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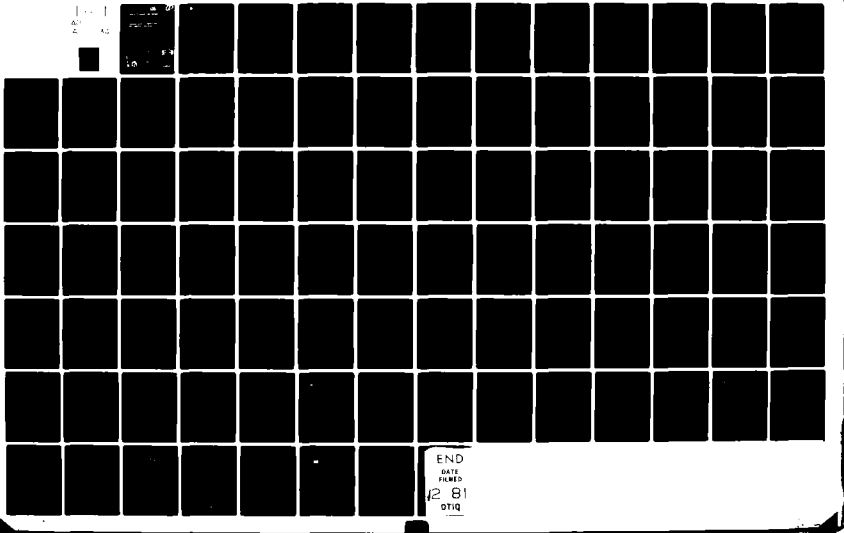

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BY THE U.S. GENERAL ACCOUNTING OFFICE

Report To Senator Ted Stevens.

Federal Land Acquisition And Management Practices.

The National Park Service, Department of the Interior, followed a general practice of acquiring outright ownership of all lands in the National Park System. However, in April 1978, the Service revised its land acquisition policy to give greater consideration to protecting areas through the use of easements, zoning, and cooperative agreements with State and local governments. Although some progress has been made in using alternatives, the Park Service continues to purchase almost all land outright.

GAO makes several recommendations the National Park Service should take to improve its land management and acquisition practices.

In February 1981 the President proposed a moratorium on Federal land acquisition and proposed the use of land acquisition funds for repairing and improving facilities in the National Park System. The President also stated that postponing Federal land acquisition will allow for a thoughtful policy review of existing park legislation. Interior has established a Lands Policy Work Group to develop a clear and positive national policy outlining the Federal role in open space conservation.

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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

COMMUNITY AND ECONOMIC
DEVELOPMENT DIVISION

B-203886

The Honorable Ted Stevens
United States Senate

Dear Senator Stevens:

Subject: Federal Land Acquisition and Management Practices (CED-81-135)

Your November 14, 1979, letter asked us to examine the land acquisition and management practices of the National Park Service, Department of the Interior, and the role that nonprofit organizations play in acquiring land for Federal agencies. In particular, you asked us to address the following four questions.

--What would a study of the land management and acquisition practices of the National Park Service at a few selected sites which are representative of different types of Federal lands show?

--What are the interrelationships of the National Park Service and Fish and Wildlife Service, Department of the Interior, and the Forest Service, Department of Agriculture, with the nonprofit organizations' increased role in the acquisition of lands?

--What costs the public more--Federal land acquisition through donation directly to the Government or by donations through nonprofit organizations?

--Was the National Park Service's purchase of 195,000 acres of land shown by Park Service records as being acquired outside park boundaries in compliance with the laws and intent of the Congress and was there any relationship of such acquisition to boundary alterations by the Secretary of the Interior?

Each area in the park system has been established by the Congress, usually under separate legislation. The Congress usually gives the Secretary of the Interior broad discretionary authority to purchase, or not to purchase, land or interest therein for the areas. As agreed with your office, this report

responds to the four questions and discusses the President's proposed moratorium on land acquisition, the use of Federal land acquisition funds for repairing and improving facilities in the National Park System, 1/ and the development of a national open space conservation policy. The scope, objectives, and methodology of the review are included in appendix I.

