• Influence and management only over what is leased, unexpected challenges or opportunities must be renegotiated</li> </ul>
<b>Cooperative Agreements:</b>	<ul style="list-style-type: none"> <li>• Allows agency to meet conservation objectives on a variety of scales</li> <li>• Clear statement of intent, scope, and responsibilities of parties</li> <li>• May be dissolved within a short period of time</li> <li>• May enhance public involvement in conservation</li> </ul>	<ul style="list-style-type: none"> <li>• May not be permanent</li> <li>• May be dissolved within a short period of time</li> </ul>

Acquisition Tools:	Advantages:	Disadvantages:
<b>Purchases – Fee:</b>	<ul style="list-style-type: none"> <li>• Permanent</li> <li>• Future operation and maintenance may be easier because all or most of the interests are under the stewardship of the agency</li> <li>• Agency can conserve natural and cultural resources and provide opportunities for compatible public uses</li> <li>• Payment-in-Lieu-of-Taxes (PILT) and revenue sharing payments are made annually on land held in fee title (and sometimes exceed former tax revenue levels)</li> <li>• Landowner receives market value for the interest acquired</li> </ul>	<ul style="list-style-type: none"> <li>• Potential negative fiscal impacts if PILT or revenue sharing is not comparable to the level of prior tax revenues</li> <li>• Fee title acquisition could extinguish private uses that may have significant benefits but do not have an appreciable impact on agency goals and objectives</li> <li>• If condemnation is used to clear title, settle a difference in price, or acquire land from an unwilling seller there is the potential for controversy and conflict</li> <li>• O&amp;M costs</li> <li>• May result in less flexible management options</li> </ul>
<b>Easements:</b>  (Includes conservation easements, access easements and other.)	<ul style="list-style-type: none"> <li>• Perpetual protection</li> <li>• Land retained in private ownership, while still achieving protection</li> <li>• Focused resource conservation can occur using a reduced rate of funding</li> <li>• May enhance public involvement in conservation</li> <li>• May facilitate management flexibility</li> </ul>	<ul style="list-style-type: none"> <li>• May require costs near that of a fee acquisition while only acquiring a portion of the property interests</li> <li>• Incidental real estate expenses (appraisals, surveys, title work, and staff time) are essentially the same and sometimes more expensive than a fee title purchase</li> <li>• Greater monitoring and potential legal costs</li> <li>• May not include public access unless specified in easement</li> <li>• Very specific as to what the easement is for and may be inadequate later</li> <li>• Difficult to delineate rights acquired or reserved</li> <li>• Landowners often do not want to have a land ownership relationship with an agency for an extended period of time</li> </ul>
<b>Fee Title Donations:</b>	<ul style="list-style-type: none"> <li>• No Federal funds needed to be paid for the fee title donation</li> <li>• Donations may have tax advantages for the donor</li> <li>• Future operation and maintenance is easier because all or most of the interests are under the stewardship of the agency</li> <li>• Agency can conserve natural and cultural resources and provide opportunities for compatible public uses</li> <li>• PILT and revenue sharing payments are made annually on land held in fee title</li> <li>• Reduces conflict due to the absence of reserved rights that will constrain the accomplishment of agency goals and objectives</li> </ul>	<ul style="list-style-type: none"> <li>• Potential negative fiscal impacts if PILT or revenue sharing is not comparable to the level of prior tax revenues</li> <li>• Donation may not be a priority acquisition that meets agency goals and objectives</li> <li>• Donation may involve property with hidden operations and maintenance costs</li> <li>• Incidental real estate expenses (appraisals, surveys, title work, and staff time) are essentially the same and sometimes more expensive than a fee title purchase</li> </ul>
<b>Easement Donations:</b>	<ul style="list-style-type: none"> <li>• No Federal funds needed to be paid for the easement donation.</li> <li>• Donations may have tax advantages for the donor</li> <li>• Focused resource conservation can occur by acquiring those interests needed</li> <li>• Perpetual protection</li> <li>• Land retained in private ownership, while still achieving protection</li> <li>• May enhance public involvement in conservation</li> </ul>	<ul style="list-style-type: none"> <li>• Incidental real estate expenses (appraisals, surveys, title work, and staff time) are essentially the same and sometimes more expensive than a fee title purchase</li> <li>• Greater monitoring and potential legal costs</li> <li>• May not include public access unless specified in easement</li> <li>• Very specific as to what the easement is for and may be inadequate later</li> <li>• Difficult to delineate rights acquired or reserved</li> </ul>
<b>Exchanges:</b>	<ul style="list-style-type: none"> <li>• Allows agencies to manage the Federal estate in a way that maximizes contributions towards established goals and objectives</li> </ul>	<ul style="list-style-type: none"> <li>• More expensive and complicated to accomplish</li> <li>• Acquiring agency may not have land available to exchange</li> <li>• Landowners adjacent to the disposal or acquisition property may object</li> </ul>

## **Process to Determine which Tools Best Ensure Attainment of Departmental Objectives**

In considering how to manage or protect lands, the full range of tools to achieve the Departmental objectives is considered first. Agencies use tools, such as cooperative conservation grants and cooperative agreements (highlighted on the previous pages), to manage public lands. (Additionally, see page 13 for specific examples of cooperative conservation programs.) Increased monitoring and data on strategic plan outcomes (see Chapter 6) help the Departments determine the effectiveness of different tools, including acquisition.

The following matrix and discussion illustrate the processes and steps agencies follow to determine which tool or sets of tools best achieves the Departmental objectives and agency goals. As described in the steps below, the ongoing land use planning process helps agencies evaluate the priority afforded to land acquisition as opposed to other tools. Land acquisition and disposal are options that may result from the land use planning process (see Step 4) and are discussed in greater detail below. (Consultations are also involved in the process and are discussed in Chapter 5.)



*(What follows is an expanded description of the chart on the previous page.)*

## **STEP ONE: IDENTIFYING LAND FOR PROTECTION**

Based on uniform Federal guidance and agency specific guidance, the agencies identify specific lands for protection in slightly different ways; however, the basic concept is similar. Common denominators to agency processes include: 1) identification of lands for protection based on detailed information from a variety of sources, 2) launching of processes at the local level, and 3) significant public participation and input.

**BLM** — The BLM identifies lands for acquisition or other forms of protection through collaborative land use planning processes. These collaborative planning efforts include Resource Management Land Use Plans or Special Area Management Activity Plans. The BLM land use plans generally identify acquisition needs by establishing criteria to use in evaluating land acquisition opportunities. These criteria are developed through public input as part of the planning process and supplement criteria that may be used by the BLM for ranking LWCF project priorities. The criteria encompass opportunities that may arise from land exchange, purchase, or donation proposals. Land use plans may also establish criteria for the acquisition of interests in land, such as acquiring access easements and water rights needed for implementing the plan's objectives and decisions.



*Holter Lake Campground, Butte, Montana (BLM land)  
(Photo: Merv Coleman)*

**FWS** — Habitat and population objectives for threatened and endangered species, migratory birds, and a variety of other legislated trust responsibilities determine the footprint of a National Wildlife Refuge when it is developed. Lands identified for protection are a compilation of “layers” of habitat and population goals that were identified in specific legislation, national partnership plans, comprehensive conservation plans, and habitat management plans. A Refuge should be considered a project that contains a natural system providing nationally significant fish and wildlife habitat for plants and animals, invertebrates and vertebrates. Each of these systems or projects included in a Land Protection Plan contributes toward numerous habitat and population goals and objectives for a project on the same land base.

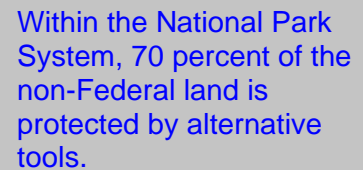
**NPS** — Congress directs the NPS to prepare a suitability and feasibility study for the inclusion of lands in the National Park System, which can be followed by a Congressional decision. Or in some cases, units can be established by Presidential proclamation. After Congress has authorized a park, the NPS may prepare a Land Protection Plan concurrently with the General Management Plan to determine the degree of protection for the land located inside the Congressionally drawn boundary. When a land protection plan is prepared as a separate document, it becomes an action element of the general management plan when approved.

**FS** — The primary driver for identifying which private lands need protection is the Landownership Adjustment Strategy (LAS) plan, developed in association with each National Forest or Grassland's Land Management Plan. The LAS plan provides the framework for

assessing and prioritizing realty opportunities. Most LAS plans acknowledge that land purchases will be made only with willing sellers, therefore there will always be an expectation that accomplishment is often limited by opportunity. This does not assume that the FS is not proactive in seeking desired land acquisitions either through land purchase or land exchange. The FS is moving towards State-wide and regional versions of the LAS plans in the future that incorporate the key goals and objectives by State. These State-wide goals and objectives will then be blended into the individual LAS plans.

## STEP TWO: OPTIONS TO MANAGE AND PROTECT LANDS

Many of the agencies draw upon the same options, or tools, to protect lands (see chart on page 27-28 for advantages and disadvantages of the tools.) These options include management of lands without acquisition through: zoning, permits, leasing, stewardship plans, cooperative agreements (with Federal and Non-Federal agencies, as well as the private sector), partnerships, disposals, and grants to third parties. For example, at Ebey's Landing National Reserve in Washington (NPS), the land is managed by a local trust board comprising local, State and Federal representatives. The Trust relies upon local laws and land owner cooperation, coupled with the donation or purchase of development rights or conservation easements, to ensure protection of the rural landscapes within the Reserve boundary.



Within the National Park System, 70 percent of the non-Federal land is protected by alternative tools.

The agencies may also manage lands through acquisition, including acquisition by purchase, donation, transfer, withdrawal, condemnation, or exchange of fee simple or less-than-fee (conservation easements, partial interests—such as mineral or water rights) interest in land. Specific project authorizations and specific legislation may provide other options. Use of condemnation by agencies varies:

- The BLM has limited condemnation authority under Section 205 of FLPMA and has very rarely used this authority to acquire critical access to a significant public recreation area. The last two properties (or interest in property) acquired by BLM through condemnation were in 1992 (80 acres in the King Range National Conservation Area) and in 1993 (13 acres for an access easement in California).
- Acquisition through condemnation is used rarely by the FS, and usually only for rights-of-way or to clear title with landowner's concurrence (friendly condemnation).
- The FWS has the authority to use condemnation; however, it has been rarely utilized. The last condemnation by the FWS was in 1986 and was Congressionally mandated.
- For the NPS, acquisition by condemnation is authorized unless specifically prohibited by law. It has been used to clear title, protect the resource, and determine just compensation when there is a price disagreement. Since FY 1994, the NPS Land Resources Program has exercised the option of using condemnation 0.02% of the time, excluding Big Cypress National Preserve and Everglades National Park. (The last time condemnation was used by NPS other than at Big Cypress and Everglades was at Voyageurs National Park in July 2002.)

### **Examples of Reclamation's Actions that Protect Species or Enhance Existing Habitat Without Acquiring New Lands:**

- 1) Entering into conservation agreements that include no land interests, or acquire very limited interests (such as leases) to protect, enhance, or monitor habitat on private lands without acquiring an ownership interest.
- 2) Entering into arrangements with Tribes, other Federal agencies, local agencies, and private land owners in which Reclamation provides funding for actions taken on non-Reclamation lands that protect or enhance conditions for species. For example, Reclamation provided funds to the Colorado River Indian Tribes in Parker, AZ to restore fallowed crop land to cottonwood-willow riparian habitat for species -- preventing Reclamation from needing to acquire new habitat.
- 3) By providing cost-share grant funding to non-profit conservation entities to acquire interests, or entering into arrangements to protect habitat under their auspices, Reclamation is neither required to take the land into Federal ownership (protecting the local tax base), nor is it responsible for out-year operation and maintenance costs.
- 4) Providing funding to other agencies to better protect their habitat (e.g., funding FWS to buy a needed fire boat or fencing for a refuge), which in turn protects the species and reduces the need for acquisition of new habitat.

### **STEP THREE: DECISION PROCESS TO DETERMINE TYPE OF LAND PROTECTION**

In order to determine the type of protection outlined in Step 2, the agencies focus on what is necessary to meet the mission and goals of the unit, which ultimately support the agency goals and Departmental objectives. The preferred approach is often identified in plans, though as site-specific project analysis is conducted, many of the factors listed below are considered in more depth. The degree of need and the preferred method for protection of private lands may be initially determined by the local field unit, community, State, or partners, based on their familiarity with adjacent lands and the management/use by the private landowners. Or, for the NPS, the method could be determined by the management goals and objectives of the park and the intent of Congress. All options need to be considered in the context of timing, availability of funds, and willing sellers. The factors vary for each agency, but generally include the following:

- Biological factors including conserving a priority conservation target, providing habitat connections, promoting biological integrity, and investing in healthy lands;
- Protection necessary to meet the goals of the unit. (For example, the recently established Flight 93 National Memorial was defined as a place to commemorate and honor those who gave their lives to protect other Americans from terrorism. It was determined that a salvage and scrap metal yard run within the boundary of the memorial was incompatible with these goals, and therefore it would be desirable to move the scrap yard and acquire the lands to provide for a fitting memorial.)
- Recreational factors including improved access and/or compatible wildlife-dependent recreation for the unit;
- Financial concerns including the effect an acquisition will have on overall management costs. (See below for a discussion of O&M considerations); and



- The perceived level of anticipated threat to the resources and the significance of specific resources.

Additionally, for the NPS, the first indication is the authorization for the particular unit, and whether or not lands may be purchased. In some instances, authorization to acquire land is limited to donation only.

## Operations and Maintenance

The House Report language states: *“Future budget submissions must contain an evaluation of operation and maintenance costs associated with each proposed purchase and these costs should be requested in the operation and maintenance portion of each agency’s budget justification.”*

All the agencies evaluate O&M costs when determining what option to use to conserve or manage lands. The FS recently formalized their process for evaluating O&M costs in project submissions. While each agency has unique procedures for requesting and gathering this information, O&M costs are considered at various levels of review in each agency. Costs may include any construction, law enforcement, maintenance, interpretation, or other costs. In some cases, land acquisition consolidates ownership, which results in a decrease, or at least no increase, in O&M costs. This is often the case for the FS, especially when the costs relate to boundary and title management. Details on the information agencies gather and how they consider and evaluate it is included in Appendix E.



*Red Rock Canyon National Conservation Area, Nevada (BLM land)*

Precisely predicting future O&M costs is difficult when a proposal is initially prepared and submitted for consideration. These difficulties include adjustments in the level of LWCF funding that may be requested in the President’s budget as it is formulated, the willing sellers at the time the funding is appropriated by Congress, and the seller’s acceptance of an agency offer at appraised value.

Three years ago, the BLM, FWS and the NPS began including an evaluation of O&M costs associated with each proposed LWCF purchase in the land acquisition account within the budget submission. (See Appendix E for a sample BLM budget submission for an LWCF project in FY 2005.) However, within the DOI, these costs have not been directly linked to the O&M portion of each agency’s formulation process. To comply with the portion of the Committee directive not already implemented, DOI agency justifications will specifically include the following language in the O&M accounts of the BLM, FWS, and NPS in FY 2006: “Beginning in the year following acquisition of an LWCF parcel, [the agency] will ensure that

funding has been allocated and integrated into the appropriate budget line item to cover one-time and annual operations and maintenance costs, if applicable."

In the past, the FS has not included this type of assessment in narrative descriptions of LWCF purchase proposals. FS land acquisitions rarely result in operation and maintenance funding needs, thus it is not normally necessary to represent projected O&M costs related to land purchases in the budget submission. However, beginning in FY 2006, a discussion of projected O&M costs will be included in the LWCF project narratives, for projects selected for the President's budget submission. In cases where O&M costs are projected, they will be integrated into the budget submission. The FS will include the following language in the Land Acquisition chapter of their budget justification: "Beginning in the year following acquisition of an LWCF land parcel, the Forest Service will ensure that funding has been integrated into the appropriate budget line item to cover operation and maintenance costs, if applicable."

#### **STEP FOUR: Choosing the Method of Acquisition Once it is Selected as the Appropriate Option**

As highlighted in the chart on page 30, an agency can use various resource protection strategies once it determines that acquisition of interest in real estate is the preferred strategy to accomplish Departmental objectives and agency goals. As with the three preceding steps, each agency considers various factors when determining which acquisition tool to employ once acquisition has been selected, including:

- Management needs and landowner preferences;
- Interests acquired by purchase or donation must be sufficient to adequately manage the land and its resources in an efficient and dependable manner, but should not exceed agency management requirements;
- The willing seller policy; and
- Availability of appropriated or other funds.

The last two points substantially impact the amount of land that is available for protection by the agencies or their partners at any given time.

#### **Fee versus Easement:**

A fee or less-than-fee acquisition may be recommended based on the significance or sensitivity of specific resources, the perceived nature of a current or anticipated threat, and the intended use by the agency. Easements are considered when agency objectives can be met by acquisition of only a portion of the bundle of rights. As previously outlined in other parts of this report, there are variations in missions, authorities, legislated mandates, and intended uses of the land by the agencies and the public. Therefore, some agencies rely more on fee title purchases versus the use of easements. Acquiring less-than-fee in the form of conservation easements may be appropriate when the primary objective is scenic resource protection and prevention of a conversion of the surface use to other uses. Acquisition of land in fee may be more appropriate when reuniting the surface and subsurface estate, when access for public use is desired, or when the agency anticipates an investment in infrastructure or intensive land management activities.

Depending on the local real estate market, and the real estate interests being acquired as part of the easement, the appraised value can range from as little as half of the fee value, to in some

cases, almost equal the fee value. For example, in areas of residential development, just compensation for an easement which extinguishes the use of the land for development may be nearly as much as 90-95 percent of a fee title purchase, but with comparatively fewer rights ultimately vested in the Federal estate. The DOI's recent appraisal reform assures objective evaluation of market value.

### **Exchanges:**

Exchanges are generally the most commonly used approach to acquire land by both the BLM and the FS. Exchange is often the most appropriate option when a need is identified to acquire lands to meet FS or BLM purposes, and there are also compelling reasons to dispose of Federal lands, such as community expansion, loss of public resource value, and consolidation of ownerships. Exchanges are a desirable option when the land being exchanged is truly excess to the needs of the agency, and it will improve the cost effectiveness of the site administration. However, administrative costs of exchanges are typically approximately twice as much to accomplish as a normal purchase of a conservation easement or a fee title acquisition since both the disposal

of lands and the acquisition of lands require review, analysis, and clearances to complete the transactions. The financial implication of the transaction costs and anticipated management efficiencies have to be considered along with the likelihood of a need for a future interest in the land being exchanged away.



*Mountain biking on the Bloody Shins Trail System, Nevada (BLM land)  
(Photo: Bob Goodman)*

### **How Agencies Ensure Land Acquisition Supports Goals and Objectives**

To this point, this report has discussed (a) how the Departmental objectives and agency goals set the focus and direction for land acquisition plans, (b) the processes (the four steps illustrated above) agencies use to determine which available tools will allow them to best manage Federal lands, and (c) the nexus between these goals and processes. Once acquisition is chosen as the appropriate tool, agencies need to ensure that their potential land acquisition projects support the Departmental objectives and agency goals. They seek to do so through prioritization processes and screening mechanisms for the various funding sources or programs, such as LWCF, SNPLMA, FLTFA, MBCF, as well as for land exchanges.

For example, each agency has a ranking system for potential LWCF projects and each assigns points to various criteria important to each agency. Therefore, weight given to criteria that support Departmental objectives and agency goals is a clear message to staff in the field that these goals and objectives are important. For example, one criterion used by the NPS to support the Recreation conservation objective is: *"Describe, in detail, the recreational opportunities related to the park purpose this land would supply (0-3 points), and whether or not there is funding available to develop the opportunities following acquisition of the land (0-2 points).* In another example, lands identified for acquisition through FLTFA are evaluated against criteria that reflect the Departmental objectives, such as *"Contributes toward preservation of a specially designated species."* Appendix B provides specific information on some of the various criteria that directly support Departmental objectives.

The agencies note that the Committee directed the agencies *“to place the highest priority on acquiring inholdings that consolidate Federal lands and reduce management costs to agencies.”* Each agency places a high priority on acquiring inholdings through their ranking and screening mechanisms. In fact, the FWS is considering increasing the number of points given to projects nearing completion (75% or higher) in response to the Committee’s concerns. Additionally, the FS just revised its LWCF ranking criteria. They now include a minimum criterion that places a high priority on consolidating Federal lands and reducing management costs. For further information on each agency’s unique ranking system, refer to Appendix B.

