



Testimony
Before the Subcommittee on Interior and Related Agencies,
Committee on Appropriations, House of Representatives

For Release on Delivery
Expected at 10 a.m. EST
Tuesday
February 15, 2000

FISH AND WILDLIFE SERVICE

Agency Needs to Inform Congress of Future Costs Associated With Land Acquisitions

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Mr. Chairman and Members of the Subcommittee:

We are pleased to be here today to discuss how the Department of the Interior's Fish and Wildlife Service (Service) decides to establish and expand refuges. The Service currently has more than 500 refuges on more than 90 million acres and plans to continually increase its holdings. Its plans are constrained primarily by funding limits. To date, the Service has identified almost 3 million acres of land that it wants to acquire at a cost of almost \$4 billion in future appropriations. The Service has one main source of appropriated funds to buy land—the Land and Water Conservation Fund. It can also acquire land without appropriations by (1) using the Migratory Bird Conservation Fund (distributed by the Migratory Bird Conservation Commission),¹ (2) accepting donations of land from nonfederal entities or transfers of land from other federal agencies, or (3) exchanging federal land parcels for nonfederal land parcels. For today's hearing, you asked us to focus our testimony on two issues: (1) the financial effect of establishing refuges by means other than appropriations and (2) differences in the priority-setting processes for acquiring land using the land and water and migratory bird funds. Our comments are based on the report we prepared for this Subcommittee, which we are issuing today.²

In summary:

- Even when the Service establishes refuges without need for appropriated funds, these actions have usually been followed by requests for appropriations to expand the refuges and have always resulted in the need for future appropriations to operate and maintain them. For example, from fiscal years 1994 through 1998, the Service established 23 refuges, 15 of which were established with land that was donated,

¹ The Commission includes the Secretary of the Interior (chair); the Administrator of the Environmental Protection Agency; the Secretary of Agriculture; two members of the Senate selected by the President of the Senate (currently, John Breaux and Thad Cochran); and two members of the House of Representatives (currently, John D. Dingell and Curt Weldon) selected by the Speaker of the House.

² Fish and Wildlife Service: Agency Needs to Inform Congress of Future Costs Associated With Land Acquisitions (GAO/RCED-00-52, Feb. 15, 2000).

transferred, or exchanged. After establishing these refuges, the Service subsequently used \$29 million in appropriated funds to acquire more land to expand them and plans to request another \$786 million to acquire additional land for them.

Furthermore, the Service will incur operations and maintenance costs for these refuges, which will be funded through appropriations, but it is unable to estimate how much these costs will be.

- The Service uses separate and dramatically different priority-setting processes to decide which lands to acquire with its two funding sources. For land and water funds, the Service uses the Land Acquisition Priority System (referred to as LAPS), which is a centralized, automated system that generates a single national priority list. In contrast, for migratory bird funds, the Service's regional offices develop their own priority lists, based on the Service's criteria for managing waterfowl habitat and on the likelihood of purchasing the land within a year of receiving funds. LAPS has shortcomings that limit its usefulness in deciding which of the Service's land acquisitions to fund. For example, it uses subjective criteria, differentiates little between refuges, and does not provide a true relative ranking. The Service is currently working to revise LAPS. The Service does not provide the Congress with information on its plans to acquire refuge lands with migratory bird funds. As a result, you do not know what these plans are and cannot factor this information into your decisionmaking.

In our report, we recommended that the Service annually provide you and other congressional committees with a list of all approved and proposed refuges and expansions of refuge boundaries and, for each refuge, estimate future requests for land and water funds and future costs for operations and maintenance. This information would help you to make better informed decisions concerning Service funding requests for land acquisitions and refuge operations and maintenance. The Service agreed with this recommendation. We also recommended that the Service quickly improve its priority-setting system for land and water funds to help you identify and fund those projects that are the most important on the basis of objective criteria. The Service also

agreed with this recommendation, although it does not currently plan to integrate the two priority-setting processes into a single system.