PARK SERVICE'S LAND ACQUISITION PRACTICES

On April 26, 1979, the National Park Service issued its "Revised Land Acquisition Policy." The purpose of the policy was to provide guidance on how to critically evaluate the need to purchase land. The Service's policy states that each park area's land acquisition plan must identify the reasons for fee simple 2/ acquisition versus alternative land protection and management strategies such as acquiring easements 3/, relying on zoning, making cooperative management agreements with State and local governments and communities, and acquiring right-of-way through private property. The Park Service's policy before 1979 was to acquire all lands in fee simple within park area boundaries.

To implement its policy, the Park Service required Park Service superintendents to prepare land acquisition plans for each area with an active land acquisition program. The plans were to include a justification for each type of interest to be acquired. An analysis of 33 randomly selected plans showed that 21 plans discussed alternate land protection methods such as easements and zoning. Thirteen of the 33 plans, however, did not address or adequately justify the reasons for acquiring property in fee simple. For example, the Pinnacles National Monument land acquisition plan rejected alternatives to fee simple solely on the basis that

> "* * * all land within the interior boundaries of the monument has been found to be of such extraordinary value to the general public that continued long term use by private parties is not of public interest and all of this land should come under public ownership."

The plan failed to state why alternatives to fee simple could not also be in the best interest of the public. Unless an explanation

1/Included in the National Park System are such areas as parks, preserves, monuments, memorials, historic sites, seashores, and battlefield parks.

2/Acquiring all rights and interests associated with property.

3/Acquiring only those rights and interests needed by the Park Service to protect the resources for future generations.

is given on why alternatives would not work, the plan does not provide sufficient information to justify fee simple as the only method of protection.

Even though the Park Service revised its land acquisition policy to stress less than fee simple acquisition, during the period September 30, 1979, to December 31, 1980, the Park Service acquired an interest in 165,626 acres of land of which only 3 percent was acquired in other than fee simple. Before the change in policy, the Park Service had acquired less than 1 percent in other than fee simple. Land acquisition officers at six of the areas we reviewed that had active land acquisition programs told us that the Park Service's policy of trying to protect lands in less than fee simple has had no effect on their land acquisition programs.

We noted several instances where the Park Service could improve its land acquisition and management practices.

--The Park Service's land acquisition policy does not provide adequate guidance to land acquisition officials in determining when the Park Service should buy land because failure to acquire land would cause an economic hardship to the owner. Different criteria are used by Park Service officials in determining when a hardship exists. In one park we reviewed, the land acquisition officer acquired land from all landowners if they considered retention of their properties to be a financial hardship. No evaluation was made as to whether the landowner was actually experiencing a hardship. In another park, the superintendent evaluated each request to determine if, in his judgment, a hardship did exist. Based on the superintendent's judgment, many landowners who offered to sell their properties because they considered retention a hardship were turned down.

--The Park Service has not developed criteria to decide when easements become too costly, thereby justifying fee simple acquisition. For example, in two areas, landowners were paid for easements, whereas in another no compensation was given. In one area, easements were acquired that were as high as 71 percent of the purchase price, whereas in another area easements were not acquired if the easement exceeded 25 percent of the fee simple price.

--The Park Service's land acquisition policy provides very general criteria in defining compatible and incompatible uses within an area of the National Park System. For example, at one area the Service plans to purchase a portion of a Boy Scout camp and acquire an easement on the remaining land, whereas in another similar type park the Park Service plans to acquire no interest in a Boy Scout camp.

--Park Service officials at three areas--Cuyahoga Valley National Recreation Area, Lake Chelan National Recreation Area, and Sleeping Bear Dunes National Lakeshore--did not actively promote zoning by local government officials to protect lands as an alternative to fee simple acquisition.