Projects funded through Congressional designation are not subject to this process. Of the 384 LWCF projects funded in the four LWCF agencies during FY 2002 – FY 2004, 41 percent were not requested by the Administration. The 156 Congressionally designated projects, representing \$235 million, create an unexpected acquisition workload that the agencies need to manage along with the remaining 228 projects on which they were prepared to move forward.

FY 2002 - FY 2004 LWCF Projects								
Agency	Administration Requested Projects					Congressionally Designated Projects		Total Number of Funded Projects
	Number Requested	Funded		Not Funded		Number	Percent of Total Funded Projects	
		Number	Percent	Number	Percent			
DOI								
BLM	68	42	62%	26	38%	15	26%	57
FWS	114	60	53%	54	47%	60	50%	120
NPS	73	50	68%	23	32%	34	40%	84
Subtotal	255	152	60%	103	40%	109	42%	261
USDA-FS	90	76	84%	14	16%	47	38%	123
Total	345	228	66%	117	34%	156	41%	384





*“Citizen stewards often are our most effective conservationists. President Bush’s goal—and our goal at the Interior Department—is to empower these citizens to do what the government cannot do alone.” – Gale A. Norton, September 16, 2003*

## CHAPTER 5:

# Consultation and Coordination



Involving citizen stewards, States, Tribes, and community organizations is critical to the success of land conservation. For this reason, the agencies regularly consult with non-Federal as well as Federal partners throughout the processes described in Chapter 4. The following discussion on consultations begins by describing agency processes for consultations with non-Federal and Federal partners, followed by a proposal for better consultation and coordination among Federal agencies.

### Consultation with Non-Federal Partners

Non-Federal partners serve a critical role in acquiring land and interests in land that have significant public value. Agencies work with numerous nonprofit organizations, States, Tribes, local governments, private citizens and others to determine how to best protect and manage land. Partners include any group that works with the agencies to meet their mission and goals. Cooperative efforts range from processes to consult with the public and other governmental agencies during Federal land management decision-making, to interjurisdictional joint management, to the creation of partnerships through which shared conservation and other goals are achieved.

Depending on the stage of consultation, the consultation process can range from informal to formal. Consultation with partners happens at all levels – from the local area of the unit, to the region, to the Washington headquarters level.

Since the acquisition process can be lengthy, the agencies are sometimes unable to acquire land in response to imminent impacts to resources. Nonprofit organizations in particular have the ability to react quickly to these threats and often acquire property within unit boundaries to protect the land from impacts and to protect important resources.

Partnerships work best where there is a strong local conservation and preservation ethic. For example, at the Santa Monica Mountains National Recreation Area (NRA), state government, local governments, and various local groups support a conservation and preservation ethic for the Santa Monica Mountains. Seventy-one percent of the land within the NRA boundary is either under State or local ownership or is expected to be protected by means other than Federal ownership.

The initial stages of developing open and inclusive processes of consulting with partners are time-consuming. However, the agencies recognize that the potential returns from relationship

building, cost-savings, and durability of decisions more than compensate for this effort. To provide for effective public participation in any collaborative land use planning process, the agencies are committed to collaborating and communicating effectively with partners and inviting participation in all aspects of the planning effort (see Annex 2 for specific information on agency public input processes).

### **Interagency Coordination and Consultation Process**

In the House Report language, the Committee requested the development of a plan that demonstrates how agencies would coordinate with one another. The following section describes how agencies currently consult, followed by a proposal for better coordination among the Federal agencies. Improving consultation among sister agencies at critical junctures in the land use planning and land acquisition project development processes would allow the agencies to better identify opportunities to mutually accomplish broader management initiatives and watershed or ecosystem objectives benefiting agency missions and conservation goals. The benefits of increased coordination can in some cases avoid the duplication of efforts to acquire lands or resource values that may accomplish the same goals and objectives. For example, if two agencies prioritized the protection of sage grouse habitat, they could use this process to identify which could more efficiently protect the habitat, thereby creating opportunities for the other agency to focus on other priorities.

The major Federal land management agencies (BLM, FS, NPS, and FWS) have increasingly sought to coordinate land management planning efforts, land acquisition priorities, and land tenure decisions. Land use planning efforts of the Federal land management agencies generally involve a formal process of consultation and coordination that also includes input from the general public. Coordination among agencies in land use planning occurs at the local land management agency organizational level (BLM Field Manager, Forest Supervisor, Refuge Manager, and Park Superintendent levels). Land use planning efforts are also occasionally conducted for individual special management areas or smaller units of a broader planning area.

In addition to the interagency coordination in land use planning efforts, the senior executive managers of the Federal land management agencies have formed several Federal Executive Manager Committees to discuss issues and share ideas among the agencies at the Region/State/Field Office levels. These Executive Committees, comprising mostly State or Regional Directors, discuss a variety of resource management issues and interagency coordination, including land ownership and partnership efforts with local watershed or community-based conservation groups or organizations. These watershed or community-based conservation partnership organizations assist the Federal agencies in identifying the appropriate role or opportunities for private, State, or Federal assistance in meeting the goals or objectives of the community. Specific land acquisition proposals may be developed through this community-based partnership process. The Federal Executive Manager Committees at the Region/State/Field Office levels provide for the interagency coordination of these community-based partnership efforts at the local level. Examples of these Federal Executive Manager Committees include: the National Resources Coordinating Council and Southwest Utah

### **Cooperative Conservation through Partnerships**

- The FWS and BLM have partnered with The Nature Conservancy and ranchers in the Malpai region of New Mexico and Arizona to create a 300,000 acre “grass bank” – a conservation easement set aside in perpetuity for grass and prairie conservation.
- The Whooping Crane Eastern Partnership – a coalition of nonprofit organizations, individuals, flyway State agencies, the FWS, and the U.S. Geological Survey (DOI) – coordinates an unprecedented reintroduction effort to bring one of North America’s rarest birds back to the flyways of the United States.

Planning Authority Council in Utah; the SNPLMA Executive Committee in Nevada; the Midwest Natural Resources Group (comprising 14 Federal agencies); as well as several others.

Coordination on specific land acquisition projects and proposals is handled in a more informal process (as opposed to the formal process for land use planning) among the Federal land management agencies. The level of this informal coordination depends on the working relationships of the local managers and may vary by project depending on the scope of the project and the proposed resources to be acquired or protected by the acquisition.

The SNPLMA Interagency Executive Committee is a notable example of coordination between the BLM, FWS, NPS, and the FS on land acquisition projects in Nevada. Since 1999, the Interagency Executive Committee has jointly reviewed and approved the expenditure of approximately \$1 billion of SNPLMA funds for land acquisitions, capital improvement projects, local government parks, trails and natural areas, conservation initiatives, the Clark County Multi-Species Habitat Conservation Plan, and Lake Tahoe restoration projects. These approved expenditures have included \$276.2 million for interagency land acquisition projects.

The exception to this informal process of coordination is the more time-consuming and structured process for interagency land exchange efforts that typically involve the disposal of public lands managed by the BLM and the acquisition of lands for the benefit of the FS, FWS, or the NPS. These

land exchange transactions require a high level of interagency coordination at the local manager level, as well as oversight and review by higher organizational levels of the agencies, and public review and comment.

A similarly structured process of interagency coordination for LWCF acquisitions is not currently utilized because the LWCF appropriations process primarily focuses on line-item projects for each agency. However, as noted in the following proposal, opportunities exist to improve the level of interagency coordination in the development of broader LWCF project proposals and requests for appropriation priorities among the Federal land management agencies.

#### **New Interagency Coordination Proposal:**

The BLM, NPS, FWS, and the FS realize the benefits of instituting a more structured interagency coordination process for acquisitions, including increasing abilities to identify cross-agency, as well as regional, priorities and opportunities. The four agencies are instituting a process (detailed below) in which high-level coordination among LWCF managers and staff, including other programs as appropriate, occurs with guidance originating from the Land Transaction Working Group (LTWG) of DOI and FS representatives. The DOI LTWG comprises the following representatives, or their designees: the BLM, FWS, and NPS Directors, their respective Assistant Secretaries, and the Assistant Secretary for Policy, Management and Budget. While the LTWG is a DOI Working Group, FS representatives would also attend the LTWG meetings relating to this proposal. The two Departments already have significant experience coordinating policies through the Wildland Fire Leadership Council, the Recreation Fee Leadership Council, and other joint agency efforts.

This process for the FY 2008 budget requires that the LTWG, agency LWCF program managers, and other program managers as appropriate, provide guidance and direction on Department-wide LWCF initiatives and interagency priorities to agency Region/State/Field Offices in the Fall 2005 and that the LTWG provide final interagency recommendations for LWCF projects and funding to the DOI Secretary by July 2006. (The FS will actively participate in this process but follows a slightly different timeline for submissions of requests. Therefore,



while they will consider the recommendations stemming from this process, their recommendations will be provided to the USDA Secretary at a later date.)

The timeline and concept for this interagency coordination process for the FY 2008 budget is as follows:

Fall 2005	Agency senior land acquisition program managers develop background briefing papers to prepare LTWG representatives for the Fall meeting. Agency program managers coordinate to determine preliminary cross-agency priorities.
November 2005	The DOI Land Transaction Working Group (LTWG)—with participation of the FS—develops guidance and direction for broad LWCF projects, other land acquisition initiatives, resource conservation goals, and objectives for development of the FY 2008 budget. It is at this point that the Departments can determine if there would be any added benefits to broader project proposals (such as supporting specific resource initiatives such as protecting sage-grouse habitat, desert tortoise habitat, or Lewis and Clark historic sites).
December 2005	Agency LWCF program managers and other staff as appropriate meet to coordinate implementation of the Department LTWG guidance across agencies. Directions and requests are prepared for the Region/State/Field Offices in advance of project proposals for FY 2008.
Spring 2006	Agency staff develop project proposals and agency Region/State/Field Office management meet to collaboratively review proposals. Agency LWCF management teams as well as other teams (including staff working on land exchanges, the Migratory Bird Conservation Fund, the North American Wetland Conservation Fund, Partners for Fish and Wildlife, etc.) can also collaborate and look at options for the year.
By Mid-May, 2006	Agency LWCF program managers and senior agency managers review agency project proposals and develop agency priority projects for proposed funding.
By June 30, 2006	Department LTWG reviews and provides feedback—including FS participation—of agency proposals on the Departments' LWCF initiatives to be included in the FY 2008 budget.

# CHAPTER 6:

## Monitoring and Evaluation



The Committee directed that the national plan “*must include a schedule for monitoring progress in meeting Federal land acquisition goals.*” The agencies agree that they should monitor progress in meeting goals. However, as discussed throughout this report, the agencies do not consider acreage goals as the appropriate goals to monitor; instead the agencies believe that they should monitor progress in meeting agency goals and Departmental objectives. To achieve this, the agencies evaluate three aspects of the land acquisition program:

- 1) Ensuring they have clear and effective goals, policies, and procedures;
- 2) Evaluating whether intended land management outcomes are achieved; and
- 3) Determining if the outcomes are achieved in the most cost-effective way relative to other feasible options.

Although each agency uses somewhat different evaluative processes, and applies them at varied scales and timeframes, all have common concepts and explicitly focus on the three aspects noted above.

- This report proposes to strengthen the evaluations by committing the agencies to make certain that they are conducted at appropriate intervals and with appropriate rigor.
- This report also proposes that greater attention be paid to the second and third aspects noted above through periodic retrospective assessments, which will be integrated as a component into each agency's existing evaluation mechanism. These assessments will focus on the extent to which particular acquisitions have, in retrospect, proven effective (in programmatic, cost, and management terms) in comparison to other options (e.g., promoting acquisition by other parties or alternative means of protection). The purpose of the assessments will not be to reconsider prior acquisitions, but to determine “lessons learned” that might strengthen the program through priority setting, decision making, and management.

Due to the complexities in monitoring and evaluation, each of the four major land managing agencies periodically reviews its internal program monitoring and evaluative processes to better ensure that the intended land management outcomes are properly evaluated. This is particularly important since it is inherently difficult to precisely measure how land acquisition contributes to meeting agency goals and Departmental objectives (point #2 above), since acquisition is just one of many factors which influence whether or not the goals and objectives are met.

As outlined above, monitoring occurs through a variety of means on a broad array of issues and on several levels, including: national and programmatic reviews; specific performance measures and objectives detailed in Government Performance and Results Act (GPRA) goals; strategic

plans; program reviews; and through Activity Based Costing. Recent DOI and FS land acquisition reviews were very useful in defining specific areas in which quantitative data are needed to help determine the efficacy of the land acquisition programs. However, as already detailed, this report – and specifically this chapter on monitoring and evaluation – differs significantly from the recent DOI review in that it focuses on general, qualitative monitoring and evaluative processes.

Interior's land acquisition performance measurements have traditionally been output and process-oriented. For example, performance metrics utilized include the percent of acreage acquired relative to the total land acquisitions in a land management plan, or the number of land transactions processed. What is needed instead is a suite of performance metrics that measure both the efficiency of the land transaction process and also appropriately signal to managers that land acquisition is just one of a wide variety of tools for achieving mission results.

A recent review of Interior's land acquisition activities concluded that no clear connection exists, in performance terms, between land acquisition and Departmental end outcome goals involving resource protection, quality recreation experiences, or serving communities. The review also concluded that land acquisition is not itself a program, but a tool that can be used by, or in conjunction with, various programs to achieve specific outcomes. Consequently, two recommendations to consider are: 1) to include land acquisition in future evaluations of broader end outcome-oriented programs for which goals are achieved partially through the application of land acquisition tools; and 2) to establish better land acquisition performance measures for each relevant program that clearly link land acquisition investments to achievement of DOI goals. This will also result in improved coordination of land transaction decisions among DOI bureaus (as well as the FS) to better achieve DOI's strategic goals (as detailed in the new interagency coordination proposal on page 41). Similarly, a 2003 review of the FS land acquisition program identified performance issues, a lack of alignment with the agency strategic plan, and funding allocations that do not meaningfully address national programmatic priorities. The FS has initiated efforts to address these concerns.

There is no question that a relationship exists between land acquisition and Interior's outcome goals. However, because land acquisition is only one of many tools used to achieve a specific outcome, such as land health or condition, the specific contribution of each factor cannot be easily circumscribed and quantified. For example, to sustain biological communities, Interior may engage in land restoration activities, reduce invasive species populations, develop voluntary agreements with local communities to improve nesting conditions, or acquire land or easements through purchase, exchange, donation, or other means to provide critical habitat for species of concern. Quantifying the respective contributions of each element has been problematic. Nevertheless, options will be developed to address the efficiency of the land acquisition tool and its effectiveness in pursuing mission outcomes. This would allow Interior to consider the effectiveness of priority setting across agencies and identify areas needing improvement.

Monitoring of "improvements on Federal lands" will also occur as called for in Executive Order #13327, Federal Real Property Asset Management, which requires agencies to *"recognize the importance of real property resources through increased management attention, the establishment of clear goals and objectives, improved policies and levels of accountability, and other appropriate action."* The DOI and the FS will execute the Executive Order with the completion of Asset Management Plans. The plans will provide the framework for implementation of holistic asset management programs to ensure that investment decisions are aligned with mission and strategic goals, enable the FS and the DOI (and its agencies) to better maximize return on investments for operating and maintaining assets, and help the FS and the DOI move to a more comprehensive approach of life-cycle management for assets.

The following section outlines the general monitoring and evaluative processes for each agency:

### **BLM:**

Through the agency's overall Evaluation Program, the BLM has established policies and procedures for conducting periodic Program Evaluations and reviews of its programs and functions. These Program Evaluations include the BLM land acquisition program (land exchanges, LWCF acquisitions, and other acquisition authorities).

Program Evaluations are initiated and conducted by the BLM Washington Office; however, the BLM field organizations may request that a Program Evaluation for a specific field location be included in the evaluation schedule for the agency. Program Evaluations assess and analyze whether a program is operating as it was intended: the extent to which the BLM meets the requirements and intent of applicable laws, regulations, policies and procedures; the adequacy of internal/management controls; the level of program performance and results; the use of best management practices; and provides recommendations for improvement. The review of management controls, including cost efficiencies, is necessary to ensure that government resources are protected from waste, fraud, and mismanagement.

For example, a BLM Land Exchange Program Evaluation was conducted in California, Montana, Colorado, Utah, and Oregon in 1999. A follow-up Program Evaluation was conducted in Wyoming, New Mexico, and Arizona in 2001. In response to these evaluations and additional audits by OIG and GAO, the BLM has implemented a broad range of land



*Fisher Towers along Highway 128, near Moab, Utah (BLM land)  
(Photo, Jerry Sintz)*

exchange program improvements and additional program oversight procedures to strengthen accountability in the land exchange program. Suggestions were made in New Mexico, Idaho, Nevada, Utah, and Wyoming for review of lands program staffing and effectiveness. Although Arizona's staffing was judged to be adequate, a recommendation was made for a review of organizational effectiveness. Arizona completed an organizational study and consolidated several units to improve effectiveness.

All BLM Program Evaluations are planned, scheduled and approved by the BLM Assistant Director, Business and Fiscal Resources, in advance of their initiation. There is no standard Program Evaluation schedule for the BLM; however, Program Evaluations are usually conducted on a 5-6 year cycle.

A Program Evaluation of the LWCF program has not been conducted in several years and is proposed for FY 2005, depending upon available resources. The Program Evaluation would be led by the BLM Washington Office Lands and Realty staff, but would also include staff from the National Landscape Conservation System office (Wilderness, National Conservation Areas,

Monuments, Wild and Scenic Rivers, etc.), recreation staff, wildlife staff, cultural resources staff, and appropriate field representatives. Previous BLM Program Evaluations of the LWCF program have reviewed 1) compliance with laws, regulations, policies, and procedures, and 2) the adequacy of financial management controls to protect against waste, fraud, and abuse. However, as part of the FY 2005 Program Evaluation, the BLM will also evaluate performance results and determine if the agency is meeting land acquisition program goals and objectives related to the Departmental objectives. The BLM will use the information from the Program Evaluation to determine if land management outcomes are being achieved and if program shifts need to be made in the priority ranking process for BLM LWCF projects. The BLM will also re-establish a five-year review cycle of the LWCF program after completion of the FY 2005 Program Evaluation.

In addition to these monitoring processes, the BLM also monitors how it is achieving its goals discussed in Chapter 3 and Appendix A through established objectives. For example, the BLM has objectives assessing:

- The number of at-risk cultural and paleontological properties on the public lands restored and protected;
- The percent of surveyed visitors satisfied with BLM management of National Conservation Areas and National Monuments; and
- The completion of projected Federal land disposals and conveyances in Alaska.

This illustrative list of objectives is not based on acreage targets, but is based on better management, improved recreation experiences, and protection of properties. These performance measures are monitored on an annual basis and reported as part of the BLM's Annual Performance Report.

#### **FWS:**

The mission of the FWS is to work with others to conserve, protect and enhance fish, wildlife, and plants and their habitats for the continuing benefit of the American people. Over the past century, this mission has often been expanded by refuge specific purposes established through legislation or during the public planning process. These purposes have a tremendous influence on the goals and objectives used to develop refuge programs and delineate the metes and bounds of the land acquisition project. A more comprehensive process has been legislated (Improvement Act) by Congress for each of the units that comprise the National Wildlife Refuge System (System). All of the units of the System must comply with the legislation and complete a Comprehensive Conservation Plan (CCP) by 2012.

The FWS routinely monitors, evaluates, and modifies land acquisition projects, land management, and public use programs based on experience or new information in response to direction from leadership, or to respond to the needs of area plants, fish, wildlife, and people. The first evaluation of land acquisition needs occurs during the initial refuge planning stages. The FWS prepares a Land Protection Plan, which identifies affected landowners, by tract, as well as the total land conservation needs to meet the purpose of the refuge. Once a refuge is established, periodic reviews occur roughly every five years (Habitat Management Plans) and every 15 years (CCP) in a public arena. These actions and planning efforts help decision makers and land managers evaluate goals, policies, and procedures and determine, based on experience and with input from others, whether intended land management outcomes are achieved in the most cost-effective way relative to other feasible options.

The Habitat Management Plan (HMP) also has annual components that are based on a multi-year strategy of natural or anthropocentric variables, which necessitate an adaptive approach. For example, an HMP could be used to guide the annual and long-term operation and maintenance of a large water management unit within a floodplain wetland complex that was acquired and designed to enable agency personnel to mimic the historic flood cycle. Given the hydrology and the reaction of the river to the discharge of water in a highly altered system (due to extensive agricultural development), the land managers may need to adapt to different hydrological conditions on a year to year basis.