Background

The National Wildlife Refuge System is dedicated primarily to the conservation of animals and plants. The Service acquires land for the system under 20 different legislative authorities, through purchase, donations, exchanges, and transfers of lands. The Service's decision to acquire land to establish or expand a refuge typically occurs when field staff identify specific tracts of land that meet resource objectives. Generally, a team of Service biologists, researchers, planners, and realty specialists proposes refuge boundaries, considering factors such as data on the population density of a certain species, its habitat, and its nesting patterns; existing land uses and values; the area's economy; and the needs of nearby residents and others. The Director (or regional directors in the case of smaller acquisition decisions) must approve proposals to establish a refuge or expand its boundaries.

The Service primarily has two sources of funding to purchase land for the refuges. The migratory bird fund, established in 1934, has three revenue sources (the sale of duck stamps purchased by hunters and certain refuge visitors, import duties on arms and ammunition, and a portion of certain refuge entrance fees) that produce roughly \$40 million annually for land acquisitions. About half of these funds are used to acquire land for refuges;³ acquisitions must be approved by the Migratory Bird Conservation Commission, which meets three times per year (or as needed) to consider and approve acquisitions proposed by the Secretary of the Interior. In addition to the Commission's approval, the governor or appropriate state agency in the affected state must approve

³ The Service spends the remaining funds to acquire land for waterfowl production areas—areas that are not refuges and are not a topic of this testimony.

acquisitions using migratory bird funds. The Service tries to spend the migratory bird funds within 1 year of receiving them.⁴

The other source of funding, the land and water fund, created in 1964, also has multiple funding sources (revenues from offshore oil and gas leasing, federal user fees for outdoor recreation activities, the federal fuel tax on motorboats, and the sale of federal surplus property). But unlike the migratory bird fund, the Congress must authorize appropriations from the land and water fund for land acquisitions for both establishing and expanding refuges.

In addition to acquiring refuge land through purchases, the Service can acquire land from donations, land from nonfederal entities, transferred land that other federal agencies have acquired, or land withdrawn from the public domain. The Service can also exchange similarly valued tracts of land with other entities. The Service is not required to inform the Congress of acquisitions by donation or transfer.⁵

Establishing Refuges by Means Other Than Appropriations Has Financial Effects

During 1994 through 1998, the Service established 23 new refuges. Fifteen of these were established without federal funds. Of the 15, 12 were established with donations, 2 with private land exchanges (one for federal land and the other for timber located on federal land), and one with a land transfer involving agencies in the Department of Defense.

Service officials told us that donations offer several benefits to the Service and landowners. These include allowing the Service to acquire land at no initial cost to the

⁴ Each year, the Service must obligate the funds that are attributable to duck stamp sales by Feb. 1 of the following year, or the price of duck stamps is reduced from \$15 to \$5, as required by 16 U.S.C. 718b.

⁵ In response to language in the House Report accompanying the Department of the Interior and Related Agencies Appropriations Bill, 1991, the Service established a policy to inform congressional appropriations committees when it plans to acquire land through an exchange, if the value of the federal land to be exchanged exceeds \$100,000.

agency or the taxpayer and providing greater flexibility to acquire land because the process for donations can be easier and less time-consuming than the process for obtaining appropriated funds. Furthermore, donors of land can receive public relations and/or tax benefits. It should be noted that, for about half of the refuges established by donation, at the time the Service accepted the donation, the Congress had also appropriated land and water funds for the refuge. For these refuges, the Service used, or plans to use, the appropriated funds to acquire other land at that same refuge. When appropriated funds are used in this way, the Service is not required to inform the Congress of the change, although we understand that the Service may talk with appropriate congressional staff about such transactions.

For 3 of the 15 refuges established without federal funds, the Service had earlier requested but had not received appropriated land and water funds. The Assistant Director for Refuges and Wildlife told us that if the Congress decides not to fund a Service request for a specific acquisition, the Service's practice is to still move forward with that acquisition using means other than land and water funds. He said the Service would do so only if the acquisition was important enough to the Service's mission. Furthermore, he added, when the Congress has not wanted the Service to pursue specific acquisitions, the Congress has explicitly directed the Service not to proceed.