--Park Service land acquisition practices have resulted in some pastoral and historic settings such as farms being eliminated, which is contrary to congressional intent. Although some of the land at Cuyahoga Valley National Recreation Area and Buffalo National River is being leased to local farmers to preserve pastoral settings, the Park Service land acquisition practices have resulted in many settings being acquired and not retained as the areas were at the time of acquisition.

--Some homes purchased by the Park Service at three areas are being occupied by Park Service employees even though adequate housing is available close to the area. According to an Interior Departmental Handbook, effective April 1979, staff other than those required by position description shall not be provided Government-furnished quarters if adequate private housing is available within reasonable commuting distances or property of the United States cannot be adequately protected unless the employee lives within the park area.

To determine whether the Park Service in one area obtained input from residents and treated them fairly in Park Service acquisition of lands, we conducted a telephone survey with 236 randomly selected residents of the Cuyahoga Valley National Recreation Area. Many Cuyahoga Valley landowners did not believe they were properly informed about the Park Service's intent to acquire an interest in their property or were treated fairly during the negotiation process. For example:

--Before the area was established, 77 percent of the landowners did not believe their properties would be acquired, and the majority who thought an interest in their property would be acquired thought an easement would be obtained. Congressional hearings were held to inform the landowners of the plans for the area, but significant changes in these plans occurred after the hearings were held. These changes increased the size of the park from about 15,000 to 32,000 acres and brought many more landowners into the area.

--Thirty-five percent of the landowners were not informed that their properties were in the park, 32 percent were not notified as to the type of interest that would be acquired in their properties, and 60 percent were not

told why their property was scheduled for a particular type of acquisition.

--Thirty-six percent of the 236 owners, or 84, believed the Park Service's land acquisition practices were unfair; 33 percent, or 79, had no opinion; 31 percent, or 73, considered them fair. We did not define what we meant by fair. Therefore, the response to this question of the telephone survey was based solely on the interpretations of what "fair" meant to the owners.

USE OF NONPROFIT ORGANIZATIONS

The Nature Conservancy, the Trust for Public Land, and the National Park Foundation accounted for 98 percent of the Federal land acquired through nonprofit organizations by the National Park Service, the Fish and Wildlife Service, and the Forest Service. The nonprofit organizations accounted for about 5 percent of the cost of all land acquired by the three Federal agencies. Usually acting at the request of a Federal agency, the nonprofit organizations acquire properties--often at a price below or at the fair market value--and hold them until the Government is able to purchase the land.

Although Federal agencies are not legally obligated to buy property they have requested a nonprofit organization to purchase, the agencies have almost always acquired the property eventually. However, in some cases nonprofit organizations have had to hold the property for long periods of time.

Because the nonprofit organizations play a unique and significant role in land acquisition, Federal agencies should have written policies and procedures for dealing with these groups. However, the Federal agencies have no written policies or procedures to guide them as to when it is appropriate to use a nonprofit organization, what the working relationship should be between the agencies and the organizations, or what the proper amount of compensation for purchasing the land should be.

Because nonprofit organizations have the flexibility that Federal agencies often lack, they have been used to acquire property when the agency was unable to do so. As a result of the agencies' repeated use of the nonprofit organizations' services, a close working relationship has evolved. However, the nonprofit organizations and the Federal agencies have maintained their own independence from each other. The one exception to this is the National Park Foundation.

The National Park Foundation was established by the Congress in December 1967 (Public Law 90-209) to encourage private gifts for the benefit of the National Park System. The Congress gave

it considerably broader authority to accept and use donations than is possessed by the Secretary of the Interior. Until October 1980, the Foundation relied directly on the Department of the Interior for a significant amount of its financial and operational support. According to the Foundation's president, at no time did the support staff include more than three persons. The Foundation acquires only land suggested by the Park Service for acquisition, and the only customer the Foundation has is the Park Service. Thus, the Foundation is used by the Park Service to acquire private property for the benefit of the National Park System by gift or through purchases with Foundation funds.