Any deviations from the initial scope of the actions or alternative actions outlined in the document that was developed in consultation with the public must be revisited publicly prior to implementation. The HMP merges the unit's habitat needs with an appropriate management regime as a means of accomplishing refuge goals and objectives. The CCP is a more concentrated document that evaluates past, current, and future management and land base needs along with a wide variety of infrastructure, funding, and personnel requirements that are fundamental to the attainment of refuge purposes. These future needs for plants, fish, wildlife, and people may indicate that additional land conservation is required in order to meet the mission of the refuge, agency, and Department. The entire process is completed in close coordination with the interested public and captured in the appropriate documents as well as a revised Land Protection Plan.



*Florida Panther*

#### **NPS:**

The purpose of all NPS land acquisition is to meet the mission and objectives of the Department and the NPS. The NPS has several tools in place to monitor whether it is meeting its mission and its strategic goals. For example, one of the strategic goals of the NPS and the Department of the Interior is to "Protect Natural, Cultural and Heritage Resources." In FY 2004 the NPS will implement this goal by measuring "land health" within the units of the National Park System. This means that the NPS will measure, for example, the percentage of stream miles achieving desired conditions and percentage of acres achieving desired marine/coastal conditions within the boundaries of units of the National Park System. Following the acquisition of land within a unit of the National Park System, the Natural Resources Program, the scientific arm of the NPS, measures the "health" of the land. The benchmarking and subsequent measurement by the Natural Resources Program begins when the first tract of land is acquired and continues as the unit is opened to the public. Targets or benchmarks to measure "land health" (after land is already acquired) are being developed and will allow the NPS to determine if the intended land management outcomes are achieved. A detailed explanation of all the goals and performance measures can be found in the FY 2005 NPS Budget Justification.

Starting in FY 2004, the NPS will measure the number of tracts and acres acquired on an annual basis and report these data in conjunction with meeting an annual performance goal. The annual target is to acquire 2% of the land designated for acquisition and prioritized in the NPS management plans (GMPs and LPPs). However, just acquiring land does not necessarily



produce “healthy land.” Acquiring land is one of the tools that may be used to achieve the “healthy land” goal. The 2% goal is *not* the end outcome of the NPS conservation strategy. It is better viewed as an instrumental, or intermediate, output that advances (along with other tools) the agency’s conservation goals.

Programmatic evaluations of the Land Resources Program (Federal acquisition using LWCF) are conducted by the NPS to help support improvements and increased effectiveness (e.g., meeting the 2% annual goal), as well as ensure that the program has clear and effective goals, policies and procedures within the land acquisition program. For instance, based on recommendations from the 1999 OIG audit of the land acquisition program, the NPS reestablished an internal team that conducts audits of all land acquisition offices. The audit team provides a report for each office discussing recommendations for management improvements and conducts a six-month follow-up audit. It is expected that these audits will be performed on a two-to-three year cycle. Post-acquisition land management is the responsibility of park unit superintendents and managers.

### **FS:**

Monitoring of the land adjustment programs (land acquisition, exchange, disposals) is conducted through a variety of mechanisms. At the national level, periodic regional program reviews are conducted every five years to determine the effectiveness of the program and consistency with agency policy and objectives. Regional reviews are limited in their scope to the effectiveness of the region’s oversight and monitoring of the land adjustment and land acquisition programs.

Other national level reviews include case-specific review for higher value land exchanges and all LWCF acquisitions. For example, the National Landownership Adjustment Team, comprising Washington Office land adjustment staff, reviews all land exchanges over \$500,000. Washington Office land adjustment staff also review individual purchase cases on an ongoing basis as fund transfers for LWCF dollars are requested. This review acts as a validation step to ensure that properties being acquired with LWCF monies are consistent with the appropriation and original intent of the funded project, as well as consistent with agency goals and objectives. Similar monitoring occurs at the regional level as well. Case-by-case assessments, including the comparison of planned versus actual outcomes associated with land acquisition, are conducted through the Forest Plan monitoring processes.

Additionally, as detailed below, the FS has implemented two specific performance measures related to land acquisition that tie to its strategic plan. The Forest Service’s Annual Performance and Accountability Report will document program results, indicating both quantitatively and qualitatively the extent to which its programs are achieving the intended strategic goals and objectives. The performance measures will provide a quantitative measure to assess what was accomplished compared to what was planned and the trend, whether positive or negative, in meeting the projected FY 2008 target. This report will also discuss strategies and resources used or needed to achieve these goals and objectives and will address the significance of underlying factors (factors generally outside the agency’s control) that may have or will affect reported performance.

The performance measures are:

- Number of rights-of-way acquired (Baseline: 2002—148; FY 2008 target—300)

Rights-of-way accomplishment is tracked through a detailed annual report. Both rights-of-way easements and rights-of-ways acquired as part of a larger land acquisition are included in the FS Annual Performance and Accountability Report.

- Acres of land adjustments to conserve the integrity of undeveloped lands and habitat quality. (Baseline: FY 2002—140,519; FY 2008 Target—948,000)

This performance measure combines National Forest System fee and conservation easement acquisitions (primarily within National Forest boundaries), as well as the number of acres conserved through Forest Legacy Program acquisition (outside NF boundaries). FS LWCF funds are appropriated for both FS and Forest Legacy acquisitions. Acreages are tracked through a Purchase Digest for each case.

FS accomplishments are reported at mid-year and end-of-year and in addition to the performance measures mentioned above, include the number of acres acquired, rights-of-ways acquired, as well as overall acres adjusted through land exchange and conveyances.



## Conclusion

This Land Acquisition Plan (Plan) was prepared by representatives from the Department of the Interior's land managing agencies (the Bureau of Land Management, the National Park Service, the Fish and Wildlife Service, and the Bureau of Reclamation) and the Office of the Secretary, and the Forest Service within the United States Department of Agriculture. The Committee's directive led to a productive evaluation of how land acquisition programs relate to Departmental objectives and agency goals. In particular, the Plan documents the sequential steps taken by land managing agencies to determine whether land acquisition is the appropriate tool to manage and conserve the lands. These steps are built upon the missions and mandates of the agencies.

In the process of responding to the Committee's directive, the agencies determined that the following improvements were needed to create a more dynamic and constructive process for land transaction decisions.

- Improved Coordination Among Federal Agencies — The new process described for increased inter-agency as well as intra-agency consultation and coordination will help assure that lands are managed in the most appropriate manner and by the agency or entity best suited to manage the land.
- Improved Monitoring— Strengthening existing agency evaluations by augmenting their existing procedures with periodic retrospective assessments will help assure agencies provide clear policies and guidance, and help evaluate the effectiveness of land management outcomes.
- Operations and Maintenance (O&M)— The improvements in accounting for and reflecting O&M costs beginning in FY 2006 will allow agencies to better prepare for any potential future O&M costs.
- Agency Criteria – Specific improvements in ranking criteria for the LWCF projects will better incorporate Departmental objectives and agency goals.

Recommendations associated with the transfer of military and other Federal lands are discussed in Annex 3.

## **ANNEX 1:**

### **Evaluation of Authorities**

#### **Introduction:**

The Committee directed the agencies to “*Evaluate existing authorities regarding the disposal and consolidation of Federal lands.*” Each of the Federal agencies has reviewed and evaluated their disposal and consolidation authorities, in addition to their acquisition authorities, in response to language in the FY 2004 House Report.

Over the past century Congress has developed and passed legislation that can be used to accomplish specific conservation goals and prudent use of the Nation’s natural resources on public land. These authorities were tailored and, in some instances, amended by Congress to provide the agencies with the tools needed to accomplish each agency mission for the good of the greater public.

**After a thorough review of the authorities captured in the following pages of this report, the agencies believe they generally have the tools and safeguards necessary to discharge their responsibilities to the public for the acquisition, disposal, and prudent administration of the Federal estate. However, there may be some areas where authorities could be amended, consolidated, or simplified to improve program management and to ensure greater consistency among agency programs. The Departments will continue to evaluate options for achieving this goal.**

The Land and Water Conservation Fund (LWCF, Public Law 88-578) is an authority common to all the agencies (except Reclamation) and authorizes the Secretary of the Department of the Interior and the Secretary of the Department of Agriculture to purchase lands necessary for proper management of public lands primarily for outdoor recreation purposes. The LWCF Act is a funding authority only, not an acquisition authority. All proposed acquisitions must be in accordance with existing authority and approved land use plans.

The following list of authorities is not exhaustive, but highlights the primary authorities used by the agencies. While some of the tools or authorities are seldom used, the agencies believe it is important to retain the authority for use in the special situations that initially provided Congress with the impetus to craft the legislation.

#### **BLM:**

**The Federal Land Policy and Management Act (FLPMA, Public Law 94-579), as amended –** FLPMA is the BLM’s basic authority for land sales, acquisitions, and exchanges:

Sales - Authorizes the BLM to sell public lands as long as the tract meets certain disposal criteria: the tract is difficult and uneconomic to manage because of its location or other characteristics; the tract is no longer required for its originally intended Federal purpose; and disposal of such a tract will serve a public objective, such as expansion of communities and economic development, and which outweighs other public objectives, including, but not limited to, recreation and scenic values.

Acquisitions - Authorizes the BLM to acquire lands or interests therein when acquisition is consistent with the Departmental mission and with applicable land use plans. Eminent domain “may only be used to secure access to public lands, and then only if the lands so acquired are as narrow a corridor as is necessary...”

Exchanges – In general, land exchanges are the BLM's preferred method of acquisition, placing public land in private ownership for local needs and consolidating scattered tracts of land for more effective and less costly management. The Secretary must find that the "values and the objectives which the Federal lands or interests to be conveyed may serve if retained in Federal ownership are not more than the values of the non-Federal lands or interests and the public objectives they could serve if acquired." The lands must be located in the same State. They must also be of equal value, or if not, "equalized by the payment of money to the grantor or to the Secretary concerned, so long as the payment does not exceed 25% of the total value of the lands or interests transferred out of Federal ownership."

Donations - Authorizes the Secretary of the Interior to enter into cooperative agreements, conduct public land use investigations, accept gifts of land or contributions of money for public land administration, and carry out certain other administrative matters on BLM lands.

**Southern Nevada Public Land Management Act of 1998** (SNPLMA, P.L. 105-263) – Provides for the acquisition of environmentally sensitive lands in the State of Nevada and the potential disposal of some 74,000 acres of public land in the Las Vegas Valley. A key provision allows land sale proceeds to be used to fund a variety of Nevada land management activities and local community needs.

**Federal Land Transaction Facilitation Act of 2000, Title II of the Valles Caldera Preservation Act** (Baca Bill, P.L. 106-248) – Enhances the BLM's ability to use its land sale authority by making most land sale receipts (as well as land exchange equalization payments) available to acquire lands from willing inholders and adjacent landholders. An MOU was signed in May, 2003 among the BLM, NPS, FWS, and the FS for guidance on land acquisition and the use of sale receipts. The goal is to improve resource management by consolidating ownership. Fund allocation provisions include:

- No more than 20% of Federal Land Disposal funds may be used for administrative and other expenses.
- At least 80% shall be used to acquire inholdings.
- At least 80% of the acquisition funds to be spent within the State in which funds were generated.

**The Recreation and Public Purposes Act** (P.L. 69-386) – Authorizes the Secretary, upon application by a qualified applicant, to "dispose of any public lands to a State, Territory, county, municipality, or other State, Territorial, or Federal instrumentality or political subdivision for any public purposes, or to a nonprofit corporation or nonprofit association for any recreational or any public purpose consistent with its articles or incorporation or other creating authority." The Act specifies conditions, qualifications, and acreage limitations for transfer, and provides for the restoration of lands to the public domain if conditions are not met.

The BLM has one proposed amendment to its current authorities:

**BLM – Proposed Amendment/Adjustment:**

Federal Land Transaction Facilitation Act of 2000, Title II of the Valles Caldera Preservation Act (Baca Bill):

The Department and the BLM have proposed several amendments to the Federal Land Transaction Facilitation Act to allow the BLM to more effectively use the provisions of the Act. These proposed amendments would include the following:

- a) Allow for the retention of proceeds from land disposals identified for disposal in new or amended land use plans after the effective date of the Act (July 25, 2000);
- b) Extend the existing 10-year sunset provision of the Act to 15 years;
- c) Allocate some receipts from land disposals for other conservation purposes or resource benefits in addition to the acquisition of inholdings under the Act.

**Explanation for Change:**

The Federal Land Transaction Facilitation Act can be improved to provide for a more effective land disposal and land conservation program. Under the Act, the BLM may only sell lands identified for disposal and retain the proceeds from those sales if the lands were identified for disposal in an approved BLM land use plan as of July 25, 2000 (date of enactment of the Act). The BLM is in the process of updating and revising many of its land use plans and there will undoubtedly be changes in the public lands identified for disposal in these new land use plans. The BLM land use planning process also involves extensive public input and review that should be considered in future land disposal and conservation initiatives. It would be shortsighted not to use this new information in the implementation of the Act.

In addition, the Department and the BLM have proposed elimination of the existing 10-year sunset provision of the Act. Implementation of any land disposal and conservation program is a long-term undertaking that would greatly limit opportunities for success if limited to the 10-year period set forth in the Act. The Department and the BLM have also proposed that the Act be amended to provide for the use of funds in the Federal Land Disposal Account for purposes other than the acquisition of land. The Department and the BLM have proposed that a portion of the funds be available for other conservation purposes and public benefits, including habitat restoration, rehabilitation or improvement, and maintenance of land and water resources.

**Status of Request:**

A proposed legislative package has been prepared by the Department, reviewed by OMB, and submitted to Congress.

**FWS:**

Listed below are the land acquisition and funding authorities the FWS primarily uses to accomplish resource conservation objectives for plants, fish, wildlife, and people. These authorities are integral to the acquisition of land (fee title), interest in land (easement of lease), and the prudent management (exchange or transfer) of the real estate interests that comprise the National Wildlife Refuge System. Other specific and secondary authorities exist for donations, transfer and exchanges.

**Migratory Bird Conservation Act** (P.L. 70-770) – Provides authority to purchase refuge lands and interests therein for migratory bird refuges, both for inviolate sanctuaries and for other management purposes. Additionally, it provides authority for the FWS to accept donations of lands.

**Migratory Bird Hunting and Conservation Stamp Act** (P.L. 73-124) – This is the basic authority to purchase fee and easements for Waterfowl Production Areas. Additionally, it provides authority for the FWS to accept donations and to exchange lands.

**Fish and Wildlife Act of 1956** (P.L. 84-1024) – Authorizes the acquisition of lands for development, advancement, management, conservation and protection of fish and wildlife resources; and provides authority to use Land and Water Conservation Fund monies for

acquisition under this Act. Additionally, it provides authority for the FWS to accept donations and exchange lands.

**Refuge Recreation Act of 1962** (P.L. 87-714) – Authorizes the acquisition of lands and interest therein suitable for 1) fish and wildlife-oriented recreation; 2) protection of natural resources; 3) conservation of endangered or threatened species; or 4) carrying out two or more of the above. Acquisition may be made with LWCF monies.

**Endangered Species Act** (P.L. 93-205) – Authorizes the acquisition of land for the conservation of listed species with LWCF monies. Additionally, it provides authority for the FWS to accept donations of lands.

**Emergency Wetlands Resources Act** (P.L. 99-645) – Authorizes the purchase of wetlands or interest in wetlands, which are not acquired under the authority of the Migratory Bird Conservation Act, consistent with the National Wetlands Priority Conservation Plan using LWCF monies.

**North American Wetlands Conservation Act** (P.L. 101-233) – Provides funding and administrative direction for implementation of the North American Waterfowl Management Plan and the Tripartite Agreement on Wetlands between Canada, the U.S., and Mexico. The Act converts the Pittman-Robertson Account into a trust fund, with the interest available without appropriation through the year 2006 to carry out the programs authorized by the Act. For this to continue after 2006, Congressional action will be required. The Act also authorizes an annual appropriation of \$15 million, plus an amount equal to the fines and forfeitures collected under the Migratory Bird Treaty Act (approximately \$744,000).

#### **NPS:**

**There is no one statute authorizing land acquisition for all units of the National Park System.** The NPS acquires land under several general authorities and many individual statutes that address acquisition at specific units of the System. In some instances, acquisition is accomplished under the implied authority of the appropriation of funds for acquisition in an established area.

In the case of most units of the System, acquisition authority is governed primarily by the statute or statutes specifically pertaining to the unit. Most units of the National Park System have been individually authorized by Congress in statutes that contain varying provisions with regard to land acquisition. Some give a broad grant of land acquisition authority. In the laws pertaining to some units, Congress has, in express terms, authorized the acquisition of land by purchase or condemnation. Statutes governing other areas specified that land may be acquired only by donation or by purchase with donated funds. Some of the statutory provisions relating to land acquisition relate to specific pieces of land or to acquisitions from particular grantors; others may limit the acquisition of fee simple interest.

#### **RECLAMATION:**

**Reclamation is unique in that there is a body of law, referred to as Federal reclamation law, which includes general authorities and the authorizing legislation for each Reclamation project. Each project authorization provides Reclamation with the authority to acquire the land and water rights that may be necessary for project purposes.** In addition to the authorities, requirements, and restrictions included in Federal reclamation law and specific project authorization legislation, Reclamation, as is the case with the other

agencies, is also governed by other applicable Federal authorities such as the National Environmental Policy Act (NEPA) and the Endangered Species Act (ESA).

Lands may be required for project facilities and/or to mitigate for project impacts. Acquisitions typically occur prior to project construction. Once a project is complete, there are usually few, if any, additional acquisitions of land or water rights. In recent years, Reclamation has transferred ownership of lands and facilities on a number of projects to non-Federal entities. Each of these transfers has required an individual legislative authorization.

In addition, Reclamation has acquired lands or leased water (on an annual or permanent basis) in some specific locations to mitigate environmental concerns associated with project operations. The purposes of the land acquisitions – which have primarily occurred in California – are to retire marginal agricultural lands from production and acquire wildlife habitat. The primary purpose of the water purchases and leases is to provide instream flows and/or water for wetlands. The authority for these types of acquisitions is usually project and/or location specific. (For specific information see Appendix D.)

## **FS:**

**Weeks Law of March 1, 1911** (P.L. 61-435) – This law is the primary land acquisition authority for the FS.

Purchases – Authorizes the Secretary of Agriculture to purchase lands within the watersheds of navigable streams in order to promote regulation of the flow of navigable streams or for the production of timber. All lands purchased under this authority must be within established National Forests or purchase units.

Exchanges – Authorizes the exchange of National Forest System land or timber that has Weeks Law (acquired land) status. The Act provides for both land-for-land and land-for-timber exchanges.

**Department of Agriculture Organic Act of August 3, 1956** (P.L. 84-979) – Section 11(a) of this law provides that the Department of Agriculture can purchase land or interests therein, as necessary, to carry out its authorized work. However, there can be no purchases under this authority unless a provision is made in the applicable appropriation or other law. This is the land acquisition authority used for those properties that are not within the watershed of navigable streams or outside National Forest boundaries.

**Wilderness Act of September 3, 1964** (P.L. 88-577) – The 1964 act authorizes the Secretary of Agriculture to acquire privately owned land within the perimeter of any area designated as wilderness under provisions of the act.

**Eastern Wilderness Act of January 3, 1975** (P.L. 93-622) – This act added several areas in the Eastern United States to the Wilderness Preservation System and proposed several more for study.

Purchases – Provides a revised acquisition authority for these eastern areas. Section 6(b) authorizes the Secretary of Agriculture to acquire by purchase such lands, waters, or interests therein as determined necessary or desirable for the purposes of the Act.

Exchanges — Authorizes the Secretary to exchange lands within the boundaries of any area designated as wilderness.

Donations – Authorizes the Secretary to accept donations of land within the wilderness boundaries.

**Wild and Scenic Rivers Act of October 2, 1968** (P.L. 90-542) – Authorizes the Secretary of the Interior and the Secretary of Agriculture to acquire lands and interests in land within the authorized boundaries of any component of the National Wild and Scenic Rivers System.

**National Trails Act of October 2, 1968** (P.L. 90-543) –

Purchases – Authorizes the heads of Federal agencies administering the established National Trails to acquire lands or interests in lands within the boundaries of established National Trails.

Exchanges – Provides authority for the Secretaries of the Interior and Agriculture to exchange for lands within the exterior boundary of areas under their administration and to acquire lands within the boundary of established National Trails.

Donations – Provides authority for the Secretary to accept donations of lands within the boundary of established National Trails.

**Acceptance of Gifts Act of October 10, 1978** (P.L. 95-442) – This is the primary authority that allows the Secretary of Agriculture, on behalf of the United States, to accept donations of land. These donations are made to benefit the Department of Agriculture or for the accomplishment of any of its functions.

