

LAND ACQUISITION AND STATE ASSISTANCE

Appropriation Language

For expenses necessary to carry out the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l-4 through 11), including administrative expenses, and for acquisition of lands or waters, or interest therein, in accordance with the statutory authority applicable to the National Park Service, [\$142,350,000] \$178,124,000, to be derived from the Land and Water Conservation Fund and to remain available until expended, of which [\$95,000,000] \$93,829,000 is for the State assistance program including [\$2,500,000] \$2,469,000 to administer this program: Provided, That none of the funds provided for the State assistance program may be used to establish a contingency fund: [Provided further, That notwithstanding any other provision of law, the Secretary of the Interior, using prior year unobligated funds made available under any Act enacted before the date of enactment of this Act for land acquisition assistance to the State of Florida for the acquisition of lands or water, or interests therein, within the Everglades watershed, shall transfer \$5,000,000 to the United States Fish and Wildlife Service "Resource Management" account for the purpose of funding water quality monitoring and eradication of invasive exotic plants at A.R.M. Loxahatchee National Wildlife Refuge, as well as recovery actions for any listed species in the South Florida ecosystem, and may transfer such sums as may be determined necessary by the Secretary of the Interior to the United States Army Corps of Engineers "Construction, General" account for the purpose of modifying the construction of Storm Water Treatment Area 1 East to include additional water quality improvement measures, such as additional compartmentalization, improved flow control, vegetation management, and other additional technologies based upon the recommendations of the Secretary of the Interior and the South Florida Water Management District, to maximize the treatment effectiveness of Storm Water Treatment Area 1 East so that water delivered by Storm Water Treatment Area 1 East to A.R.M. Loxahatchee National Wildlife Refuge achieves State water quality standards, including the numeric criterion for phosphorus, and that the cost sharing provisions of section 528 of the Water Resources Development Act of 1996 (110 Stat. 3769) shall apply to any funds provided by the Secretary of the Interior to the United States Army Corps of Engineers for this purpose: Provided further, That, subsequent to the transfer of the \$5,000,000 to the United States Fish and Wildlife Service and the transfer of funds, if any, to the United States Army Corps of Engineers to carry out water quality improvement measures for Storm Water Treatment Area 1 East, if any funds remain to be expended after the requirements of these provisions have been met, then the Secretary of the Interior may transfer, as appropriate, and use the remaining funds for Everglades restoration activities benefiting the lands and resources managed by the Department of the Interior in South Florida, subject to the approval by the House and Senate Committees on Appropriations of a reprogramming request by the Secretary detailing how the remaining funds will be expended for this purpose] *Provided further, That in lieu of state assistance program indirect costs (as described in OMB circular A-87), not to exceed five percent of apportionments under the state assistance program may be used by states, the District of Columbia, and insular areas to support program administrative costs. (Department of the Interior and Related Agencies Appropriations Act, 2004.)*

Justification of Major Proposed Language Changes

1. Deletions: "Provided further, That notwithstanding any other provision of law, the Secretary of the Interior, using prior year unobligated funds made available under any Act enacted before the date of enactment of this Act for land acquisition assistance to the State of Florida for the acquisition of lands or water, or interests therein, within the Everglades watershed, shall transfer \$5,000,000 to the United States Fish and Wildlife Service "Resource Management" account for the purpose of funding water quality monitoring and eradication of invasive exotic plants at A.R.M. Loxahatchee National Wildlife Refuge, as well as recovery actions for any listed species in the South Florida ecosystem, and may transfer such sums as may be determined necessary by the Secretary of the Interior to the United States Army Corps of Engineers "Construction, General" account for the purpose of modifying the construction of Storm Water Treatment Area 1 East to include additional water quality improvement measures, such as additional compartmentalization, improved flow control, vegetation management, and other additional technologies based upon the recommendations of the Secretary of the Interior

and the South Florida Water Management District, to maximize the treatment effectiveness of Storm Water Treatment Area 1 East so that water delivered by Storm Water Treatment Area 1 East to A.R.M. Loxahatchee National Wildlife Refuge achieves State water quality standards, including the numeric criterion for phosphorus, and that the cost sharing provisions of section 528 of the Water Resources Development Act of 1996 (110 Stat. 3769) shall apply to any funds provided by the Secretary of the Interior to the United States Army Corps of Engineers for this purpose: Provided further, That, subsequent to the transfer of the \$5,000,000 to the United States Fish and Wildlife Service and the transfer of funds, if any, to the United States Army Corps of Engineers to carry out water quality improvement measures for Storm Water Treatment Area 1 East, if any funds remain to be expended after the requirements of these provisions have been met, then the Secretary of the Interior may transfer, as appropriate, and use the remaining funds for Everglades restoration activities benefiting the lands and resources managed by the Department of the Interior in South Florida, subject to the approval by the House and Senate Committees on Appropriations of a reprogramming request by the Secretary detailing how the remaining funds will be expended for this purpose”

This language is proposed to be removed as it is not longer necessary.

2. Addition: “That in lieu of state assistance program indirect costs (as described in OMB circular A-87), not to exceed five percent of apportionments under the state assistance program may be used by states, the District of Columbia, and insular areas to support program administrative costs “

This language is proposed to take a more uniform and systematic approach to what has been a varying case-by-case overhead allocation practice.

Authorizing Statutes

16 U.S.C. 460I-4 to I-11 Land and Water Conservation Fund Act of 1965, as amended, establishes the Land and Water Conservation Fund, prescribes how funds are to be obtained and distributed. Authorizes certain activities with the common purpose of helping provide outdoor recreation resources; these include: inventory, evaluation, and classification of needs and resources; formulation of a comprehensive nationwide recreation plan; technical assistance to non-federal entities; encouragement of cooperation among states and federal entities; research and education.

16 U.S.C. 410r Everglades National Park Protection and Expansion Act of 1989 (P.L. 101-229) provides that “all funds made available pursuant to this subsection shall be transferred to the State of Florida or a political subdivision of the State, subject to an agreement that any lands acquired with such funds will be managed in perpetuity for the restoration of natural flows to the park or Florida Bay.”

Public Law 104-303 Water Resources Development Act of 1996 Section 316 requires that non-Federal funding make up a maximum of 25% of the cost of acquiring portions of the Frog Pond and Rocky Glades areas necessary to implement improvements related to the Everglades restoration program at Canal 111.

2 U.S.C. 9000(c)(4), The Balanced Budget and Emergency Deficit Control Act of 1985, as amended by Title VIII of Public Law 106-291, Department of Interior appropriations for FY2001, lists appropriations within which funding to preserve natural resources, provide for recreation, and related purposes constitutes ‘conservation spending category’

Appropriation Language

Land and Water Conservation Fund

(RESCISSION)

The contract authority provided for fiscal year [2002] 2003 by 16 U.S.C. 460 I-10a is rescinded. (*Department of Interior and Related Agencies Appropriations Act, 2004.*)