The nonprofit organizations have been able to use the tax laws and their nonprofit status to acquire land at a savings to the agencies by successfully obtaining donations and bargain sales. The savings are not as great, however, if the tax revenue lost as a result of the charitable deduction and capital gains reduction is considered part of the total cost to the Federal Government. The cost of lost tax revenue is difficult to determine, and it occurs whether or not the donation or bargain sale is made directly to the Government or through a nonprofit organization. (See app. III for a more detailed discussion on nonprofit organizations.)

LANDS OUTSIDE PARK BOUNDARIES

National Park Service records as of June 1979 showed that the National Park Service owned about 195,000 acres outside authorized boundaries for 50 areas. Based on our review of five areas accounting for 178,684, or 92 percent, of the 195,000 acres, we were able to determine that at least 6,331 acres were outside the areas' boundaries. The Park Service's records on land outside the areas' boundaries are inaccurate and incomplete. Its records for Badlands National Park were so bad that we could not determine how much of the 166,402 acres for that area were actually outside the boundary. At Yellowstone National Park, the Service listed 2,455 acres outside its boundary in error. The acres had been transferred to the Forest Service.

It did not appear that land outside park area boundaries was acquired contrary to the authorizing legislation or the intent of the Congress. The Park Service is legally able to acquire lands outside an area's original boundary under certain conditions. For example, the Park Service can acquire additional lands as uneconomic remnants, 1/ for exchange purposes, or through administrative

1/A parcel of land that would be outside an area's boundary if the Park Service would buy only that portion of a landowner's property that is within the area's boundary.

and legislative boundary changes if the enabling legislation allows such practices.

The Park Service has not taken prompt action to dispose of unneeded land, and very little unneeded land has been turned over to the General Services Administration, the agency responsible for disposing of lands not needed in the National Park System. For example, the Park Service acquired a 440-acre tract at White Sands National Monument through condemnation in 1939 to supply water to the area. The tract is located about 20 air miles from the monument. In 1951 the Park Service contracted with a nearby Air Force base to supply water. Several Park Service records state or indicate that there has been no need for the tract since 1951. It was finally excluded from the park boundary on November 10, 1978. At the time of our review, however, the acreage had not been excessed to the General Services Administration for disposal.

NATIONAL PARK SYSTEM RESTORATION

In his February 1981 economic recovery plan, the President stated that the Nation's parks are not now being properly protected for the people's use and that the Government must learn to manage what it owns before it seeks to acquire more land. To bring the budget under control and make additional funds available for restoration and improvement of the National Park System, the President proposed a moratorium on Federal land acquisition and requested the use of $105 million from the Land and Water Conservation Fund for improving existing park areas in fiscal year 1982. At the present time, funds can only be used for land acquisition and not for restoration purposes.

Until the President's planned moratorium, the Park Service's program to acquire private property for protection accelerated sharply during the last decade. The Park Service's land purchases and the addition of 46 new areas in the last decade doubled the acreage of the Park Service System to nearly 72 million and increased the number of areas managed by the Park Service to 323. Section 8 of Public Law 94-458, approved October 7, 1976, requires the Park Service to annually study and recommend 12 new units for inclusion in the National Park System. Funding for studies of new areas was limited to $100,000 in fiscal year 1981 compared with $1.1 million requested by the Park Service.

The Secretary of the Interior, on February 17, 1981, sent a memorandum to the heads of agencies administering land acquisition funds. The Secretary stated that all Federal land purchases are suspended until further notice. On March 3, 1981, the Office of Management and Budget requested that $105 million in funds available for Federal land acquisition be rescinded in fiscal year 1981. On June 3, 1981, the Congress rescinded $35 million of this amount.

The Secretary of the Interior made the following statements on May 7, 1981, in testimony presented before the Subcommittee on Public Lands, Senate Committee on Energy and Natural Resources:

> "In the midst of all this acquisition, there has been a failure even to begin to adequately maintain what we have."