**General Exchange Act of March 20, 1922** (P.L. 67-173) – Authorizes the exchange of land or timber that was reserved from the public domain for National Forest System purposes. Provides for both land-for-land and land-for-timber exchanges

**Bankhead - Jones Farm Tenant Act of July 22, 1937** (P.L. 75-210) – Authorizes the exchange of National Forest System lands that have Bankhead-Jones Title III status and all Federal lands in National Grasslands.

**Exchange for Schools Act (Sisk Act) of December 4, 1967** (P.L. 90-171) – Authorizes the exchange of not more than 80 acres of National Forest System land with a public school authority or with a State, county, or municipal government. It also provides for cash equalization up to 100 percent to be paid if the non-Federal party does not have land for an exchange. The FS would then use the cash equalization funds to purchase replacement property.

**Small Tracts Act of Jan. 12, 1983** (P.L. 97-465) – Authorizes the Secretary to sell, exchange or interchange up to 10 acres, when valued under \$150,000 and innocently encroached upon by improvements occupied or used under claim or color of title. It also allows for the sale of up to 40 acres of mineral fractions as well as rights-of-ways deemed no longer needed by the Secretary.

**National Forest Townsite Act of July 31, 1958** (P.L. 85-569) – Allows the sale, at market value, of FS lands located adjacent to established communities in the eleven contiguous western States to a county, city or other local governmental entity to serve indigenous community purposes.

**Interchange with the Department of Defense Act of July 26, 1956** (P.L. 84-804) – This authority allows for the interchange of lands between the Department of Defense and the Department of Agriculture, Forest Service.

**Other:**

Purchases — Numerous specific land purchase authorities such as the Receipts Acts, National Recreation Area Authorities Act of June 22, 1948 (Boundary Waters Canoe Area) and the Act of July 12, 1976 (Alpine Lakes Management Area in the Snoqualmie National Forest) provide for the purchase of lands within individual National Forests.

Exchanges – Various State-specific Acts authorize the exchange of specific lands such as: Interstate 90 Land Exchange Act (P.L. 105-277), Cedar River Watershed Exchange Act (P.L. 102-453), Arizona National Forest Improvement Act (P.L. 106-458) of 2000, and the Florida National Forest Land Management Act (P.L. 108-152) of 2003.

Sales – Various State specific sale Authorities and the Interior Appropriations Acts of FY 2002-2004 authorize the sale of unneeded administrative sites. These acts provide for the funds received from the sale of these properties to be used for deferred maintenance of existing facilities or to be used to acquire new administrative facilities.





## **ANNEX 2:**

### **Methods for Receiving and Evaluating Public Input**

#### **Introduction:**

The Committee directed the agencies to “review the methods employed for receiving and evaluating public input on potential acquisitions.” To provide a comprehensive review, the agencies considered and responded to the following three questions in their analysis:

- 1) Describe the opportunities for public input in the planning process (or “when”)
- 2) Describe the methods for solicitation and receipt of public input (or “how”)
- 3) Describe how public input is evaluated (or “how input is considered”)

Responses to these questions for each agency are presented below. *While the processes the agencies use differ slightly, the agencies believe that their methods for receiving, reviewing and evaluating public input are not only sufficient, but are important components of their decision-making process for determining if and how to acquire lands.* In general, public input is solicited and considered at the planning stages, and public input is sought again if any land transactions deviate from, or were unforeseen, in the planning stage (i.e., for land exchanges).

#### **BLM:**

**Question 1 – Describe the opportunities for public input in the planning process:** The land use planning process, which provides the foundation for land acquisitions and sales, provides ample opportunity for public participation at the local level (see Chart on page 61). The BLM prepares a Resource Management Plan (RMP) that provides guidance for the management of resources within a planning unit. The planning process is fully integrated with the environmental review process. Each year the BLM publishes its planning schedule to advise the public and other government agencies where it intends to start new land use plans or modify existing plans for the next three years. The public is invited to comment on the proposals and suggest priority areas and resource issues to be considered. All new RMPs require an Environmental Impact Statement (EIS). Amendments to an existing plan may only require an Environmental Assessment (EA). Lands identified for acquisition or disposal must be consistent with implementation of land use plans.

The BLM must solicit public comment and participation at several steps in the land use planning process:

- 1) General notice of intent to initiate planning in an area;
- 2) Review of the proposed planning criteria;
- 3) Publication of the draft RMP and draft EIS;
- 4) Publication of the proposed RMP and final EIS, which triggers the opportunity for protest; and
- 5) Public notice and comment on any significant change made to the plan as a result of action on a protest.

The RMP can be amended to change earlier land planning designations. The proposed changes provide another opportunity for public comment and can include sales, acquisitions or land exchange transactions that were previously not included in the plan. Land exchange regulations also require the BLM to publish a Notice of Exchange Proposal (NOEP) inviting the public to submit comments or concerns regarding the proposed land exchange. Comments must be submitted to the BLM in 45 days.

Sales of public lands require a Notice of Realty Action (NORA) identifying lands to be sold. The NORA offering for sale a tract or tracts of public land must be issued, published and sent to parties of interest by the authorized officer not less than 60 days prior to the sale. The Member of the U.S. House of Representatives in whose district the lands proposed for sale are located, the U.S. Senators for that State, the Governor and local zoning officials must be provided a 60 day notice prior to the sale. The BLM must also notify current land users and adjoining property owners.

**Question 2 – Describe the methods for solicitation and receipt of public input:** Public comment for planning and sales is solicited through notices in local newspapers, press releases, mailing lists, and the Federal Register. The BLM Field Manager must maintain a contact list of individuals and groups known to be interested in or affected by an RMP. For sales, the Notice of Realty Action is published once in the Federal Register and once a week for three weeks in a newspaper of general circulation in the vicinity of the public lands offered for sale.

Land exchanges proceed in a slightly different manner. After reaching a non-binding agreement with the landowner(s) interested and willing to initiate a land exchange, the BLM must publish a NOEP once a week for four weeks in newspapers of general circulation in the counties in which the Federal and non-Federal lands are located. The BLM must also notify current land users, adjacent property owners, and jurisdictional State and local governments. To ensure consideration of environmental impacts, public comments must be provided within 45 days of the public NOEP. The Notice of Decision on the exchange must also be published in newspapers of general circulation.

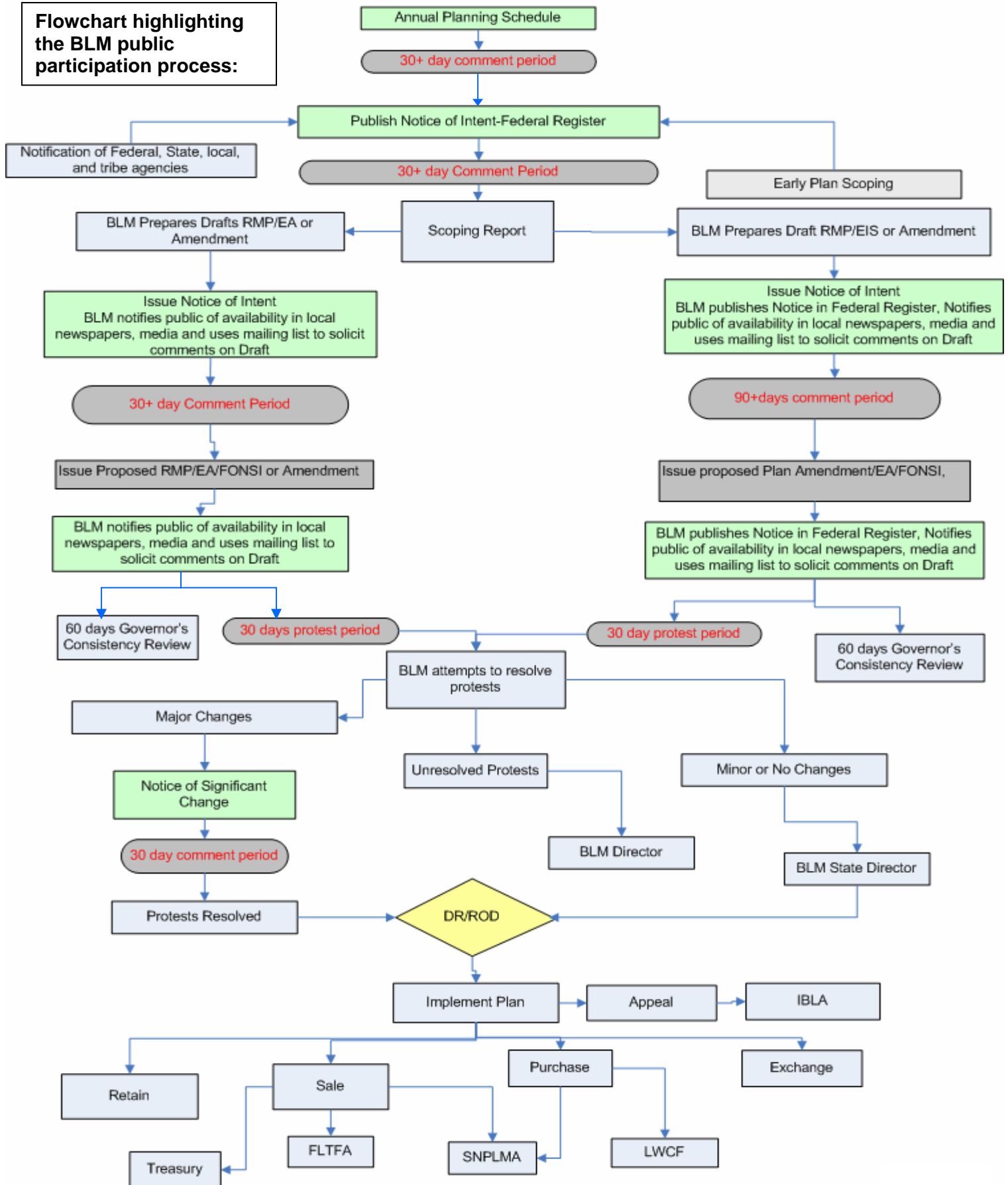
**Question 3 – Describe how public input is evaluated:** Public comments and suggestions are evaluated in a variety of ways. Comments may facilitate clarification of an issue or provide additional concerns to be considered in the RMP/EIS/EA process. They may provide information regarding water, fencing, critical habitat, migration patterns, ownership, and adjacent land uses. Comments are evaluated in terms of how well they facilitate analysis of alternatives and meeting planning objectives. The goal is to develop a plan consistent with local and State planning that can be implemented by the BLM with local agreement and support.

The BLM process is unique in that it offers an official protest period for both an RMP and a Notice of Decision regarding a proposed land exchange. There is no limitation on persons making comments after publication of the land exchange Notice of Decision, but only members of the public, agencies or groups that have participated in the planning process can submit a protest for an RMP. Protests must be sent to the BLM Director stating their objection to approval of the plan or any part of it which may affect their interests adversely. The Director reviews the protest and responds, based on the facts presented. Also during the public protest period, the Governor of the State has an additional opportunity to identify inconsistencies between the proposed RMP and State and local plans or programs. When a protest or a review of the RMP's consistency with State and local plans result in significant changes in the proposed plan, a public notice must be prepared and issued affording the public an additional period for comment. Protests to the Interior Board of Land Appeals can delay settlement unless the Secretary asserts jurisdiction and makes the final Departmental decision.

### **Public Input Processes for SNPLMA and FLTFA**

The public input process for SNPLMA and FLTFA is equally rigorous. Lands to be acquired are nominated through a formal public nomination process. To solicit nominations for the acquisition of lands, the BLM publishes a Federal Register notice, issues press releases, and utilizes electronic mail lists and well as the BLM website. Public comments are also requested on a preliminary recommendation package and comments are then evaluated and ranked.

**Flowchart highlighting the BLM public participation process:**



## FWS:

**Question 1 – Describe the opportunities for public input in the planning process:** The FWS involves the local communities, the public, elected officials, government officials, and partners in the planning, purchase of land or interest in land, and long term use and administration of a National Wildlife Refuge. The public is involved from the initial inception of the proposal, (including often proposing the Refuge themselves), to establish or expand an existing National Wildlife Refuge. The same relationship is cultivated and nurtured on a unit by unit basis in such a way that it is a cornerstone to the administration, operation, and maintenance of the National Wildlife Refuge System. These same parties are involved in the development of land management and public use plans and the Comprehensive Conservation Plan, which is revisited in its entirety at least every 15 years. The FWS is required by law to maintain confidentiality when actively negotiating with specific landowners; therefore, public input is not solicited when negotiations are active between the agency and a landowner.

**Question 2 – Describe the methods for solicitation and receipt of public input:**

The FWS routinely holds public meetings when developing a Comprehensive Conservation Plan, habitat plan, public use plan, construction project, or taking action that has not been outlined and evaluated in a public arena. These meetings are used to both solicit and receive public input. At the grassroots level, the FWS frequently convenes annual informational meetings, sends out newsletters, and drafts documents for review by partners and the public. In many instances the FWS also solicits input through Federal Register notices.



*Historical Photo taken at Pelican Island National Wildlife Refuge (NWR), Florida – the Nation's First NWR*

**Question 3 – Describe how public input is evaluated:** Numerous examples can be provided where projects and plans have been modified, sometimes greatly, by input solicited during the public scoping and planning process. Public and partner input as to how these lands are managed and enjoyed by the public is critical to the success of the FWS.

## NPS:

**Question 1 – Describe the opportunities for public input in the planning process:**

Numerous points in the NPS study and planning processes precede establishment of new parks where public input is solicited prior to any decisions about land acquisition (see Chart on page 65).

Each unit of the National Park System has its own legislative authorization or presidential proclamation that describes its purpose and defines what lands or interests in land may be acquired. Since 1998 the NPS has been prohibited from initiating any studies of potential new units of the system unless those studies are specifically authorized by Congress. Prior to authorizing a study of a potential new park, Congress normally has public hearings on the

proposed study. Once a study of a potential new park has been legislatively authorized, there are four major steps where public input is solicited:

- 1) Scoping — The NPS Publishes a Notice of Intent to conduct a study/Environmental Impact Statement in the Federal Register and begins scoping the project with public involvement through focus groups and open houses;
- 2) Management Alternatives – The NPS, as part of the NEPA process, distributes newsletters and hosts public open houses/meetings as a chance for the public to provide input on management alternatives;
- 3) Draft Study – The NPS publishes a Notice of Availability of draft study in the Federal Register inviting the public to comment through public open houses/meetings. The formal public review period is normally 60-90 days and the draft is circulated via the mail and the internet; and
- 4) Final Study -- The NPS publishes Notice of Availability of the final study in the Federal Register.

After the Special Resource Study is completed, the report is transmitted to Congress and legislation may be drafted to authorize a new park system unit. Congress normally holds another round of public hearings on the authorization legislation providing opportunities for comment by property owners and local officials.

After a resource becomes a part of the National Park System, a General Management Plan (GMP) is developed to ensure that a basic foundation for decision making has been created. This too is developed in consultation with interested participants and adopted by the NPS leadership after an adequate analysis of the benefits, environmental impacts, and economic costs of alternative courses of action has been completed. As shown in the flowchart, there are four discrete points, which mirror those in the Special Resource Study, where public input is solicited in the GMP process.

GMP's are required by law to identify potential boundary modifications. This aspect of the plan might involve identifying lands that could be added to the park through action by Congress. The NPS has very limited authority to make minor boundary adjustments through administrative action; any substantial boundary expansion with implications for private land acquisition would require action by Congress. This usually involves additional opportunities for public comment through hearings in the legislative process.

Land Protection Plans normally tier from the GMP to identify priorities and what lands or interests in lands within the park's authorized boundary need to be in Federal ownership. Land Protection Plans are also prepared with opportunities for public review and comment that parallel the steps outlined for studies and management plans.

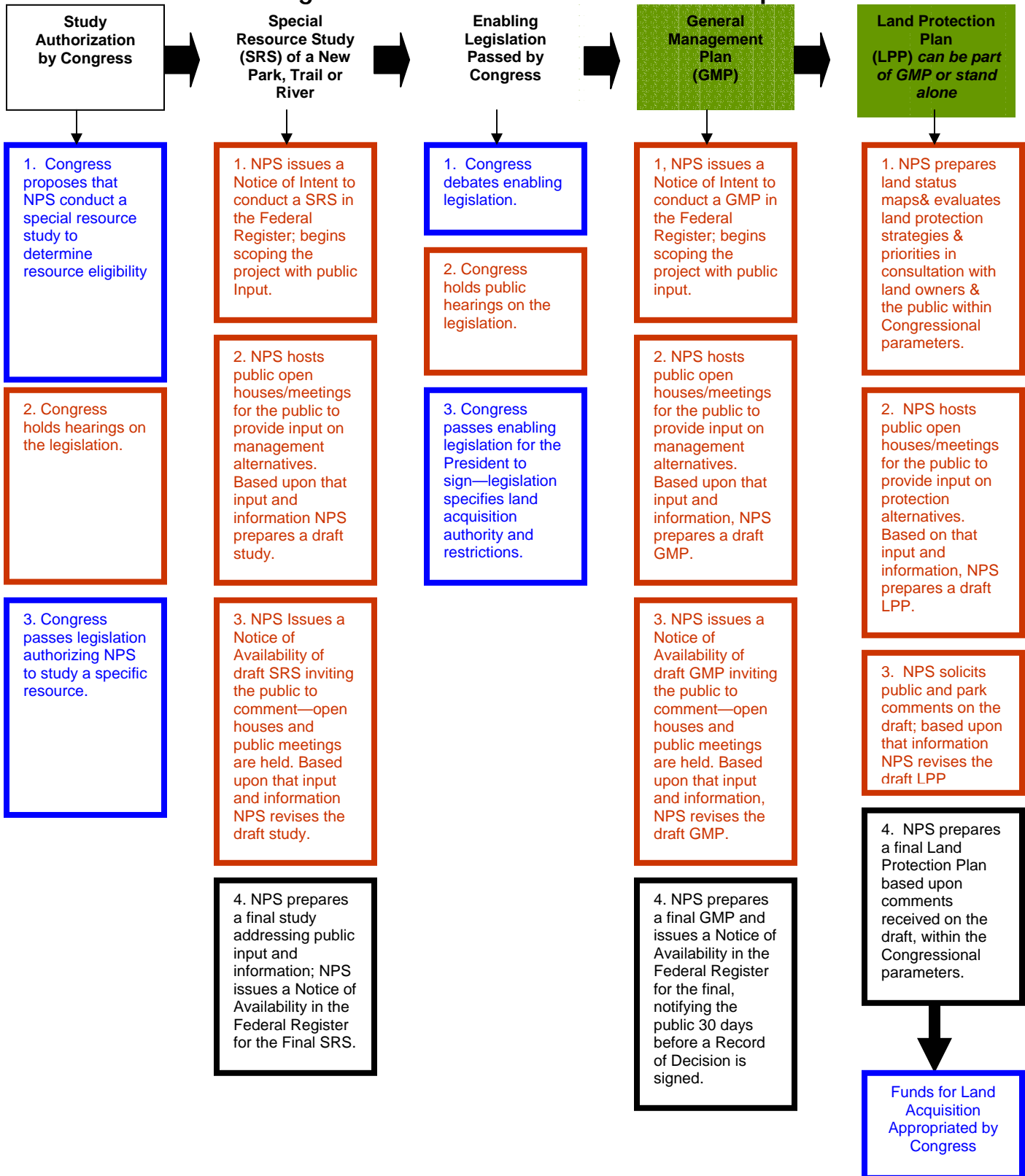
**Question 2 – Describe the methods for solicitation and receipt of public input:** Solicitation of public input occurs through: notices for public open houses, which appear in newspapers; local radio stations; in the NPS project newsletters; and other places that the planning team believes would reach as broad a public audience as possible. These include Notices of Intent to undertake planning efforts and Notices of Availability in the Federal Register when plans are out for public comment. Depending on the size of the park, landowners and local officials may receive individual letters or other communications to invite their participation. Each major planning effort in the NPS includes a public involvement strategy consistent with Director's Order 75-A on Civic Engagement.

Receipt of public input is accomplished through open houses, workshops, public meetings, and public hearings. These all provide a forum for the NPS to gather public input formally and anecdotally—through conversation, comment forms, questionnaires, planning charettes or in a variety of other venues. The NPS may also schedule key stakeholder and personal interviews and focus groups to gather public input.

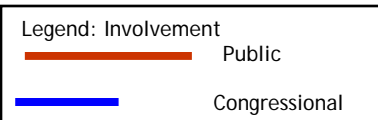
Special Resource Studies and General Management Plans normally have a project website which allows the public to stay informed about the planning project and offer comments through an online comment form.

