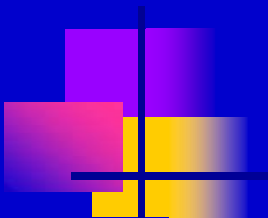




Federal Side LWCF Grant Program for National Trails

How Federal Funds Can Be Spent
to Buy Lands for Trails without
Federal Acquisition Authority



The Ice Age and North Country National Scenic Trails are two of the trails for which spending by Federal agencies to acquire lands is prohibited. However, beginning in FY 2000, annual Congressional appropriations have included "Federal side" Land and Water Conservation Fund (LWCF) moneys for acquisition of lands for the Ice Age NST in Wisconsin (funds for the North Country NST in Wisconsin were also included in the FY 2000 appropriation). Appropriations to date exceed \$10 million and they have all been spent. How can this be legal? The language of the prohibition prevents Federal agencies from spending funds for acquisition; it does not prohibit Federal funds from being spent—by partners! The NPS has granted these funds to the Wisconsin DNR and allowed them to be subgranted to other governmental partners and even to private nonprofit partners. Department of Interior solicitors have confirmed that the language of the appropriations gives us this latitude, as well as the latitude to vary the Federal share on any particular acquisition up to 100 percent Federal share! This unusual, hybrid LWCF grant program is managed by the NPS superintendent in Madison utilizing the LWCF "State side" grant program guidelines (except where the appropriation language gives greater latitude). To date, the program has protected more than 5,000 acres of land for the Ice Age NST and more than 800 acres of land for the North Country NST.



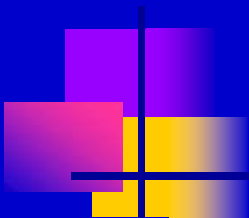
MAIN POINTS

- Beginning in FY 2000, the NPS has operated a LWCF grant program using “Federal side” funds in a “State side” manner to assist public and private partners in acquiring lands for the Ice Age and North Country NSTs.
- Congress appropriated additional funds for the Ice Age NST every year since FY 2000.

The Restrictive Language in the National Trails System Act

- 1978 Amendments:
- And provided further, That . . . no funds may be spent for the acquisition of lands or interests in lands outside the exterior boundaries of existing Federal areas . . .
- Interpretation: No Federal funds may be spent to acquire lands

The Restrictive Language in the National Trails System Act

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- 1980 Amendment establishing the North Country NST:
 - And provided further, That . . . no funds may be expended **by Federal agencies** for the acquisition of lands or interests in lands outside the exterior boundaries of existing Federal areas . . .
 - Interpretation: No Federal funds may be spent **directly by Federal agencies** to acquire lands

The Restrictive Language in the National Trails System Act



- This distinction is applicable to the seven trails that have their restrictive language in section 10(c)(1):
 - Continental Divide, North Country, and Ice Age NSTs
 - Oregon, Mormon Pioneer, Lewis and Clark, and Iditarod NHTs



The Restrictive Language in the National Trails System Act

- This distinction is also applicable to the two trails that have their restrictive language in their authorizing paragraphs:
 - “No lands or interests therein . . . may be acquired by the Federal Government”
 - Potomac Heritage NST and Nez Perce NHT



System-wide Applicability

- A program of grants to partners for land acquisition could be used and beneficial to all of the National Scenic and Historic Trails.
- One of the advantages of having the Wisconsin DNR acquire lands for the Ice Age and North Country NSTs is that State agencies in Wisconsin pay the equivalent of property taxes in lieu thereof.

How Are These Funds Appropriated?

- A line item for “Ice Age NST” in the table listing the National Park Service’s land acquisition funds for the particular fiscal year.
- A section in the “Department of the Interior, General Provisions” portion of the appropriation bill giving authority to grant the funds to partners.



What Is the Language Giving Authority to Grant the Funds?

- In FY 2000, the language stated that the funds must be matched by an equal amount of state funds on each purchase.
- Since FY 2000, the language has provided broader authority.



What Is the Language Giving Authority to Grant the Funds?

- For the past few years, the language has read:
 - The Secretary, out of funds provided for land acquisition for the Ice Age NST, is authorized to make "a grant to a State, a local government, or any other land management entity for the acquisition of lands without regard to any restriction on the use of Federal land acquisition funds provided through the Land and Water Conservation Act of 1965, as amended."



Two Important Points

1. No mention is made of any matching requirement.

- We have interpreted this to mean, and the Interior Department Solicitor has agreed, that we have authority to vary the Federal share in any purchase up to and including 100% of the appraised value.
- Our grant agreement states that normally the Federal share will be 50%.
- If a higher Federal share is needed for a particular purchase, a letter requesting it and stating the justification must be submitted to the Superintendent for approval in advance of the purchase.



Two Important Points

2. “a grant to a State, a local government, **or any other land management entity**”
 - We have interpreted this to mean, and the Interior Department Solicitor has agreed, that we have authority to grant the funds to a non-governmental conservation organization, such as the Ice Age Park and Trail Foundation.
 - We have chosen to grant all of the funds each year to the Wisconsin Department of Natural Resources, but include authority for the DNR to sub-grant it to other governmental entities or non-governmental conservation organizations.



Program Administration

- The Ice Age Trail partners meet periodically to discuss priorities for use of the available funds.
- The Wisconsin DNR manages the funds and maintains records according the Land and Water Conservation Fund “State side” grant program guidelines.



Program Administration

- The Wisconsin DNR follows their own guidance for the Knowles-Nelson Stewardship [state grant] Program regarding eligibility of non-governmental conservation organizations and sub-granting funds to such organizations.
- The Wisconsin DNR periodically invoices the NPS for purchases that have been completed.



Program Milestones

- More than \$10 million appropriated to date for acquisition of Ice Age NST lands. This has resulted in the purchase of more than \$20 million of land for the trail.
- Approximately 6,000 acres acquired to date.
- \$500,000 appropriated for North Country NST, resulting in \$1 million of land purchased, or about 800 acres.



Some of the Lands Acquired



160-acre property purchased by NPS, just west of Madison, WI, for an "interpretive site," using the "except for one trail interpretation site in each State crossed by the trail" authority



Some of the Lands Acquired



The McCann property provides for the continuation of the Ice Age NST after the trail passes through the Holy Hill property of the Carmelite Fathers.



Some of the Lands Acquired



Celebrating and dedicating the newly acquired "Wayward Beaver" property with Rep. David Obey cutting the ribbon. The NPS contributed 70% Federal share for this acquisition.