* * * * *

> "I think you can clearly see where our priorities must be. The health and safety backlog simply has to be addressed. The Department of the Interior has a statutory responsibility to protect the health and safety of the public as well as to maintain and restore deteriorated facilities."

Senate Bill 910, which is being considered by the Congress, would amend the Land and Water Conservation Fund Act of 1965 to authorize funds to be spent not only for acquiring land but also for restoring and improving units of the National Park System, the National Forest System, the National Wildlife Refuge System, and authorized areas administered by the Bureau of Land Management.

Reducing the Land and Water Conservation Fund for land acquisition, except for contingency purchases such as buying land from property owners who might adversely use the land, would also reduce the future need for developmental and operational funds. By purchasing less land, the Park Service will need less funds in the future to develop, operate, and maintain the park system. According to the Park Service, it needs at least $2.9 billion to rehabilitate, upgrade, and replace facilities in the National Park System, including $1.6 billion which we estimate will be needed to protect visitor health and safety and $0.8 billion to upgrade the roads in the system.

To fund the health and safety projects alone, the Congress would have to appropriate about $342 million a year over a 5-year period. The appropriation of $105 million proposed by the President for fiscal year 1982 for restoration and improvements to the Park Service System would help, but would not be enough to repair and upgrade facilities and roads and bridges. In our October 10, 1980, report entitled "Facilities In Many National Parks and Forests Do Not Meet Health and Safety Needs" (CED-80-115), we recommended two possible solutions to the problem: (1) raise user charges (entrance and camping fees) or collect them at additional locations and use the funds to correct health and safety deficiencies or (2) negotiate with concessioners to make health and safety improvements on facilities they own or manage.

We also made recommendations regarding land acquisition in our reports on Lake Chelan (see pp. 65 and 66) and Fire Island see pp. 69 and 70). We recommended that the Park Service sell

back to previous owners or other private individuals lands compatible with the purposes of the area. There may be other areas where the Park Service should sell land back to private land owners. The proceeds of such sales could be used for restoration and improvement of the National Park System.

FEDERAL LAND OWNERSHIP POLICY

The President's economic recovery plan states that he is determined that the Department of the Interior be a good steward of the natural and historic treasures protected by the National Park Service. The President stated that postponing Federal land acquisition will allow for a thoughtful policy review of existing park legislation and improved utilization of land exchanges along with State and local efforts to achieve conservation goals. During the last 3 years, we have issued six reports on Federal land acquisition that have questioned the way Federal agencies have been purchasing land. These reports should be helpful to Interior while it makes a policy review of Federal land ownership. (See app. IV.)

In April 1981 Interior established a Lands Policy Work Group to develop a clear and positive national policy outlining the Federal role in open space conservation. The group plans to review the existing backlog of authorizations for Federal land acquisition and to define how Interior should address current and future open space conservation proposals. The work group plans to coordinate its efforts with the Department of Agriculture.

In its July 12, 1981, draft report, the Lands Policy Work Group stated:

"The Department of the Interior, in protecting natural, historical and recreational resources, will improve the management of existing areas and will meet future conservation needs by:

--giving prime consideration for direct Federal involvement to the protection of those natural and cultural resources which are of outstanding national significance and which retain their fundamental integrity"

* * * * *

"--creating partnerships with State and local governments and the private sector to allow the Federal government to develop shared responsibility for other nationally important areas appropriate to the roles, authorities and capabilities of the partners, and cooperating with these entities and the Congress to find alternatives to direct Federal management of existing Federal areas which are not of outstanding national significance

--using to the maximum extent practical cost-effective alternatives to fee purchase, permitting productive use of Federal areas where this is compatible with Congressional mandates and the need for resources protection, and assuring that Federal ownership patterns include only lands necessary to protect and manage significant resource in accord with Congressional mandates"

CONCLUSIONS

There appeared to have been no significant change in the Park Service's practice of buying almost all land in fee simple before the President's proposed moratorium on land acquisition. The Park Service has made some progress in implementing its April 26, 1979, land acquisition policy by requiring land acquisition plans justifying fee simple purchases. However, the Park Service could improve its land management and acquisition practices by making its policy more specific, not allowing Park Service employees to occupy homes in the parks if adequate housing is available close to the park, and by preserving pastoral and historic settings as intended by the Congress.