**Question 3 – Describe how public input is evaluated:** Public input is a critical component of the NPS planning process. Each comment received is reviewed by the planning team. Specific substantive comments provided by the public are addressed in the Draft and Final EIS. Comments are analyzed to find trends and issues important to citizens and that information is used to identify issues for further study, to direct data gathering, and ultimately to shape management prescriptions and policies.

# NPS Planning Processes Related to Land Acquisition



Public involvement continues formally and informally throughout the planning continuum





## **RECLAMATION:**

Reclamation does not have a specific established public involvement process for land acquisitions. What follows reflects Reclamation's general public involvement activities:

**Question 1 – Describe the opportunities for public input in the planning process:**

Reclamation provides opportunities for public comment as part of the process employed in planning Reclamation projects.

**Question 2 – Describe the methods for solicitation and receipt of public input:** Depending on the proposed action, input may be solicited through notices published in the Federal Register and in local newspapers. Techniques used for involving local communities and the public include interviews, workshops, advisory committees, informational brochures, surveys, and public hearings. Traditionally, public comments have been received through statements made at public and Congressional hearings and through written submissions at meetings as a result of notifications (e.g., the Federal Register). As technology has improved, Reclamation has also utilized 800 numbers to receive recorded comments as well as the Internet to receive electronic comments.

**Question 3 – Describe how public input is evaluated:** All public input is reviewed and analyzed. Where appropriate, the proposals or planned actions are altered based on public comment.

## **FS:**

**Question 1 – Describe the opportunities for public input in the planning process:** Public involvement for the Forest Service's land adjustment process starts with the development of individual unit Land Management Plans. Local communities and the public have the opportunity to provide input to all aspects of the Forest Plan including land adjustment activities. Forest Plans establish goals, objectives, and the land adjustment strategy plan for each Forest. Some examples of goals and objectives are: acquiring inholdings within National Forest boundaries to reduce administrative costs and protect wildlife habitat; acquiring critical wetlands and floodplains; and acquiring lands that provide for public access to enhance recreation opportunities. Additional public involvement is conducted when Forest Plans are amended or revised.

**Question 2 – Describe the methods for solicitation and receipt of public input:** Forest planning is a lengthy process that involves public meetings and public notices in the Federal Register and local newspapers. The FS completes site-specific NEPA analysis for each land exchange. Notices are published in the Federal Register when an EIS is required. In addition, for all exchanges, a notice is published in the newspaper for four consecutive weeks in each county where parcels identified for exchange are located. These notices invite public comment on the proposed exchange. A NEPA document (EIS or EA) is then prepared and the public again has the opportunity to comment on the land exchange proposal and alternatives being considered. Unless the decision is categorically excluded from documentation in an EA or EIS, after a decision is made, a notice of the land exchange decision is published in the newspaper giving the public the right to appeal the decision.

**Question 3 – Describe how public input is evaluated:** Public comments (for exchanges, Forest Plans and amendments, and land disposal) are tracked and considered in the environmental analysis and in reaching a decision. The FS also prepares a Response to Comments document that becomes an attachment to the Decision document. Unless categorically excluded (purchases), the public may also appeal FS decisions, and each appeal is considered and a response is sent.

## ANNEX 3:

# Issues Associated with Transfers of Military and Other Federal Lands

### Introduction

The House Report on the FY 2004 Appropriations Act for Interior and Related Agencies requested that the long-term national plan for Federal land acquisition “*address the reimbursement of all costs associated with the transfer of former military and other Federal lands to the DOI and the FS.*” This annex will describe the different methods of military and other Federal land transfers to the DOI and the USDA (FS), and address the problems and costs often associated with these land transfers.

In this discussion, the “transfer” of land generally refers to transactions in which custody and control – administrative jurisdiction – over Federally owned lands is transferred from one Federal department or agency to another. There is no change in ownership because the United States remains the owner of the lands. This discussion will also address the transfer of ownership of military and other Federal agency land and facilities to State and local governmental agencies for public parks and recreation areas through the NPS’s Federal Lands to Parks Program (FLP). The Department of Defense (DOD) is the source of the vast majority of lands transferred to the DOI and the USDA (FS). However, other Federal agencies also transfer some properties. For example, most of the Department of Energy’s (DOE) Rocky Flats property in Colorado and the DOE’s Hanford Reservation in the State of Washington will be transferred to the FWS after the DOE carries out remediation of hazardous substances and restoration of natural resources at the facilities. The transfer agreement for Rocky Flats was signed April 2, 2004 and the transfer agreement for Hanford Reservation is still pending. Also, the Coast Guard has transferred lighthouses and coastal property to the FWS and the NPS.

A major concern to agencies receiving lands from other Federal agencies is that many of these lands contain environmental contamination stemming from past activities. The DOI’s environmental contaminants policy is to minimize liability by not accepting contaminated property until cleanup has been completed. However, in some instances, such as legislatively mandated transfers, the DOI may not be in a position to decline the transfer prior to completion of the cleanup.<sup>3</sup> In other cases where transfer occurs after cleanup is complete, there are remaining issues and costs for the DOI as the land manager responsible for managing property previously managed by other Federal agencies. Recommendations to further minimize liability and to address some of the land management issues associated with managing transferred lands are discussed below.

The chart on pages 76-81 shows the number of transfers from the DOD, the DOE, and other Departments to the DOI and the USDA (FS) between FY 1993 and FY 2004, with approximate acres, payments (if any) to agencies, and current costs for maintaining property.

### Methods of Transfer

There are several methods for lands to be transferred between Federal agencies including:

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<sup>3</sup> As directed in DOI’s Departmental manual 602 DM 2, it is the policy of DOI to not accept contaminated lands, and to “**minimize the potential liability of the Department and its bureaus by acquiring real property that is not contaminated unless directed by the Congress, court mandate, or as determined by the Secretary.**” Before any real property is acquired, the acquiring bureau is required to analyze potential liability, weigh the costs and benefits of acquiring the real property, and, in the case of legislatively mandated transfers, inform the appropriate Congressional committees of the total cost. Senior management approval within DOI is required for all real property acquisitions that may involve hazardous substance or other environmental cleanup or that may result in significant liability risk.

- 1) The DOD's authority delegated from the General Services Administration (GSA) under or in conjunction with the Defense Base Realignment and Closure Act (BRAC) to dispose of acquired land;
- 2) The GSA's authority to dispose of excess non-BRAC acquired land pursuant to the Federal Property and Administrative Services Act of 1949 as amended (also known as the "excess property process");
- 3) Revocation of a public land withdrawal (reservation) order, which is accomplished through issuance of a Public Land Order by the Secretary of the Interior;
- 4) Specific legislation authorizing or mandating a transfer from one agency to another; and
- 5) Interchanges between the DOD and the USDA (FS).

The DOD's BRAC authority to dispose of acquired lands is used when an installation is listed for closure or realignment pursuant to one of the BRAC laws. The disposal process follows the GSA excess or surplus property process, including screening to determine if other Federal Departments, State or local agencies, or nonprofit organizations (in the case of public benefit transfers) have a need for these lands. If the DOI has a program requirement for these BRAC-listed lands, the DOI will request that the DOD transfer the lands to the DOI. The transfers of a portion of Fort Ord, California, to the BLM, and the Savanna Army Depot, Illinois, to the FWS are examples of this transfer category (see the chart at the end of this annex). If no Federal agency has a need for the excess property, a State or local agency may apply to the FLP for a public benefit conveyance for public park use (see below). Myrtle Beach AFB, South Carolina, and Homestead AFB, Florida, are examples of this type of transfer.

The DOI can request non-BRAC acquired lands from the GSA through the GSA's excess property process under Title 40, U.S.C. 101 et seq., the Federal Property and Administrative Services Act of 1949 as amended, or the surplus property process under Title 40, U.S.C. 550 (c) of the Federal Property and Administrative Services Act of 1949 as amended. Non-BRAC lands that have been determined excess to the needs of a Federal agency (e.g., the DOD) are disposed of by the GSA under these regulations. Examples of this type of disposal are the Naval Research Facility, Maryland, and the Longhorn Army Ammunition Plant, Texas.

When the military service no longer has need for public lands that have been withdrawn and reserved for its use, it files a notice of intent to relinquish the reserved lands with the Secretary of the Interior. If the Secretary of the Interior finds the lands suitable to return to public usage, the Secretary issues a Public Land Order that revokes the reservation for the military and returns the lands to their appropriate public land status.

If the Secretary finds that the lands are not suitable for return to public land usage, a recommendation is made to the Administrator of the GSA that the GSA dispose of the lands through the excess property process. The relinquishment/revocation process may be used at anytime and is used when an installation containing reserved public domain lands is closed pursuant to a BRAC law. If the Administrator of the GSA concurs with the Secretary's recommendation, the lands lose their public land status and assume the status of acquired lands and are managed pursuant to the Federal Property and Administrative Services Act of 1949 as amended. For lands within a BRAC installation, the DOD disposes of the lands; for non-BRAC lands, the Administrator of the GSA disposes of the lands. In the last 5 years (2000-2004), there have been seven non-BRAC relinquishments/revocations and an additional 42 relinquishments are pending which were all processed administratively.

Congress has enacted laws in recent years transferring some lands from the DOD to the DOI. Recent examples are: Vieques Naval Training Range, PR (P.L. 106-398, as amended by P.L. 107-107), transferred to the FWS; Fort McClellan, AL (P.L. 107-314), transferred to the FWS; and, Centerville Beach Naval Station (P.L. 107-107), transferred to the BLM.

Interchanges (or transfers) between the military departments and the USDA (FS) are authorized by the interchange provisions of the Defense Act of July 26, 1956 (P.L. 84-804, 70 Stat. 656, as amended; 16 U.S.C. 505a, 505b). This statute allows the Secretary of Agriculture to request transfers of acquired lands under the control of a military department that lie within or adjacent to the exterior boundaries of a National Forest comprising acquired lands. The military departments and the USDA (FS) are authorized, subject to any applicable provision of the Federal Property and Administrative Services Act of 1949 as amended, to interchange such lands, or any part thereof, without reimbursement or transfer of funds, whenever they determine that the interchange will facilitate prudent land management and will provide maximum use for authorized purposes.

The NPS works with numerous partners and agencies to help convert surplus Federal land to public parks and recreation areas. The NPS seeks communities that are interested in using the surplus land for park and recreation use. Interested governmental agencies file an application with the NPS requesting the property. The NPS acts as broker between the applicant and the Federal disposing agency (typically the GSA or military departments). The NPS approves the community's application and recommends the property transfer to the military agency or the GSA. The disposing agency (DOD or GSA) provides a letter of "assignment" to the NPS including environmental condition and disclosure documents, and specifies any required land use controls. Assignment to the NPS does not pass custody and accountability for the property to the NPS. The NPS prepares the deed and conveys any restrictions associated with the deed. The NPS signs and provides the deed to the local recipient for signature and local recording of the deed. After transferring the deed, the NPS helps ensure continued public access to the properties for recreational use and protection of the properties' natural and cultural resources through site visits, follow-up contacts, technical assistance to communities, and deed and/or use agreement revisions as needed or requested.

### **Issues/Problems Related to the Transfer of Lands**

There was very little cleanup of contaminants on Federal lands that transferred prior to the passage of the major environmental laws in the 1970's and early 1980's and the first BRAC round in 1988. While transferred lands may be rich in natural resources, they may have environmental contamination and safety risks that pose management challenges as well as increased costs. Cleanup on BRAC properties is much more thorough today, but it may not meet the cleanup levels desired by the DOI/USDA (FS), especially in the area of building demolition, unexploded ordnance (UXO), and asbestos or debris removal. This is because such cleanup or removal often may not allow for reuse that allows the DOI/USDA (FS) to carry out all their respective agency missions, such as protecting valuable habitat for trust species, protecting historical or archeological resources of significance, or allowing for public recreational access.

Land Use Controls - Depending on the nature of the contaminants and the type of cleanup, land use controls may also be a factor in limiting the type of allowable activities on DOI/USDA (FS) lands and may also be an additional cost for the agency receiving lands. Land use controls, or LUCs, may be a part of a response action at a facility requiring either the transferring agency or the receiving agency to be responsible for the maintenance, monitoring, and enforcement of those LUCs. LUCs are any type of physical, legal or administrative mechanism that restricts use of, or access to, real property to prevent risks to human health. They range from barriers (such as fences) to use restrictions (such as prohibitions on subsurface disturbance or use of groundwater). In some transfers, the transferring agency and the DOI or the USDA (FS) have reached agreement in advance of the transfer over which agency has the responsibility post-transfer. Even when the transferring agency retains responsibility for LUCs in the transfer agreement, it is often difficult to make sure those agreements are complied with once the transferring agency no longer manages the property.

In addition to the costs associated with enforcement of LUCs, LUCs can limit the future uses of the property, preventing the DOI and the USDA (FS) from pursuit of some of their missions. The presence of UXO, for example, can require the DOI/USDA (FS) to prohibit or greatly limit subsurface disturbance, or unfettered access to the property. In those cases, the DOI/USDA (FS) may not be able to engage in normal construction activities to enhance recreational use, enter onto the property to remove non-native plants or protect endangered species, fight fires effectively, or engage in other activities necessary to manage the property as fully as they could were the land pristine.

Further, in the case of lands transferred to State or local agencies, local knowledge or awareness of LUCs may be lost over time as park managers or elected officials change, potentially leading to further site contamination or increased health and safety risks. States and local governments should be able to monitor and enforce LUCs on property they accept. The DOD and EPA are working with the Environmental Council of States to develop a process for tracking, maintaining, and enforcing LUCs. Under the 1949 Property Act, the NPS is responsible for monitoring transferred properties. However, this language was developed prior to current standards for environmental cleanup and LUCs. The NPS lacks the expertise and resources to monitor LUCs.

Retained Structures - At some sites, remaining structures from the DOD or DOE use may contain asbestos and lead-based paint that, if not addressed at the time of transfer, may result in increased DOI or USDA (FS) operational costs associated with abatement or removal. In those cases where the DOI/USDA (FS) does not need existing structures for purposes of, for example, a wildlife refuge, the DOI attempts to negotiate a commitment on the part of the transferring agency to remove such structures or abate the hazard prior to transfer of jurisdiction. Unwanted structures, in addition to potential costs associated with the abatement of asbestos and lead-based paint, pose added costs of maintenance and upkeep. Often, these facilities do not meet applicable building codes, or will fail to meet building codes in the near future, and require investment of significant maintenance dollars. This often presents the DOI/USDA (FS) with a major liability of unneeded and unmaintainable structures and infrastructure.

Efforts to Address Issues – DOI's policy is not to accept contaminated lands when given the choice.<sup>2</sup> When lands are transferred as a result of legislation, the statutory language may address some issues associated with existing contamination such as long-term responsibility and liability. But much depends on the adequacy of the language and the ability of the receiving agency to negotiate a clear allocation of rights and responsibilities that are not specifically addressed in the legislation.

In recent transfers, the DOI has negotiated the terms and conditions for dealing with existing contamination by including language in written agreements with the transferring agency that (1) transfers the property only after the cleanup is completed, (2) requires the transferring agency to retain all liability and responsibility associated with the costs of the cleanup, and (3) requires the transferring agency to be responsible for any long-term costs related to the treatment of any

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<sup>2</sup> In a letter from DOI Assistant Secretary Scarlett, dated 5/9/03, to DAS-Installations and Housing (Dept of the Army) Joseph Whitaker, as paraphrased: Early transfer of contaminated sites is not standard procedure for DOI; it is the exception. This policy, we believe, best ensures that DOI is able to fulfill its complex mission, which includes resource protection and, consistent with resource protection, public access opportunities. In general, only when the acceptance of property is unambiguously in the best interests of DOI in its role of protecting natural resources and ensuring public enjoyment of more resources (e.g., expand a refuge for critical habitat), will DOI entertain early transfer. The transferring agency must accept full and exclusive responsibility to fund and conduct all response activities necessary to address environmental contamination on the property as of the date of transfer. As part of its cleanup responsibility, the transferring agency must commit to conduct long-term operation and maintenance (O&M); transferring agencies must integrate natural resource restoration into its cleanup; and transferring agencies must agree to remain responsible for all environmental liabilities associated with contamination on the property as of the date of the transfer.

remaining contamination. The agreements have become an important tool for managing long-term costs of contamination existing at the time of transfer. The USDA (FS) enters into similar agreements.

Role of Receiving Agency – Even when the terms of the transfer include the above conditions, completion of a cleanup may not mean that all environmental contamination has been eliminated or that the DOI/USDA (FS) land manager can manage the land without restrictions. In many cases, if the cleanup is completed by the transferring agency prior to the transfer of lands, the DOI/USDA (FS) is likely not to have had a role in the level of the cleanup, which may impact the way a land manager can manage the property. This residual contamination can restrict the mission of the agency, depending on the cleanup level and the intended reuse of the property.

One of the issues typically not addressed in legislation authorizing transfer is the role of the receiving agency in the selection of the cleanup action. While legislation may direct the DOD to conduct the cleanup, it is often silent on how the underlying cleanup decisions leading to cleanup activities are made. Although they are rare, in recent transfers authorized through legislation, the DOD has taken the position that it is the agency with custody, jurisdiction, and control, thereby making it the lead agency in terms of remedy selection. The DOD normally agrees to consult informally with the receiving agency on general cleanup issues, but does not agree that receiving agencies have a decision-making role with respect to the cleanup.

In some past transfers, the DOI has attempted to include, as a condition of transfer, a requirement for the cleanup to be sufficient for the intended or expected use of the receiving agency. Though both the DOD and the DOE have expressed frustration over the DOI's unwillingness to commit to the acquisition pending a decision on the outcome of the cleanup, if a cleanup is completed and the property is transferred without complete satisfaction on the part of the receiving agency, the receiving agency is faced with addressing any remaining contamination or making accommodations in the way the property is ultimately managed.

Once the military base is closed and the lands have transferred, it may be difficult to persuade the military to return for additional cleanup. The DOI and the USDA (FS) argue that the DOD and the DOE should cleanup the environmental contaminants under CERCLA and fund and *return* for additional cleanup if necessary. Many of the recent transfer agreements make the DOD and the DOE responsible for operation and maintenance of any remedy, as well as for any contamination discovered post-transfer that is a result of DOD or DOE activities.

Other Factors –Under CERCLA, the 120(h) covenant is included in non-Federal transfer deeds (e.g., for a Federal land transfer to a State or private entity) and warrants that, “any response action or corrective action found to be necessary after the date of the transfer will be conducted by the United States. [42 U.S.C. §9620 (h)].” The 120(h) covenant for transfers to a State or private entity also provides that “a remedial action necessary to protect human health and the environment with respect to any such substance remaining on the property has been taken before the date of such transfer.”

Federal agencies, particularly the FWS, frequently are the DOD and the DOE's recipients of choice. If the FWS takes jurisdiction over the property, cleanup of the property may not be necessary prior to transfer, and land use controls may be more easily imposed: (1) because the property will not be developed for residential use; (2) the Federal government remains responsible for the property; and (3) the FWS can prevent or restrict access. Although the DOD has agreed as a matter of policy that they remain responsible for contamination on public lands following transfer to other Federal agencies, the DOI and the USDA (FS) can not compel it to address the problems on the lands if they choose not to, or if they decide to defer action indefinitely. Because of the limitations of the Unitary Executive Doctrine (the Executive Branch

cannot sue itself), the DOI and the USDA (FS) may assert their claims against these agencies to force additional action through the administrative mechanisms of the Executive Branch.

One important lesson from the transfers completed to date is the need for adequate information on the nature and extent of the contamination and the cleanup action *prior* to an agency making a final decision on accepting a parcel of property. The DOD and the DOE increasingly favor early transfers, (i.e., transfers prior to cleanup), which will make transfers to other Federal agencies more challenging given the lack of available information necessary to make important transfer decisions. In addition to early transfers, the DOD has been focusing in recent years on how to expedite the transfer process. Whether the transfer is to another Federal agency or to a private entity, the DOD and the DOE's goal is to execute transfers as quickly as possible and as soon in the cleanup process as possible to reduce operations and maintenance costs. This type of approach may preclude the DOI/USDA (FS) agencies from adequately evaluating the extent of contamination and the effects of any necessary cleanup on an agency's ability to manage lands in accordance with the mission of the agency. Ultimately, an expedited, early transfer process may prevent the DOI/USDA (FS) agencies from accepting transfer of many former military or DOE lands, or results in the transfer prior to adequate analysis.

In the case of lands deeded to States and local agencies for public parks, the NPS is charged, at its discretion, with reverting properties that are no longer in compliance with the deed of conveyance or property that the community no longer needs for parks and recreation purposes. Normally, reverted property would return to the GSA for reconveyance or sale to another interested party. However, the GSA may refuse to accept contaminated property back to the Federal inventory. Additionally, the military agency does not want to receive a base closure property back to its inventory. And the NPS, which acts as a pass-through agency, has no interest in taking ownership of reverted State or local park land. The result could be real property remaining in local ownership with no tools for enforcement.