Land and Water Funds Were Used to Expand Most New Refuges

While the Service established a number of refuges at no initial cost to the agency or the taxpayer, we found that the Service subsequently used appropriated funds to expand them. The Mashpee National Wildlife Refuge, located in Massachusetts, is an example of how this happens. In September 1995, the Service established this refuge with a 54-acre donation from the town of Mashpee. The Service subsequently received land and water funds for this refuge and used about \$2.8 million to expand it by purchasing another 278 acres. The Service plans to acquire an additional 5,600 acres for this refuge using future land and water funds estimated at \$42.5 million. In total, we documented that the Service anticipates seeking about \$630 million in additional land and water funds to

purchase about 260,000 more acres for 10 of the 15 refuges that were established without federal funds. It plans to seek \$2.7 million from the migratory bird fund to purchase about 2,500 more acres for one of them.

Future Appropriations Will Be Needed to Operate and Maintain Refuges

In addition to the above acquisition costs, the Service will also incur costs to operate and maintain these refuges (as it does for many other refuges)—costs for which it must also request annual appropriations. While the Service estimates these costs when it assesses potential donations, the Assistant Director for Refuges and Wildlife told us the Service may, depending on the circumstances, accept donations because of perceived biological values regardless of the size of potential future operations and maintenance costs. The overall operations and maintenance costs, however, are not insignificant: for example, in fiscal year 1998, the Service obligated about \$2.6 million for operations and maintenance expenses for nine of the refuges created from fiscal year 1994 through 1998.⁶

In light of a large operations and maintenance backlog at existing refuges, the Congress has expressed concerns about Service efforts to acquire land for new refuges. Service officials acknowledged that, historically, the Service has focused on acquiring lands—to meet its land protection mission—without adequately considering whether funds will be available for future operations and maintenance expenses. While the Service does not now report estimated future operations and maintenance costs to the Congress when it establishes refuges, the Service wants to do better in this regard. We were told that the Service is modifying its existing systems for tracking operations and maintenance cost estimates and hopes, in 3 to 4 years, to be able to provide the Congress with estimates of future operations and maintenance costs for each new refuge.

Priority-Setting Processes for Land and Water and Migratory Bird Funds Are Dramatically Different

⁶ These data are as of June 30, 1999. Because the Service does not separately track the operations and maintenance costs of every refuge, we could not determine costs for all 23 refuges.

The Service uses very different processes to set priorities for using land and water funds and for using migratory bird funds. The Service is currently revising its system for setting land and water fund priorities to make it more objective.

Service's Priority-Setting Process for Land and Water Funds Results in a National List

Since 1986, the Service has used LAPS to develop its request for land and water funding. This automated system generates a single national priority list following a complicated three-step process, which results in two different scores for each refuge and ultimately a national priority ranking. To develop the first score, the Service assigns refuges to one of six categories. The categories reflect the Service's statutory purposes for acquiring land: (1) endangered species, (2) fisheries resources, (3) nationally significant wetlands, (4) nationally significant wildlife habitat, (5) significant biodiversity, and (6) migratory birds. Proposed refuges that address any one of the first five categories are generally eligible for land and water funds, and those that address the last are generally eligible for migratory bird funds. Each category has different criteria, requires different information, uses different types of measures, and relies on the judgment of local field staff to assess the fish and wildlife resources on the proposed refuge. Field office staff also decide which one of the categories to place multipurpose refuges into in order to obtain the best score—that is, the score that shows the highest need.

However, because these five lists of scored refuges are not comparable, the Service must develop a second score for each refuge, which allows it to merge the five lists into one single national priority list. The Service develops this second score using seven additional factors.⁷ The system then uses a complicated methodology to merge the five different lists using the two scores assigned to each refuge. This merger step results in a single national list of refuges ranked in priority order with the highest-priority refuge ranked as number one.

⁷ These seven factors are the (1) degree of threat to fish and wildlife resources, (2) opportunity to acquire land, (3) enhancement of refuge management, (4) extent to which acquisitions in a refuge are complete, (5) development needed to meet objectives, (6) operations and maintenance costs, and (7) increases or decreases in required staff.