Nonprofit organizations have saved the Federal Government money by acquiring land through donations or bargain sales and then passing some or all of the savings on to the Government. However, the Departments of Agriculture and the Interior have not established policies and guidelines on using nonprofit organizations in acquiring land. The tax benefits received by a property owner do represent an additional cost to the Government over and above the amount actually paid to the owner. However, these costs are difficult to determine and are incurred whether the bargain sale is made directly to the Government or through a nonprofit organization. If the property is acquired by the Federal Government through a nonprofit organization, there may be an additional Federal expense for the holding and administrative costs incurred by the nonprofit organization.

We believe the extent of erroneous data relating to the amount of excess land the National Park Service actually owns outside authorized boundaries indicates a need for the National Park Service to establish an accurate inventory of such lands. The Service cannot determine from its present records the amount of land currently owned outside the Badlands National Park boundaries. In other cases, records were either incomplete or inaccurate.

Although the Park Service's acquisition of lands currently outside the boundaries of the five parks we reviewed appeared to be consistent with the law and congressional intent, some of the land is excess and should be disposed of by the General Services Administration.

The President proposed to limit Federal land acquisition and use Land and Water Conservation Funds to restore the National Park System. He also asked for a thoughtful policy review of existing park and recreation legislation. The Lands Policy Work Group is developing a national policy outlining the Federal role in open space conservation.

RECOMMENDATIONS

We recommend that the Secretary of the Interior direct the Director of the National Park Service to

--require park superintendents to more aggressively use alternatives to fee simple acquisition, such as zoning and easements to protect areas;

--develop specific criteria to be used in determining which properties should be purchased because of economic hardships to landowners or acquired in fee simple because of the high cost of easements;

--determine for each area in the National Park System which properties are compatible with the purposes of the area and not subject to acquisition and include this information in land acquisition plans;

--reevaluate all units currently being used for employees' housing and discontinue all housing rentals not in accordance with Interior's Departmental Handbook;

--leave pastoral and historic settings in private ownership, as intended by the Congress, for specific areas by using easements or other methods;

--accurately determine how much land, especially for Badlands National Park, the Park Service has currently outside its parks' boundaries; and

--promptly dispose of all unneeded land outside authorized boundaries to the General Services Administration.

We also recommend that the Secretaries of Agriculture and the Interior jointly establish policies and guidelines on the use of nonprofit organizations in acquiring land. The policy should provide guidance to the agencies on when to use nonprofit organizations, what the working relationship should be between Federal agencies and these organizations, and what unique land acquisition procedures might be appropriate.

COMMENTS FROM AGENCIES AND NONPROFIT ORGANIZATIONS

Comments on this report were solicited from the Departments of Agriculture and the Interior and three nonprofit organizations--The Nature Conservancy, the Trust for Public Land, and the National Park Foundation. Our detailed evaluation of their comments are shown in appendixes V-IX. In general, the organizations did not disagree with our conclusions. However, there seemed to be some concern by most of them regarding our recommendation that Federal agencies should have written policies or procedures to guide them in their working relationships with nonprofit organizations. We made modifications to the report based on the comments received but did not change our recommendation.

The Department of the Interior's comments were primarily directed toward our recommendations. In general, the Department agreed with our recommendations and has already taken or plans to take action to address most of them.

As agreed with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 10 days from the date of the report. At that time, we will send copies to interested parties and make copies available to others upon request.