Federal agencies have long recognized the complex issues associated with the transfer of property. The issue of cleanup cooperation is being addressed as one of three initiatives by the Federal Environmental Workgroup of the One Cleanup Program. This interagency workgroup, composed of members from the DOD, the Army, the Army Corps of Engineers, the Environmental Protection Agency, the National Aeronautics and Space Administration, the Department of Energy, USDA, and DOI, is drafting a "Statement of Principles" to address the role of Federal agencies on remedy selection, operations and maintenance, and land use controls when multiple Federal agencies are involved. The initial "Statement of Principles" is being drafted for cleanup activities at Formerly Used Defense Sites (FUDS) and mixed-ownership sites (where a portion of the site is private and a portion is Federal). The workgroup intends to continue to work to extend the principles to all transferred and transferring sites. Additionally remedy selection must be consistent with the Resource Management Plans, Comprehensive Conservation Plans, and Forest Management Plans. The workgroup is still discussing the responsibilities for operations and maintenance costs and land use controls.

### **Costs of Land Transfers**

Four major factors determine the costs of land transfers:

- The costs of any necessary response action to protect public health and the environment, including any long-term costs associated with the operation and maintenance of any response action;
- Enforcement of any LUCs associated with the response action;
- Removal of unnecessary buildings or other infrastructure; and

- LUCs that may inhibit a land management agency's ability to manage lands responsibly where access is seriously impeded (or precluded entirely) by residual contamination such as small arms munitions or other solid waste.

There are other transfer costs, such as the time and effort devoted to legal and administrative issues when negotiating the initial transfer, as well as costs for contaminant surveys/reviews/testing before and after transfer. The DOI and the USDA (FS) review and comment on technical documents prepared by the transferring agency and their consultants. Some of these documents address complicated issues of risk and require sophisticated review by toxicologists and engineers.

Additionally, there are costs incurred as part of public participation. Cleanups under CERCLA and the Resource Conservation and Recovery Act (another statute governing the cleanup of contaminated land) require public participation measures, including public meetings. Scheduling and preparing for these meetings and fulfilling other public participation requirements can require substantial resources.

There are costs associated with handling local politics in reaction to the transfer. For example, when portions of East Vieques were transferred to the DOI, the FWS was required to devote substantial resources to law enforcement to handle property destruction and other related problems resulting from the local public celebration over the departure of the Navy and protest of continuing Federal ownership over the lands.

Additionally, there are costs for dispute resolution. MOAs usually provide a process for resolving disputes between the DOD/DOE and the DOI or the USDA (FS). For example, the inability to reach agreement on appropriate level of cleanup at Ft. McClellan, Alabama, and Savanna Army Depot, Illinois, may result in continued post-acquisition negotiations to resolve the disagreement. This would require additional staff time and travel costs.

In the case of the FLP program, the NPS has been addressing a marked increase in property transfers and requests for assistance to help conclude past BRAC rounds. The NPS received 130 BRAC requests from State or local agencies and has completed 71 park and recreation transfers (11,095 acres) since 1988. Thirty-two requests ultimately were either withdrawn or denied and the remaining 27 requests are in process. In 1993, the NPS consolidated the FLP program staff from nine offices (8 FTE) to four offices (4.5 FTE). The NPS covers the administrative and travel costs necessary to help negotiate land transfers, resolve boundary disputes, easements and use issues, as well as process real estate transactions. The NPS often has to go back to DOD to get clarification or additional data for the assignment packages. Concerns occasionally arise due to different interpretations of the agreement on cleanup standards or testing between the military services and the local recipient for base closure property. The NPS receives no reimbursement for base closure-related expenses or increased workload. However, the DOD provided 0.8 FTE staff person detailed as liaison between the NPS FLP and the Office of Economic Adjustment, from 1994-2004.

### **Looking forward: Future Transfers**

A new round of base closures that may involve a number of land transfers to the DOI/USDA (FS) is scheduled to begin in May 2005 when the Secretary of Defense provides his recommendations to the BRAC Commission. In 2006, Federal agencies must express interest in and request transfer of any BRAC property. Typically, Federal agencies are required to express interest in the properties within 30 days and request transfer of the property within 60 days of the military service's Notice of Availability publication. DOI's Land Transaction Working Group will coordinate this process for Interior.



Other military properties may also become available for transfer outside of the BRAC process (Galeville Airport, New York and Longhorn Army Ammunition Plant, Texas were both made available to Federal agencies under the excess property process). Additionally, there are other potential transfers to consider given that the DOI has over 15 million acres withdrawn for military use. Further, some property transfers to Federal agencies under previous rounds of BRAC are not yet complete. The military has a number of small withdrawal/reservation relinquishments pending with the BLM (e.g., Nevada Test and Training Range).

### **Recommendations for Addressing Transfer Costs/Issues**

A) Discuss with the DOD ways to improve the transfer process. Consult with the DOD as early as possible to identify lands in which the DOI and the USDA (FS) have a potential interest and discuss whether an early transfer is appropriate. Also, discuss potential timeframes in which the agencies can develop adequate information to make decisions related to agency interest in a particular property and to make decisions regarding suitability for transfer.

B) Continue to build on the existing body of transfer agreements for developing model language and policy related to land transfers. Identify ways to build consistency among agencies both internal to the DOI and with the USDA (FS). Continue the interagency development of the "Statement of Principles" (discussed in section on Contributing Factors to the Problem) on cleanup cooperation and expand the scope to include all transferred and transferring properties.

C) Agree on a common understanding of and a shared approach to infrastructure issues: the management of abandoned buildings; the removal of debris and equipment; the remediation of safety hazards; and the abatement of asbestos and lead-based paint that is not addressed as part of the general environmental remediation obligation. This should include a training/education component discussing allowable activities under the various cleanup authorities that are dependent on the timing of the property transfer.

## Costs Associated with Land Transfers to DOI and USDA

Bur.	Transfer Date	DOI Unit Receiving/Transferring Land Interest	Base or Other Identifying Name	Organization	State	Acres Transferred	Cost Military Spent Maintaining Property (in \$1,000) 1/	What if anything did DOI receive for transfer? (\$)	Current Bureau Cost for Maintaining Property (in \$1,000s) 2/
BLM	During 1980	Title 43, Chapter 35, Subchapter VI, Section 1783	Yaquina Head Outstanding Natural Area (Lighthouse)	U.S. Coast Guard	OR	23			655/yr
BLM	6/14/1993	Alaska State Office Public Land Order 6982	Campbell Tract, Anchorage	Army	AK	15			negligible
BLM	10/18/1996	Fort Ord Public Lands	Fort Ord	Army	CA	7,204			
BLM	8/27/1998	Arizona State Office Public Land Order 7356 Lands leased to AZ Nat'l Guard	Rittenhouse Field	Air Force	AZ	640			None. Lands leased to State of AZ for Nat'l Guard use.
BLM	3/24/1999	Public Land Order 7379	Fairbanks Communications	Army	AK	19			negligible
BLM	5/12/2000	Montana State Office Public Land Order 7440	Judith Peak/Red Mountain Communications Sites	Air Force	MT	66.4			negligible
BLM	8/25/2000	Public Land Order 7459 Ridgecrest Regional Wild Horse and Burro Corrals	China Lake Naval Weapons Center	Navy	CA	42.3			minimal
BLM	9/6/2001	Eastern States Office Maryland Point	Naval Research Site	Navy/GSA	MD	23			100/yr
BLM	10/12/2001	California State Office Public Land Order 7356	Piedras Blancas Light Station	U.S. Coast Guard	CA	20			255/yr (restoration costs are not incl.)
BLM	11/6/2001	Sonoran Desert Nat'l Monument P.L. 99-606 Withdrawal termination; automatic reversion to Interior	Barry M. Goldwater Range, Sand Tank Mountain area	Air Force	AZ	83,554			76/yr
BLM	11/6/2001	Near Sonoran Desert Nat'l Monument. P.L. 99-606 Withdrawal termination; automatic reversion to Interior	Barry M. Goldwater Range, Sentinel Plain area	Air Force	AZ	24,756			23/yr
BLM	11/6/2001	Near Sonoran Desert Nat'l Monument. P.L. 99-606 Withdrawal termination; automatic reversion to Interior	Barry M. Goldwater Range, lands surrounding Ajo Airport	Air Force	AZ	2,779			2,500/yr

Bur.	Transfer Date	DOI Unit Receiving/Transferring Land Interest	Base or Other Identifying Name	Organization	State	Acres Transferred	Cost Military Spent Maintaining Property (in \$1,000) <u>1/</u>	What if anything did DOI receive for transfer? (\$)	Current Bureau Cost for Maintaining Property (in \$1,000s) <u>2/</u>
BLM	11/6/2001	Near Sonoran Desert Nat'l Monument. P.L. 99-606 Withdrawal termination; automatic reversion to Interior	Barry M. Goldwater Range, Interstate 8 vicinity	Air Force	AZ	1,090			1/yr
BLM	11/6/2001	Nevada State Office. P.L. 99-606 Withdrawal termination; automatic reversion to Interior	Nellis Air Force Range	Air Force	NV	38,000			60/yr.
BLM	10/8/2002	Alaska State Office Public Land Order 7540 For conveyance to State of Alaska	Port Moller Radio Relay Site	Air Force	AK	304			negligible
FWS	11/17/1992	Patuxent Research Refuge	Fort Meade	Army	MD	498			
FWS	12/17/1992	Fairbanks Wildlife Office	Not Provided	Army COE	AK	2			
FWS	6/30/1993	Nestucca Bay NWR	Not Provided	Agriculture	OR	31			
FWS	10/1/1993	Guam NWR	Ritidian Point	Navy	UI	772		366,502	591/yr
FWS	10/2/1993	Rocky Mountain Arsenal NWR	Not Provided	Army	CO	11,153 (overlay)			
FWS	10/29/1993	Ul Bend NWR	Not Provided	Army COE	MT	1,300			
FWS	10/29/1993	Charles M. Russell NWR	Not Provided	Army COE	MT	6,020			
FWS	2/17/1995	Magic Valley Nat'l Fish Hatchery	Not Provided	Army COE	ID	42			
FWS	2/1/1995	Eagle Fish Laboratory	Not Provided	Army COE	ID	1			
FWS	3/31/1995	Banks Lake NWR	Not Provided	Air Force	GA	490			
FWS	6/23/1995	Archie Carr NWR	Not Provided	Dept. of Justice	FL	1			
FWS	7/28/1995	Umatilla NWR	Not Provided	Army COE	WA	870 (overlay)			
FWS	10/6/1995	Olinda Admin. Site	Not Provided	GSA (Agriculture)	HI	4			
FWS	10/23/1995	Panther Swamp NWR	Not Provided	Army	MS	6,642 (overlay)			
FWS	1/1/1996	Panther Swamp NWR	Not Provided	Army	MS	428 (overlay)			
FWS	10/31/1996	Midway Atoll NWR	Midway Islands	Navy	UI	298,157		857,569	3,479/yr <u>3/</u>
FWS	2/20/1997	Lake Woodruff NWR	Not Provided	U.S. Customs Service	FL	7			
FWS	7/23/1997	Steigerwald Lake NWR	Not Provided	Army COE	WA	33			
FWS	1/26/1998	Pond Creek NWR	Not Provided	Army COE	AR	700 (overlay)			
FWS	2/17/1998	Irrigon Nat'l Fish Hatchery	Not Provided	Army COE	OR	12			
FWS	4/27/1998	Big Muddy NWR	Not Provided	Army COE	MO	1,300 (overlay)			

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FWS	6/26/1998	Occoquan Bay NWR	Woodbridge Research Facility/Harry Diamond Lab	Army	VA	579			
FWS	7/22/1998	Nomans Land Island NWR	Nomans Land Is (S. Weymouth Naval Air Station)	Navy	MA	628			
FWS	8/4/1998	Ohio River Is. NWR	Not Provided	Army COE	WV	18			
FWS	8/10/1998	Lyons Ferry Nat'l Fish Hatchery	Not Provided	Army COE	WA	1			
FWS	9/30/1998	Aroostook NWR	Loring Air Force Base	Air Force	ME	4,459			191/yr
FWS	5/21/1999	Oxbow NWR (a portion)	Fort Devens (North Post)	Army	MA	836			
FWS	6/11/1999	San Diego NWR	Not Provided	Dept. of Treasury	CA	88			
FWS	6/21/1999	Cape May NWR	Not Provided	Coast Guard	NJ	491			
FWS	7/27/1999	Shawangunk Grasslands NWR	Galeville Airport	Army	NY	567			
FWS	8/13/1999	Nansemond NWR (a portion)	Driver Naval Radio Transmission Facility	Navy	VA	215			
FWS	10/15/1999	Petit Manan NWR	Not Provided	Coast Guard	ME	93			
FWS	1/13/2000	McNary NWR	Not Provided	Army COE	WA	11,895 (overlay)			
FWS	5/5/2000	Fisherman Is. NWR	Not Provided	GSA (Navy)	VA	25			
FWS	6/30/2000	Big Oaks NWR (overlay)	Jefferson Proving Ground (Overlay Agreement)	Army	IN	51,000	2,000/yr	50,000 over 3 yrs.	447/yr
FWS	9/28/2000	Assabet River NWR	Sudbury Training Annex, Fort Devens	Army	MA	2,229			
FWS	12/8/2000	Aransas NWR	Not Provided	GSA (Coast Guard)	TX	15			
FWS	12/20/2000	Cache River NWR	Not Provided	Army COE	AR	6,091			
FWS	1/18/2001	Kingman Reef NWR	Kingman Reef	Navy	PI	426,392			141/yr
FWS	1/30/2001	Kawailoa Unit of Pearl Harbor NWR	Barbers Point Achyranthes Recovery Site	Navy	HI	37			142/yr
FWS	5/1/2001	Vieques NWR	Naval Ammunition Support Detachment Viequez (West)	Navy	PR	3,100		1,400,000	600/yr
FWS	8/20/2001	White River NWR	Not Provided	Army COE	AR	512			
FWS	6/12/2002	Bon Secour NWR	Not Provided	GSA (Navy)	AL	32			
FWS	12/22/2002	St. Marks NWR	Not Provided	Agriculture (USFS)	FL	42 (overlay)			

Bur.	Transfer Date	DOI Unit Receiving/Transferring Land Interest	Base or Other Identifying Name	Organization	State	Acres Transferred	Cost Military Spent Maintaining Property (in \$1,000) 1/	What if anything did DOI receive for transfer? (\$)	Current Bureau Cost for Maintaining Property (in \$1,000s) 2/
FWS	4/30/2003	Vieques (East)	Not Provided	Navy	PR	14,669			
FWS	5/29/2003	Mountain Longleaf NWR	Fort McClellan	Army	AL	7,632			
FWS	9/26/2003	Upper Miss NW&FR (overlay/transfer)	Savanna Army Depot	Army	IL	9,404			
FWS	4/2/2004	Rocky Mt. Arsenal NWR (overlay/transfer)	Rocky Mt. Arsenal	Army	CO	17,000			
FWS	4/30/2004	Caddo Lake NWR (overlay/transfer)	Longhorn Ammo Plant	Army	TX	8,414			
FWS	Pending	Rocky Flats	Not Provided	DOE	CO	161,000			
FWS	Pending	Saddle Mountain NWR (overlay)	Hanford Reservation (Overlay Agreement)	Energy	WA	130,675			
NPS	1986-2002	Golden Gate NRA	Fort Baker and the Presidio	Army	CA	1,836.84	80,000	100.4M over 6 years	>6,420 in FY 2003
NPS	8/30/1993	Gauley River NRA	Not Provided	Army COE	WV	382.31	20/y		168/yr
NPS	10/24/1994	Pictured Rocks Nat'l Lakeshore	Munising Light	Coast Guard	MI	0.02			800 improvement costs; 5/yr
NPS	11/21/1994	Public Land Order 7096	Titan Missile Range, Pima County	Air Force	AZ	140			minimal
NPS	12/30/1994	Cape Cod Nat'l Seashore	North Truro Air Force Station	Air Force	MA	109.71			
NPS	5/2/1995	Gateway NRA	Sandy Hook Area	Coast Guard	NY	0.17			negligible
NPS	6/22/1995	Florida Resource Management Plan and Record of Decision	Jupiter Inlet Area of Critical Environmental Concern	U.S. Coast Guard	FL	54			60/yr
NPS	9/25/1995	Gateway NRA	Ft. Wadsworth Area	Navy	NY	180.91	10,000/yr	10M for infrastructure repair and transition	5,000/yr
NPS	6/20/1997	Pictured Rocks Nat'l Lakeshore	Grand Marais	Coast Guard	MI	3			220 improvements; 25 maint.
NPS	4/9/1998	Gateway NRA	Jamaica Bay Area	Navy	NY	11.12			negligible
NPS	6/3/1998	Cape Cod Nat'l Seashore	Highland and Nauset Lights	Coast Guard	MA	6.49			negligible
NPS	8/14/1998	Gateway NRA	Jamaica Bay Area	Coast Guard	NY	88.17			negligible
NPS	3/29/1999	Sleeping Bear Dunes Nat'l Lakeshore	S. Manitou Island Lighthouse	Coast Guard	MI	12.5			6/yr
NPS	6/7/1999	Cape Hatteras Nat'l Seashore	Ocacroke Lighthouse	Coast Guard	NC	2.03			75/yr
NPS	7/20/1999	Dry Tortugas NP	Not Provided	Navy	FL	1.22	6.8/yr		current 4/yr will grow to 7.4/yr
NPS	7/27/1999	Gateway NRA	Sandy Hook Area	Coast Guard	NY	6.99			negligible
NPS	9/7/1999	Gateway NRA	Jamaica Bay Area	Navy	NY	29.37			negligible
NPS	5/19/2000	Friendship Hill NHS	Not Provided	Army COE	PA	29.37	Not Maintained		0
NPS	7/3/2000	Cabrillo Nat'l Monument	Not Provided	Navy	CA	18.72			3/yr

Bur.	Transfer Date	DOI Unit Receiving/Transferring Land Interest	Base or Other Identifying Name	Organization	State	Acres Transferred	Cost Military Spent Maintaining Property (in \$1,000) 1/	What if anything did DOI receive for transfer? (\$)	Current Bureau Cost for Maintaining Property (in \$1,000s) 2/
NPS	7/25/2000	Cape Hatteras Nat'l Seashore	Bodie Island Lighthouse	Coast Guard	NC	0.23			100/yr
NPS	11/2/2001	Minuteman Missile NHS	Delta 1&Delta 9	Air Force	SD	6.35		5M for maint. & future VC/museum/exhibits	335/yr
NPS	7/1/2002	Acadia NP	Schoodic Naval Base	Navy	ME	100.1	5500/yr	3.8M to convert some bldgs.	3,000/yr
NPS	8/1/2002	Golden Gate NRA	Fort Baker	Army	CA	254		16.0M	500/yr +300 in leasing revenue
NPS	Pending	Channel Islands Nat'l Park	Anacapa Island Lighthouse	Coast Guard	CA	+/- 161.28			
NPS	Pending	Everglades Nat'l Park	Not Provided	Army COE	FL	1,716.42			
NPS	Pending	Isle Royale Nat'l Park	Lighthouse Transfer (name not provided)	Coast Guard	MI	Not Available			
NPS	Pending	Katmai Nat'l Park and Preserve	Not Provided	Air Force	AK	+/- 12			
NPS	Pending	Petersburg Nat'l Battlefield	Fort Lee	Army	VA	1.171			
NPS	Pending	Pictured Rocks Nat'l Lakeshore	Lighthouse Transfer (name not provided)	Coast Guard	MI	Not Available			
NPS	Pending	White Sands Nat'l Monument	Not Provided	Army	NM	5758.63			
FS	8/21/1995	Ouachita Nat'l Forest	Lake Ouachita Reservoir Project	Army	AR	110			
FS	1/11/1996	Sabine Nat'l Forest	Sam Rayburn Dam & Reservoir Project	Army COE	TX	36.29			
FS	5/6/1996	Rogue River Nat'l Forest	Applegate Lake	Army COE	OR	66.28			
FS	11/6/1996	Midewin Nat'l Tallgrass Prairie	Portion of Joliet Army Ammunition Plant	Army	IL	15,080.53			
FS	12/24/1998	Mark Twain Nat'l Forest	Table Rock Reservoir	Army	MO	4,556.8			
FS	7/6/1999	Wayne Nat'l Forest	Willow Island Locks	Army COE	OH	63.12			
FS	11/4/1999	Toiyabe Nat'l Forest	Hawthorne Army Depot	Army	NV	3,183			
FS	1/16/2001	San Bernardino Nat'l Forest	Santa Ana River Flood Control Project	Army	CA	773			
FS	6/29/2001	Mark Twain Nat'l Forest	Ft. Leonard Wood	Army	MO	9,990.0			
FS	3/30/200	San Bernardino Nat'l Forest	Norton AFB	Air Force	CA	4.68			
BIA	After 1997	Gila River Indian Community	Williams AFB	Air Force	AZ	158			
BIA	After 1997	San Manual Band of Mission Indians	Norton AFB	Air Force	CA	2.4			
BIA	After 1997	Arostook Band of Micmac Indians	Loring AFB	Air Force	ME	24.14			
BIA	After 1997	Sault Ste Maria Band of Chippewa	K.I. Sawyer AFB	Air Force	MI	117.6			

[illegible]

## APPENDIX A:

### How Land Acquisitions Help Achieve Agency Goals and Departmental Objectives (Details to Supplement Chapter 3)

The following chart highlights the nexus between Departmental objectives and agency goals and objectives. This appendix describes how land acquisition directly or indirectly supports both the Departmental and agency goals and objectives. Appendix B highlights and explains how specific agency criteria support each objective and goal.