Recently, a team of Service headquarters and field staff evaluated the system and identified several shortcomings. First, because the system uses the five separate lists, it does not fully account for the multiple purposes of individual refuges, such as endangered species and nationally significant wildlife habitat. Second, the criteria used in the system to evaluate refuges are too subjective. This subjectivity leads to many refuges having such similar scores that there is little measurable dispersion between them. In fact, the national priority list represents, at best, groupings of refuges that are of similar value—not a true relative ranking. In addition to these concerns, we found, as did Service managers and staff, that the system’s complicated methodology is difficult to understand and explain.

Despite these problems, in recent years, the Service followed its rankings on the national priority list for about three-quarters of the refuges. That is, in developing its annual requests for land and water funds for fiscal years 1994 through 1998, the Service generally selected refuges in sequential order, beginning with the number one priority refuge—the refuge at the top of the national priority list. Exceptions occurred for individual refuges when, for example, there were no willing sellers, there was an administration initiative, or there was congressional interest. We also noted that Congress sometimes funded refuges that the Service did not request—some of which were of low priority on the national list.

The Service Is Revising the Priority-Setting Process for Land and Water Funds

The Service is revising the priority-setting system for land and water funds to fully account for the multiple purposes of refuges, reduce the subjectivity in the criteria the Service uses to evaluate refuges, provide measurable dispersion in the refuge scores, and overall to simplify the methodology. It proposes assessing all refuges using a single set of criteria. The Service tested the system by scoring 38 refuges using these new criteria. The Service believes the test was successful and showed the desired dispersion between refuges. Service officials believe that this system will more accurately assess proposed refuges’ national importance than does the current system and that the priorities of

individual refuges will be different. For example, the proposed acquisition for the Grand Kankakee Marsh National Wildlife Refuge received the highest score in the test, but it is a low priority under the current system.

The system being designed has raised concerns and has not been fully implemented. For example, some regional offices are concerned about their refuges' receiving lower priority under the revised system and not being funded. To address these and perhaps other concerns, we understand the system is still subject to change.

Service's Priority-Setting Process for Migratory Bird Fund Reflects Regional Priorities

For migratory bird funds, the Service uses an entirely different process—each of the Service's regional offices sets its own priorities, not national priorities, for these funds. This process does not require regions to use the migratory bird category—the sixth category in the land acquisition priority system we just discussed—to set their priorities. Instead, each region develops a migratory bird acquisition plan on the basis of criteria for managing waterfowl habitat and uses the plan to set acquisition priorities. At the beginning of each year, Service headquarters reviews the regional offices' priority lists of migratory bird projects and the funds needed for each and recommends budget amounts. Prior to each meeting of the Migratory Bird Conservation Commission, the Service provides the Commission with detailed information on the specific tracts of land that it wants to acquire. According to Service officials, the Commission generally approves the purchase prices and areas to be acquired for all requested projects, subject to budget limitations.

Service officials said that the most important consideration in setting priorities for migratory bird funds is the opportunity to acquire specific tracts of land. In fact, only those potential acquisitions that have preliminary purchase contracts can go to the Commission. The Service does not provide the acquisitions' priority rankings to the Commission, and officials told us that the Commission has not requested the Service to have a national priority system for the projects it submits. Finally, Service officials noted

that the Commission's priority has traditionally been to approve projects that provide habitat for ducks and geese (game birds).

In closing, Mr. Chairman and Members of the Subcommittee, in recent years the Service has relied on means other than appropriated funds to establish refuges—primarily donations—but then has subsequently sought and obtained land and water funds to expand them. These refuges—like many refuges established with appropriated funds—will require subsequent federal appropriations to operate and maintain. The Service is not required to inform the Congress when it establishes refuges without appropriated funds, nor is it required to provide estimates of future operations and maintenance costs at the time it establishes a new refuge. Finally, the Service's current system for setting priorities for land and water projects is based on subjective criteria and does not represent a true relative ranking of refuges. The process for setting priorities for migratory bird projects is different; a key difference is that regions set their own priorities and there is no national priority list.

Mr. Chairman, this concludes our testimony, and we would be happy to respond to any questions that you and the Members of the Subcommittee may have.

Contact and Acknowledgments

For further information, please contact Jim Wells at (202) 512-3841. Individuals making key contributions to this testimony were Arleen Alleman, Sue Ellen Naiberk, and Cynthia Rasmussen.

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