Sincerely yours,

Henry Eschwege

Henry Eschwege
Director

Contents

OBJECTIVES, SCOPE, AND METHODOLOGY

To address Senator Stevens' four questions, we discussed land acquisition practices with appropriate National Park Service headquarters, regional, or area officials and reviewed authorizing legislation for the following 11 of 323 areas the Park Service has in its system:

Badlands National Park (South Dakota)
Big Thicket National Preserve (Texas)
Buffalo National River (Arkansas)
Cuyahoga Valley National Recreation Area (Ohio)
Fire Island National Seashore (New York)
Guadalupe National Park (Texas)
Lake Chelan National Recreation Area (Washington)
Rocky Mountain National Park (Colorado)
Sleeping Bear Dunes National Lakeshore (Michigan)
Yellowstone National Park (Wyoming, Montana, Idaho)
White Sands National Monument (New Mexico)

(See app. II for a detailed discussion on all areas except Lake Chelan National Recreation Area and Fire Island National Seashore. Separate reports were issued on these areas and digests of the reports are included in app. IV along with digests from four other reports we have issued on land acquisition.)

We did not always review the same information for all areas. Some of the areas had little land acquisition activity or did not have any excess land outside their boundaries. For example, Yellowstone National Park had no lands that needed to be acquired and, since 1965, no land in the park had been purchased from nonprofit organizations. Therefore, we only reviewed this park to determine whether the acres listed as being acquired outside its boundary were acquired in accordance with legislation establishing the park.

To address the question on Park Service land acquisition and management practices, we visited selected areas to determine whether the Park Service's April 26, 1979, land acquisition policy was being effectively implemented, including whether alternatives to fee simple acquisition could have been or were used.

To obtain public input about the Park Service's land acquisition practices, we surveyed by telephone 236 owners and former owners of land in the Cuyahoga Valley National Recreation Area. We also obtained public input at the Lake Chelan National Recreation Area and the Fire Island National Seashore by holding town meetings.

To determine whether the Park Service land acquisition plans conformed with the Park Service's April 26, 1979, land acquisition policy, we randomly selected 33 plans for analysis. Many different types of Park Service areas were included, and the sample is representative of the 107 areas that had approved land acquisition

plans as of August 8, 1980. None of the 11 areas we visited were included in the 33 plans we looked at.

To address the question regarding Federal agencies' use of nonprofit organizations to purchase land for subsequent Federal acquisition, we discussed the role of nonprofit organizations with officials at the National Park Service, the Fish and Wildlife Service, the Forest Service, and the Bureau of Land Management. Because the Bureau of Land Management's land acquisitions through nonprofit organizations have been extremely limited, we did not do any additional work at this agency beyond gathering basic data and interviewing land acquisition officials.

We visited several regional offices of the other three agencies and reviewed selected case files involving land acquisition through nonprofit organizations. We did not determine if the land purchased through nonprofit organizations was actually needed to meet the objectives of an area. The officials from the three agencies we talked with told us that various specific and general laws authorized the land purchases.

We also interviewed officials from three nonprofit organizations regarding their role in Federal land acquisition and obtained information on selected case files from them. These three organizations--the Nature Conservancy, the Trust for Public Land, and the National Park Foundation--account for most of the Federal land acquired through nonprofit organizations.

In response to the question of lands outside park boundaries, we reviewed the National Park Service's computer listing of acres of land outside park boundaries. According to the listing, 195,000 acres had been identified as being acquired outside park boundaries for 50 parks. From this list we selected five of eight parks that the National Park Service's listing showed as having 1,000 acres or more of land outside their boundaries. The five selected areas are included in the 11 areas that we reviewed. Our sample represented about 179,000 acres, or 92 percent, of the acres listed as being acquired outside the 50 parks' boundaries.