Bureau	Departmental Objective	Agency Mission Goals and Objectives
BLM	Resource Protection	Preserve Natural and Cultural Heritage Resources
	Recreation	Provide Opportunities for Environmentally Responsible Recreation
	Serving Communities	Provide Economic and Technical Assistance
FWS	Resource Protection	Habitat Conservation: A Network of Lands and Waters
NPS	Resource Protection	Protect Natural, Cultural and Heritage Resources
	Recreation	Provide Recreation for America
	Serving Communities	Safeguard property and financial assets, advance scientific knowledge, and improve the quality of life for the communities we serve
RECLAMATION	Resource Use	Continue making the required deliveries of water under Reclamation contracts
	Resource Use	Optimize hydropower generation, consistent with other project purposes, agreements, and the President's energy policy
	Resource Use	Incorporate environmental, recreational, land management, fish and wildlife management and enhancement, water quality control, cultural resources management, and other concerns into the water supply and power generation actions of Reclamation
FS	Resource Protection	Maintain the environmental, social, and economic benefits of forests and grasslands by reducing their conversion to other uses
	Recreation	Improve public access to FS land and water and provide opportunities for outdoor health-enhancing activities

#### BLM Goals:

The BLM Strategic Plan (FY 2001-2005), prepared under the guidelines of the Government Performance and Results Act, identifies eight Mission Goals related to the management of the public lands administered by the BLM. These BLM Strategic Plan Goals directly relate to the



overall mission of the BLM to sustain the health, diversity, and productivity of the Nation's public lands for the use and enjoyment of present and future generations.

The BLM Strategic Plan Goals respond to the diverse demands and challenges related to the management of the public lands. Three of the eight Mission Goals of the BLM directly relate to the BLM's land acquisition and disposal program. They are highlighted in the chart above in relation to the Departmental conservation objectives (Resource Protection, Recreation, and Serving Communities) and are discussed in further detail below.

The three Departmental conservation objectives are directly supported by the BLM's land acquisition and disposal program. In addition, the program provides some secondary benefits to the Resource Use Departmental objective. The types of acquisitions with secondary resource use benefits are typically those accomplished through land exchange transactions and are not usually LWCF acquisitions. These secondary resource use benefits relate to improved grazing management through land ownership adjustments, opportunities for additional mineral leasing and development, resolution of split estate mineral ownership conflicts, improved timber management, and improved rights-of-way management of infrastructure developments on the public lands.

- **BLM Goal 1: Preserve Natural and Cultural Heritage Resources**

This agency goal directly supports the Resource Protection Departmental conservation objective. Guided by the principles of multiple use and sustained yield outlined in the Federal Land Policy and Management Act, the BLM recognizes the need to preserve, protect and enhance the natural and cultural heritage resources of public lands. Although the BLM manages natural and cultural heritage assets that are not specifically in designated areas, significant portions of the public lands have been Congressionally or administratively designated as "special management areas." These "special management areas" have been designated to preserve their natural and cultural heritage values.

The acquisition of land through purchase, donation, and land exchange is an important tool to improve the management efficiencies and land ownership of "special management areas" and to support the Mission Goal to preserve, protect and enhance the natural and cultural heritage resources of the public lands. Most BLM land acquisitions are within or adjacent to these "special management areas" and support this Mission Goal of the BLM.

- **BLM Goal 2: Provide Opportunities for Environmentally Responsible Recreation**

This agency goal supports the Recreation Departmental conservation objective. The BLM land and access acquisition program supports the objectives identified in the DOI Strategic Plan to provide for quality recreation experiences on the public lands and improve access and management efficiencies to those lands and recreation facilities.

The BLM's focus under this agency goal is to provide quality recreation opportunities and adventures on the public lands. BLM-managed public lands and waters provide visitors with a vast array of recreational opportunities. While many of the visits involve camping in either developed recreation sites or dispersed-use areas, many visitors come simply to view landscapes and other unique natural or cultural features on the public lands. Other activities include hunting, fishing, wildlife viewing, hiking and backpacking, motorized and non-motorized boating, off-highway vehicle use, mountain biking, and visiting natural, cultural and historic sites. Most of this use occurs in dispersed non-fee areas. However, these recreation activities on the public lands provide significant benefits to local, regional, and State economies.

The acquisition of land and the acquisition of access to public lands are important tools to improve the recreation opportunities for visitors to the public lands and support this agency goal of the BLM. Most land acquisitions of the BLM, with the exception of conservation easements, provide for improved access for the general public and provide for improved management efficiencies of the public lands.

- **BLM Goal 3: Provide Economic and Technical Assistance**

This agency goal supports the Serving Communities Departmental conservation objective. The BLM land disposal program supports the objectives identified in the DOI Strategic Plan to increase economic development opportunities for local communities and to support economic benefits to Alaska Natives through the Alaska land conveyance program.

The BLM has a long history of providing support for local community and State economic needs through a variety of land disposal and conveyance authorities and programs. These disposals have included sales under the authority of the Federal Land Policy and Management Act, Recreation and Public Purpose Act transfers, Alaska conveyances, land exchanges, Desert Land Entry disposals, airport grants, Southern Nevada Public Land Management Act disposals, and a variety of other disposals and transfers to meet local community expansion and development needs. The BLM land disposal program will continue to be an important tool to provide economic benefits and assistance to local communities and States and to improve management efficiencies and land ownership.

### **FWS Goals:**

The FWS Strategic Plan (currently under development) describes the Service's approach to the challenges of wildlife conservation, habitat preservation and restoration, and community interactions at a landscape level. One of the four Mission Goals of the FWS, "Habitat Conservation: A Network of Lands and Waters" is directly supported by the Service's land acquisition program. It is highlighted in the chart on page 83 in relation to the Resource Protection Departmental conservation objective and discussed in further detail below.

This agency goal relates to conservation of fish and wildlife by protecting and restoring the habitat upon which they depend. Creating a network of lands and waters is essential to the sustainability of fish and wildlife populations. Additional lands may need to be acquired (by purchase, donation, exchange, easement, transfer, or agreements) to support fish and wildlife populations.

Lands protected through the National Wildlife Refuge System are in public ownership to meet the life-long habitat needs of fish, wildlife, and plant resources. As stated in the *National Wildlife Refuge System Improvement Act of 1997*, the mission of the National Wildlife Refuge System is to administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans. The Refuge System mission will help to ensure that there are a diversity of landscapes and ecosystems dedicated to the conservation of fish, wildlife, and plants.

As noted in the matrix on page 20, in addition to providing direct support to the Resource Protection Departmental conservation objective, the Service's land acquisition program provides additional benefits to the other Departmental objectives. Hunting, fishing, environmental education, photography, wildlife observation, interpretation and a variety of other compatible outdoor uses are tangible benefits stemming from land acquisition which support the Recreation Departmental conservation objective. The FWS does not acquire land specifically for resource

use, however, incidental benefits of land acquisition, such as crop production, grazing, and timber harvest, occur when compatible and part of an approved habitat management plan.

### **NPS Goals:**

Three of the NPS Strategic Plan goals (FY 2004-2008) relate to the land resources program. They are highlighted in the chart on page 83 in relation to the three Departmental conservation objectives and discussed in further detail below. The NPS Strategic Goals were revised in FY 2003 to directly link to the Department's Strategic Plan. The Land Resources Program (NPS-Federal Land Acquisition) is a tool used by the NPS to meet these strategic goals. Through careful planning and use of the land management tools available to the NPS, resource protection, visitor safety and enjoyment (recreation) are achieved and the communities most closely linked to each unit benefit through an improved quality of life.

- **NPS Goal 1:** Protect Natural, Cultural and Heritage Resources

The NPS Land Resources Program contributes toward meeting this goal through land protection at the 388 park units in the System. Land protection and conservation of the resources is accomplished in a variety of ways, including through collaboration with local communities to determine compatible zoning, cooperative efforts with individual landowners to identify compatible uses of the privately owned lands within the boundaries of the units, and acquisition of easements and fee simple title of the lands within the unit boundaries to allow the NPS professionals to manage the lands to meet the needs of the individual units. The park superintendents and the NPS professionals work jointly to determine the best method of protection to use at each unit and for each tract of land within the unit boundary.

- **NPS Goal 2:** Provide Recreation for America

This goal describes providing a quality recreation experience, including access to and enjoyment of natural and cultural resources on the NPS-managed or partnered lands and waters. The NPS contributes toward meeting this goal through land acquisition to provide access to recreational opportunities and resources at those units within the National Park System. It should be noted that a unit may have this goal stated, but during the planning process not all property within the unit's boundary will be identified for acquisition and public access. The NPS managers work to identify options, such as conservation easements, for land protection that will maximize the recreational opportunities of the visitors while at the same time addressing the needs of the local community to continue to receive tax benefits and the economic potential from the land resource base.

- **NPS Goal 3:** Safeguard property and financial assets, advance scientific knowledge, and improve the quality of life for communities we serve.

This goal describes protecting lives, resources and property, as well as improving public safety and protecting public resources from damage. One of the ways the NPS contributes toward meeting this goal is through land protection at the 388 park units in the System. Collaborative efforts with the neighboring communities at each unit identify the resources that, when managed by the NPS, will enhance the overall community life. The NPS then works to acquire such resources in either easement or fee. Following the acquisition process, cooperative efforts between the local population and the NPS managers ensure that all property within the individual unit, both private and Federal, is protected to benefit the whole community. This cooperation is a hallmark of the NPS service to its neighbors.

## Reclamation Goals:

Reclamation's mission goals reflect what the Commissioner has established to be the priorities for the agency. They are highlighted in the chart on page 83 and directly support the Resource Use Departmental objective. However, Reclamation's land acquisition program provides secondary benefits to the three Departmental conservation objectives as well. For example, while Reclamation does not acquire land specifically for recreation, secondary benefits of land acquisition, such as the creation of a reservoir on the land acquired, support this Departmental conservation objective.

The three mission goals highlighted above were memorialized in a statement before the House Subcommittee on Power and Water on the FY 2005 Budget Request by Commissioner John W. Keys III. They measure key efforts toward achieving Reclamation's core mission: "To deliver water and hydropower, consistent with applicable State and Federal law, in a sound and cost-effective manner." Sound management of a limited water supply requires that Reclamation engage in activities that will meet environmental laws and regulations, promote conservation, and create ways for facilitating multiple uses that are reflected in Reclamation's goals.



*Arrowrock Dam, Boise, Idaho (BOR land)*

Land acquisition has been and continues to be a consequence of establishing Reclamation projects. The authorizing legislation for each Reclamation project provides it with the authority to acquire certain lands and/or water rights that may be necessary for project purposes. Lands may be required for project facilities and/or to mitigate for project impacts. Acquisitions typically occur prior to project construction for lands required for the construction areas. Once a project is completed, a few additional acquisitions may be necessary, such as mitigation lands. Reclamation is currently continuing to transfer ownership of lands and facilities of projects to non-Federal entities operating and maintaining these facilities. Each of these transfers is unique and has required separate authorizing legislation to accomplish the transfer of title.

## FS Objectives:

As highlighted in the chart on page 83, the FS Strategic Plan for FY 2004-2008 identifies two agency objectives related to the FS land acquisition program which directly support two Departmental conservation objectives.

- **FS Objective 1:** Maintain the environmental, social, and economic benefits of forests and grasslands by reducing their conversion to other uses.

This agency objective supports the Resource Protection Departmental conservation objective, as well as the Resource Use Departmental objective. While the primary benefits of land acquisition are related to resource protection and conservation (e.g., through securing critical habitat, preventing the conversion of use, providing access for public and administrative uses, and reducing fragmentation of habitat), as highlighted in the matrix on page 21, lands acquired also offer increased opportunities for the Resource Use Departmental objective through the sustainable use of forest products, mineral/energy and range resources. Lands with outdoor recreation amenities may also provide opportunity for commercial development and use by concessionaires for the purposes of providing a broader range of recreational activities to the public.

- **FS Objective 2:** Improve public access to FS land and water and provide opportunities for outdoor health-enhancing activities.

This agency objective stems from the FS Strategic Plan (goals #3 and #6), and supports the Departmental Recreation conservation objective. The focus of this goal is to secure access to FS lands for the public in order to provide quality recreation opportunities. Land acquisition directly supports this goal and is an important tool to improve recreational opportunities for visitors, as access for the public may be gained acquiring right-of-way easements, or lands. Most land acquisitions for the FS, with the exception of conservation easements, provide for improved access and improved management efficiencies of the public lands, as well as providing multiple recreational opportunities, often in areas serving major urban centers.

Additionally, the USDA Strategic Plan includes Strategic Goal #5: To protect and enhance the Nation's natural resource base and environment. This goal has two objectives:

- **USDA Objective 5.1:** Implement the President's Healthy Forest Initiative and other actions to improve management of Public Lands; and
- **USDA Objective 5.2:** Improve the management of private lands.

## **APPENDIX B:**

### **Specific Criteria Agencies Use for Projects**

#### **BLM LWCF Projects:**

The BLM uses the Department LWCF Project Ranking Criteria system as a preliminary screening tool to assist in the priority ranking of potential LWCF projects. Each potential LWCF project must meet several minimum requirements prior to using the ranking system as a preliminary screening tool. The minimum requirements for all potential projects include the following:

- 1) The project must be within a designated special management area, contiguous to a designated special management area, or the initial building block of a new special management area;
- 2) The project presents no known health, safety or liability problems;
- 3) There is no opposition from current owners to Federal acquisition; and
- 4) The cost of infrastructure necessary to make the property accessible, safe and usable by the general public does not exceed 10 percent of the estimated purchase price.

Each potential project meeting the minimum criteria is scored by summing points received from meeting several ranking criteria. A maximum of 420 points can be assigned to any project. These ranking criteria consist of a range of points that generally relate to the following categories or Departmental conservation objectives:

Recreation - maximum of 140 points (33% of total)  
Resource Protection – maximum of 160 points (38% of total)  
Management Efficiencies – maximum of 70 points (17% of total)  
Acquisition Cost Savings – maximum of 50 points (12% of total)

From the allocation of points, it is clear that the BLM heavily weights LWCF land acquisition projects that support the Departmental conservation objectives of Recreation and Resource Protection along with its mission goals. By weighting the projects in this manner, the ranking system helps to ensure that acquisition projects support these goals and objectives. Additionally, the minimum requirements listed above help to ensure that the BLM places the highest priority on consolidating Federal lands and reducing management costs.

#### **BLM SNPLMA and FLTFA Projects:**

The ranking criteria for SNPLMA and FLTFA are listed below. The first five criteria reflect Departmental objectives.

- 1) Contributes toward preservation of a specially designated species.
- 2) Preserves a significant natural, aesthetic or scientific feature; or preserves a significant historic, or cultural site.
- 3) Contains a wetland, or riparian value that provides substantial public benefit.
- 4) Enhances recreational opportunities or improves public access.
- 5) Provides the opportunity to achieve better management of public land through consolidation of Federal ownership.
- 6) Involves non-Federal funding contributions for the acquisition itself, or for the development or management of the property once acquired.
- 7) Has the support of the State, local governments, or other agencies, and/or other interested parties provided verification of support.

- 8) Other considerations: urgency, preventing incompatible uses.
- 9) Proposed Federal acquisition is in Clark County, Nevada.
- 10) Land to be acquired is an in-holding.

### **FWS LWCF Projects:**

The FWS's LWCF ranking criteria, called the Land Acquisition Priority System (LAPS), focus on four components entirely based on the FWS trust resource goals and objectives. Each component totals 200 points, for a total of 800 points. In addition to these four components, a Project Summary is completed in which a project can receive up to an additional 50 points for projects nearing completion (75% or higher) as a means of targeting inholdings. In response to the Committee's concerns regarding placing higher priority on consolidating Federal lands, the FWS is discussing increasing the 50 points in this section to 100 points as a way of focusing on completing projects that are already 75 percent or more complete. The LAPS team meets annually to make revisions to the LAPS based on the availability of new information (uniform data sets, research, initiatives, and plans), experience, or input it receives from FWS employees and FWS partners. Given the FWS mission, the priorities set for land acquisition by its ranking system reinforce the purpose and direction of any acquisitions by the FWS.

### **FWS MBCF and NAWCA Projects:**

Due to the nature of the programs, the LAPS system is not used to establish funding priorities for MBCF or NAWCA. All funds deposited into the MBCF account must be obligated by January 31 of the year in which the majority of the funds were received. This funding restraint, as well as the rules of the Migratory Bird Conservation Commission, requires that the Service be prepared with tracts that have purchase agreements in place. The MBCF program requires the Service to move much more quickly and work with willing sellers in areas that have been previously identified, through agency and public planning; therefore, the Service does not utilize the LAPS for these projects since it is a long-range planning tool used to identify general biological priorities.

The NAWCA program is a competitive grants process, and the North American Wetlands Council reviews and approves grant proposals based on Technical Assessment Question scores, North American Waterfowl Management Plan Joint Venture rankings, Council goals and objectives, available funding, site visits, and other factors. These factors reflect the Departmental objectives as seen in the technical assessment questions, which include:

- How does the proposal contribute to the conservation of waterfowl habitat and other wetland associated migratory birds?
- How does the proposal contribute to the geographic priority wetlands described by the North American Waterfowl Management Plan, Partners in Flight, the U.S. Shorebird Conservation Plan, and/or the North American Waterbird Conservation Plan?
- How does the proposal relate to the national status and trends of wetlands type?
- How does the proposal contribute to long-term conservation of wetland and associated habitats?
- How does the proposal contribute to the conservation of habitat for Federally listed, proposed, and candidate endangered species; State listed species; and other wetland-dependent fish and wildlife?
- How does the proposal satisfy the partnership purpose of the North American Wetlands Conservation Act?

### **NPS LWCF Projects:**

The NPS criteria focus on a range of factors, several of which directly support the Departmental conservation objectives:

Resource Protection—maximum 45 points (25% total)

Recreation—maximum 25 points (14% total)

Serving Communities—maximum 5 points (3% total)

The total number of points is 180. In addition, the LWCF criteria also give significant weight to important issues such as: legislative authority, ability to obligate funds, regional priorities, land price escalation, Congressional and local support, and the availability of matching funds. With limited funding available for land acquisition, the Park Service's land acquisition priority ranking system ensures that the highest priority tracts are identified annually for funding. The priority ranking system supports the Departmental objectives, and since all inholdings are within Congressionally authorized boundaries of the Park System, the NPS is supporting the Committee's directive of acquiring inholdings to consolidate Federal lands.

### **FS LWCF Projects:**

In addition to the minimum criteria, (similar to the BLM criteria above), the FS ranking system consists of:

Recreation—maximum of 320 points (41% total)

Resource Protection—maximum of 290 points (37% total)

Resource Use—maximum of 190 points (24% total)

Management Efficiency—maximum of 190 points (24% total)

Acquisition Costs Savings—maximum of 125 points (16% of total)

Serving Communities--maximum of 100 points (13% total)

(Note that points identified by Departmental objectives exceed 100% because criteria may meet multiple objectives.)

To ensure that acquisitions support Departmental objectives and FS goals, beginning in FY 2006, the FS will be instructing the field to use revised Land Acquisition Priority System criteria (LAPS) to rank LWCF nominations. FS LAPS is being revised based on components of the FS FY 2004-2008 Strategic Plan goals objectives and includes modification of existing criteria and five additional criteria for ranking projects:

- 1) To what degree does the acquisition meet FS Strategic Plan Goals and objectives?
- 2) What is the level of community, local government and Congressional support for the acquisition?
- 3) Is the property inside the boundary of a National Forest or National Grassland, or Congressionally designated area?
- 4) Does acquisition of the property contribute to securing or improving access for outdoor recreation?
- 5) Is the acquisition providing recreation opportunities within the forests with highest recreational use?

A maximum of 785 points may be scored for any one project. Projects involving more than one property are rated based on the average of the individual property's ratings. In response to the Committee's concerns, the third new criterion listed above helps to ensure that the FS places a high priority on consolidating Federal lands and reducing management costs.



## Screening Criteria for Land Exchanges

This section focuses on how land exchanges have rigorous processes for screening lands to help ensure that the projects support the Departmental objectives and agency goals.

### BLM and FS: Land Exchanges

Land exchange is the primary non-LWCF acquisition tool for the BLM and FS. In addition to evaluating public input and determining that exchanges are consistent with land use plans, which both help ensure that the exchange furthers the agency goals and Departmental objectives, all land exchanges require the completion of a Feasibility Analysis Report prior to entering into an Agreement to Initiate a land exchange. Criteria and factors to consider when screening and selecting land exchange proposals are contained in the 36 CFR 254 Land Ownership Adjustment regulations (FS) and the 43 CFR 2200 Land Exchange regulations (BLM). The Feasibility Analysis Report is a screening procedure to determine if the proposal is likely to be in the public interest and provide significant benefits warranting the expenditure of funds.

The Feasibility Analysis Report considers and documents the following:

- Identification of how acquisition of the non-Federal lands and conveyance of the Federal lands comply with law, regulation and policy, and contribute to meeting Forest Plans, BLM Resource Management Plans, and agency strategic goals and objectives;
- Identification of public issues, including known support and opposition related to the proposal, including pertinent information relative to local governments, Tribes, adjacent landowners, user groups, and/or the Congressional Delegation;
- Availability of funding and skills needed to accomplish the exchange in a timely and efficient manner; and
- Potential operation and maintenance costs and savings associated with the disposal of Federal property and the acquisition of non-Federal property.

Land exchanges also require environmental analysis, extensive public involvement, and an agency decision, including a formal public interest determination that considers numerous factors identified in land exchange regulations, including many ties to agency strategic plan goals and objectives. Factors include:

- Improving management of Federal lands and resources;
- Meeting the needs of State and local residents and their economies;
- Securing important objectives including but not limited to:
  - The protection of fish and wildlife habitats, cultural resources, watersheds, and wilderness and aesthetic values;
  - Enhancement of recreation opportunities and public access;
  - Consolidation of lands and/or interests in lands, such as mineral and timber interests for more logical and efficient management and development;

- Consolidation of split estates;
- Expansion of communities;
- Accommodation of existing or planned land use authorizations;
- Promotion of multiple-use values;
- Implementation of applicable Forest Land and BLM Resource Management Plans;  
and
- The fulfillment of public needs.

## APPENDIX C: Sequence of Agency Planning Processes when Land Acquisition is Selected

	<u>Sequential Steps</u>	<u>Summary Explanation</u>
Pre-Decision	Proposal/Planning Process	Minimal interests in land to carry out the mission of the unit are identified in planning documents with public notice to individual landowners and through public meetings.
Pre-Decision	Decision Documents/Approvals/Environmental Processing	Approval of preliminary planning documents by agency director, public input, contaminants survey, NEPA requirements, develop decision document for the unit.
<b>Decision Made Here to Acquire an Interest in a Specific Parcel of Land</b>	Budget Formulation/Appropriations	Projects are nominated from the field, and then decisions to request funds are made through priority setting processes in each agency, and are submitted to the DOI (except FS to USDA), then OMB, and then Congress. Preliminary contacts made with willing sellers regarding property interests and value. Congress makes decisions on line-item projects to be acquired (not done for exchanges.)
Post-Decision	Acquisition Steps	Finalize letters of intent, notify individuals and businesses of potential relocation eligibility, case file/document preparation, request appraisal (valid appraisal should not be older than 6 months), preliminary title report, mapping and surveys, Coastal Zone consistency where needed, environmental site assessment (hazmat), information gathering and verification, NEPA documentation and publishing, preliminary title opinion from the Solicitor.
Post-Decision	Negotiations for Purchase, Exchange, Donation	Offer of just compensation, negotiations with landowner, obtain purchase agreement with seller/third party, title curative work, over appraisal approval from Congress if necessary, present draft deed, voucher certificate/budget document, and donation acceptance letter.
Post-Decision	Closing/Title Transfer	Establish escrow accounts, complete transaction, deed conveyance and closing, deed recorded, payment to landowner, obtain final title evidence from title company, notify displaced individuals and businesses of relocation entitlements, and data entry into agency records.
Post-Decision	Post Acquisition	Receive final title opinion from Solicitor, process final relocation, update records and files to reflect closing, retire case to National Archives, take possession of land, and initiate annual PILT or Refuge Revenue Sharing payments to counties.

## APPENDIX D: Mission and Background of the Bureau of Reclamation

The mission of the Bureau of Reclamation is to manage, develop and protect water and related resources in an environmentally and economically sound manner in the interest of the American public.

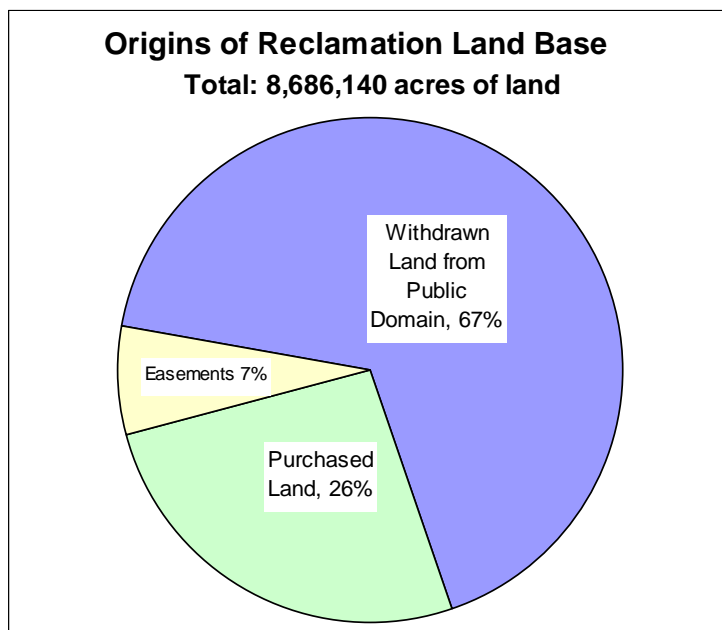
With the Reclamation Act of 1902 and other legislation as Reclamation's guide over the past century, the Bureau of Reclamation has focused on providing irrigation water and hydropower for the 17 western States. Reclamation has developed major water projects and will continue to be involved in managing a limited water supply to provide power, irrigation, municipal and industrial water, flood control, recreation, and tribal benefits<sup>4</sup>.

As the largest water resources management agency in the West, Reclamation continues to administer and/or operate 348 reservoirs, 56,000 miles of water conveyance systems, and 58 hydroelectric facilities, which generate 42 billion kilowatt-hours annually<sup>5</sup>. In addition, Reclamation's facilities provide substantial flood control, recreation, and fish and wildlife benefits.

Reclamation also continues to manage approximately 8.6 million acres of Federal land, which includes 600,000 acres of easement land and 5.8 million acres of withdrawn lands, all of which has been obtained over a period of 100 years. Since 1984 Reclamation has had a net increase in acquired land of approximately 69,000 acres and 137,000 easement acres<sup>6</sup>.

Reclamation has multiple resources within its purview. Each project includes various components that may or may not have compatible goals and objectives with their external environment, including other government agency holdings. Due to these potential conflicts within each project plan, the details for resource compatibility and ecosystem management are investigated as part of the environmental impacts study. One organizational plan would not be specific enough to identify all of these components for every project, thus, Reclamation realizes the differences among the land interests for each project and reviews them on a case-by-case basis within the boundaries of project authorities and requirements.

Because land acquisition is a consequence of each project, Reclamation acquires the minimum amount of land required by the project plan requirements.



<sup>4</sup> Annual Report, Bureau of Reclamation, Fiscal Year 2002

<sup>5</sup> Fiscal Year 2005 Budget Request before the House Subcommittee on Power and Water; February 25, 2004.

<sup>6</sup> Digest of Major Land Acquisition, Exchange, and Sale Authorities, Department of Interior; October, 2002.

## **APPENDIX E:**

### **Operations and Maintenance Cost Information (Supplement to Chapter 4)**

**BLM** — The BLM considers potential future O&M costs associated with land acquisitions for both land exchange transactions and LWCF transactions.

LWCF: For LWCF projects, the BLM requires field offices to estimate “start up” and “annual” O&M costs and include these estimated costs within the project submission package to the Washington Office. These estimates may address resource rehabilitation and restoration costs that could be associated with a proposed project, and typically include items such as fence removal, road/trail restoration, noxious weed control/management, and other resource costs. In certain situations, an acquisition proposal may result in government savings instead of additional management costs. It is the responsibility of each BLM State Office to conduct a thorough review of all land acquisition funding proposals and to consider how potential O&M costs may impact short- and long-term budgets. Due to the uncertainties in predicting O&M costs for potential future acquisitions, these costs are not specifically identified in the ranking process the BLM uses as an initial screen for LWCF project proposals. However, the BLM Washington Office does consider the estimate of costs in management decisions of whether to pursue project proposals for LWCF funding. (See page 98 for an example of a BLM Budget Justification including O&M costs for a proposed FY 2005 project.)

Exchanges: The initial screening of land exchange proposals is completed through the preparation of a Feasibility Analysis Report that includes the consideration of potential future O&M costs associated with the lands to be acquired through the land exchange transaction. The Feasibility Analysis Report addresses a variety of factors to be considered by the BLM before a decision is made to proceed with processing of a proposed land exchange.

The land exchange Feasibility Analysis Report is reviewed for approval by the BLM State Director, the BLM National Land Exchange Team, and the BLM Washington Office, and then by the BLM Deputy Director before proceeding with the land exchange. Multiple levels of review provide the opportunity for management-level decisions to be made on the potential impacts of any future O&M costs associated with land exchange transactions.

Additionally, the BLM considers and evaluates any potential O&M costs it may assume through purchases under SNPLMA and FLTFA.

**FWS** — The FWS evaluates projected O&M costs of potential LWCF land acquisitions at three points prior to actually acquiring land. Proposals for new land acquisition projects or major additions to existing projects include detailed budgetary information concerning, salary, restoration, and maintenance costs. Proposals are reviewed prior to securing approval to initiate the detailed public planning process. Once a project is approved and the detailed planning and environmental compliance process is completed, it is incorporated into a list of regional and national priorities. This list is updated annually to give the regions the ability to adjust priorities. The submission includes the project name, requested funding amount, acreage that will be acquired, and estimated O&M costs.

Once all of the assembled projects are evaluated, they are reviewed and discussed by the FWS Directorate. This list then becomes the basis for the annual budget submission. Roughly two to three months after the five-year list is completed, the budget list is assembled and the O&M costs are again verified with the regional offices. This budget list is approved by the Director, the Assistant Secretaries for Fish, Wildlife and Parks and Policy, Management and Budget, and the Office of Management and Budget. At any point through the approval process projects may

be added or removed. Lastly, the individual project write-ups for the President's budget request list a more detailed account of the O&M costs specific to the tracts identified for protection in the submittal being developed for consideration by appropriators.

While there is no formal request for O&M costs for the MBCF, the Service does consider the impact of O&M for budgeting and staffing purposes. Since NAWCA is grant program where the majority of the funds are not directed to the Service, O&M costs are not a factor.

**NPS** — Through the Land Acquisition Ranking System (LARS) annual request and direction sent to the field, the NPS requires field offices to provide O&M information for a particular LWCF proposal. In preparation of a LARS, the park must consider all costs and savings associated with the requested acquisition project. These may include any construction, law enforcement, maintenance, interpretation or other costs, and may be positive (additional budget needs), negative (savings due to the acquisition, e.g., less cost to eradicate invasive species) or neutral. O&M costs are also included in the agency's annual budget justification. There have been, over the course of the past five years, examples of all three in the requests.

While O&M costs are an important factor considered, they do not automatically discount a project request. The NPS mission is to protect the resources and provide for visitor experiences that relate positively to the mission of each individual unit. All factors are considered in the decision making at all levels (field, regional and Washington); however, the ability of an acquisition project to meet the mission of the NPS is the most important consideration in weighing the viability of an acquisition project. Costs to operate the park unit, and the projected change in such costs following completion of an acquisition project are considered, but lost opportunity costs are also given weight in the decision making. Savings realized through a delay in acquisition are often offset by costs to mitigate for environmental damage incurred in the intervening time.

**RECLAMATION** — O&M costs associated with land acquisitions are factored into the project O&M costs and based on project purposes. They are either wholly or partially reimbursable by the irrigators or power recipients.

**FS** — In the past the FS used an informal process to consider the potential O&M costs and savings when prioritizing prospective acquisitions. However, as described below, the FS has recently formalized the process of evaluating O&M in project submissions. In most cases, FS land acquisition consolidates ownerships, resulting in a decrease of O&M costs per unit, especially costs related to boundary and title management.

LWCF: The FS has had a minimum criterion in place to qualify for nomination of LWCF funds: the costs of developing infrastructure necessary to make a property accessible, safe, and usable by the general public may not exceed 10% of the estimated purchase price. However, this year the FS instituted a new requirement that the field offices identify the potential O&M costs for LWCF projects and justify whether the costs are significant enough to warrant reconsideration of the project (this will apply to LWCF nominations as of FY 2006). This information will then be used by the regional office and by the Washington Offices to determine if the costs are appropriate given the acquisition.

Exchanges: O&M costs are taken into account when considering whether an exchange should take place at both the feasibility and decision stages. These costs are estimated during the feasibility analysis and in more depth during the NEPA process. While not a requirement of the FS land exchange regulations, the public interest determination must include a discussion of how the exchange will impact future management costs (considering both savings and new O&M costs). Reviews of future land exchange proposals by regional and Washington offices require further analysis and disclosure where needed.

## Example – BLM Budget Justification Including O&M Costs – FY 2005

### California Wilderness

CALIFORNIA		San Bernardino, San Diego, and Riverside Counties	Congressional Districts 21, 22, 25, 41, 45, 51, 52																																							
Location	Southern California.		<table><tr><th colspan="3">Acquired to Date</th></tr><tr><th>Method</th><th>Acres*</th><th>Cost (\$)</th></tr><tr><td>Purchase</td><td>89,962</td><td>16,100,000</td></tr><tr><td>Exchange</td><td>45,041</td><td>8,107,000</td></tr><tr><td>Donation</td><td>74,382</td><td>13,387,760</td></tr><tr><td>Other</td><td>1,149</td><td>206,820</td></tr><tr><td>Partners</td><td>0</td><td>0</td></tr><tr><th colspan="3">Proposed for FY2005</th></tr><tr><th>Method</th><th>Acres*</th><th>Cost (\$)</th></tr><tr><td>Purchase</td><td>1,500</td><td>1,000,000</td></tr><tr><th colspan="3">Pending Future Action</th></tr><tr><th>Method</th><th>Acres*</th><th>Cost (\$)</th></tr><tr><td>Pending</td><td>123,000</td><td>61,500,000</td></tr></table>	Acquired to Date			Method	Acres*	Cost (\$)	Purchase	89,962	16,100,000	Exchange	45,041	8,107,000	Donation	74,382	13,387,760	Other	1,149	206,820	Partners	0	0	Proposed for FY2005			Method	Acres*	Cost (\$)	Purchase	1,500	1,000,000	Pending Future Action			Method	Acres*	Cost (\$)	Pending	123,000	61,500,000
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Purpose	Purchase private inholdings within designated wilderness areas to protect wilderness qualities and outdoor recreation opportunities for the public.																																									
Purchase Opportunities	Multiple properties facing immediate threats from commercial, industrial, rural residential, and suburban development, and unregulated off highway vehicle (OHV) use. The Resources Legacy Fund has offered to match a FY2005 appropriation.																																									
Partners	The Wildlands Conservancy, The Conservation Fund, The Trust for Public Land.																																									
Cooperators	Friends of the Desert Mountains, Resources Legacy Fund, CA State Lands Commission.																																									
Project Description	<p>With the passage of the California Desert Protection Act in 1994, 3.6 million acres were set aside by Congress in southern California to be preserved as Wilderness, due to their unique scenic, recreation, wildlife, and scientific resource values. These BLM-administered Wilderness areas, 69 in all, stretch from the peaks of the Sierra Nevada to the Colorado River, south to the Mexican border. Thought by many to be a continuous expanse of Federal lands, over 550,000 scattered acres designated by the Act were originally in private and state ownership. Through the tireless efforts of dedicated visionaries over 200,000 of these acres have since been acquired and preserved.</p> <p>From a distance these desolate lands appear to only offer limited utility. These roadless units of Wilderness represent the best of the last of southern California's great open spaces, within easy access to a burgeoning population of 20+ million. The preservation of these areas in their natural state satisfy a growing public demand for outdoor recreation, a respite from the pressure of an ever increasing urban lifestyle, a rare place to experience solitude.</p> <p>In addition to non-motorized recreational opportunities, these remote lands provide habitat to a wide variety of animal and plant species, many threatened and endangered, some Federally-listed; including the Peninsular bighorn sheep, Desert tortoise, and Mojave ground squirrel. These units of Wilderness abut many Federal conservation management areas, including National Monuments, Preserves and Forests. Six units are transected by the 2,638-mile Pacific Crest National Scenic Trail, drawing short and long distance hikers from around the world. The Juan Bautista de Anza and Old Spanish National Historic Trails cross seven Wilderness units</p>																																									
O&M Cost	Estimated "start up" cost: \$10,000      Estimated "annual" maintenance: \$5,000																																									
Mission Goal	Meets the "Serving Communities" mission goal by providing increased public access to recreational areas thereby improving visitor satisfaction.																																									

## **APPENDIX F:**

### **Definitions of Land Management Tools**

**COOPERATIVE AGREEMENTS:** Usually legal instruments defining administrative arrangements between two or more parties (usually Federal agencies). They can result in the exchange of services or benefits such as access to managing natural or cultural resources, sharing responsibility for maintenance of structures and facilities, providing public access, management of wildlife or other resources, and providing law enforcement.

**DONATIONS:** The giving of land, interest in land, or money for the purchase of land to the Federal government by a State, individual, corporation, trust, or foundation.

**EASEMENT ACQUISITIONS (interests in land):** Acquisition of a right or privilege to use the land of another for a specific purpose or the acquisition of an owners' right to use certain aspects of his/her property.

- 1) Conservation Easements. Acquired for conservation purposes and used to protect resource values on non-Federal lands by restricting the type and amount of development or activities on land that is subject to the easement. Public access and use is seldom provided by the acquisition of a conservation easement. The term "conservation easement" is often used generically to describe a scenic easement, open space easement, historic preservation easement, agricultural preservation easement, etc. Restrictions on non-Federal lands usually specify the activities in which the owner may not engage, such as felling trees, building structures, subdividing, excavating or draining the property.
- 2) Access Easements. Also called rights-of-ways, this is the right a person or persons has/have to travel over a designated portion of another person's land.

**EXCHANGES:** An exchange of land or interests in land is a "trade" of real property between the Federal government and an owner of non-Federal land. Usually the properties must be equal in value, approximately equal in value, or can be equalized with cash payments.

**FEE TITLE:** Fee title purchases result in the deed to the subject being vested in the United States. In almost all instances these transactions involve the transfer of essentially all the interests in the property into the Federal estate. Often there are outstanding road and utility easements and, on occasion, other easements that do not preclude accomplishment of agency goals and objectives. An annual Payment-In-Lieu-of-Taxes or Federal revenue sharing payment (in the case of FWS) is made to counties for fee title land held by the United States.

**GRANTS:** The Federal government provides financial assistance to States, local governments or non-profit organizations for land acquisition, planning, development of outdoor recreation facilities, and/or for acquisition and protection of natural or cultural resources.

**LEASING:** A contract by which one party conveys land (or other property) for a term of years (or life) for a specific amount of rent or compensation. Fee title is retained by the lessor.

**PARTNERSHIPS:** Relationships between two or more governmental or non-governmental parties involving the sharing of common interests, goals, expectations and philosophical beliefs.

**ZONING:** Zoning is based on the power of State and local governments to protect public, health, safety, and welfare by regulating the use of land. Local zoning can be used to limit the density, type, location and character of private development.