SUMMARIES OF FINDINGS AT AREAS VISITED

BADLANDS NATIONAL PARK

Background

The Badlands National Park was authorized as a national monument in South Dakota in 1929 "* * * for the benefit and the enjoyment of the people * * *." According to the Park Service, the monument was established

> "to preserve the scenic and scientific values of a portion of the White River Badlands and to make it accessible for public enjoyment and inspiration."

The monument was redesignated a national park in 1978. When established, the park contained about 154,000 acres. As of June 1979, the park encompassed about 243,000 acres.

Reason for selection

The National Park Service's computer listing of federally acquired acres of land outside park boundaries showed that 195,000 acres had been acquired outside park boundaries for 50 parks. The Badlands National Park is one of five areas selected for review that the National Park Service listed as having 1,000 acres or more of land acquired outside its boundaries. The Badlands National Park represented about 85 percent of the total land acquired outside park boundaries. The park also had an active land acquisition program.

Findings

Park Service headquarters' records indicated that as of June 1979 about 166,000 acres had been acquired outside the authorized boundary of the park. The park's master deed listing, however, showed only about 53,000 acres outside the park. Headquarters officials could not tell us what the Park Service did or did not own at the park. Park Service officials told us that they thought the master deed listing did not account for disposals of property outside park boundaries and contained keypunch errors that had not been corrected. The park superintendent said that the park's master deed listing was wrong and that the Park Service currently owned no land outside the park's boundary. The acquired acreage outside the boundary of the park could not be determined due to incomplete records. The Park superintendent assisted in verifying data where possible, but we were not satisfied with the Park Service's land records and files. The reported data is of questionable accuracy and quality.

The land acquisition plan for the park does not identify specifically the Park Service's intent for buying or not buying some tracts of land in the area. The superintendent stated that the April 26, 1979, Park Service land acquisition policy had no

effect on his land acquisition program. He said that the Park Service plans to purchase land in fee simple from willing owners as they make their land available for sale. The superintendent said that cattle grazing and nonnative grasses are incompatible with the Park Service's mission to restore the area to its natural condition. However, the enabling legislation does not say that the land is to be returned to its natural condition. The Park Service does not have to acquire fee simple title or any interest to protect the area as long as the land owners do not deviate from their land use practices.

BIG THICKET NATIONAL PRESERVE

Background

The Big Thicket National Preserve was authorized by Public Law 93-439, approved October 11, 1974, to assure the preservation, conservation, and protection of the natural, scenic, and recreational values of a significant portion of the Big Thicket area in Texas. The preserve comprises 12 separate units with a total of 84,550 acres. All acreage acquired to date has been acquired in fee simple except for a 10-acre easement. All remaining lands are planned for fee simple acquisition.

Reason for selection

The preserve was selected for review in order to expand the coverage of National Park Service areas with active land acquisition programs in the South/Southwest area of the United States.

Findings

The land acquisition plan for Big Thicket did not address 40 percent of the Park Service's land acquisition policy requirements.

According to the preserve's land acquisition officer, the Park Service's revised land acquisition policy had no effect on the preserve's land acquisition program. Since the remaining properties are to be acquired in fee simple as initially planned, alternatives to fee simple will not be used.

BUFFALO NATIONAL RIVER

Background

The Buffalo National River area was established by Public Law 92-237, approved March 1, 1972. The purpose of the act was to conserve an area in Arkansas comprising 95,730 acres of unique scenic and scientific features and preserve as a free-flowing stream an important segment of the Buffalo River for the benefit and enjoyment of present and future generations.

Reason for selection

The Buffalo National River was selected because it had an active land acquisition program and would provide geographical coverage in the South/Southwest. Buffalo National River also appeared on the Park Service's listing of areas where 1,000 acres or more had been acquired outside park boundaries.

Findings

Limited use was made of easements as an alternative to acquiring full fee title. The Park Service's General Management Plan in 1975 showed that it planned to acquire scenic easements on about 10 percent of the land. The land acquisition plan for the area showed, however, that easements would be acquired on only about 2 percent of the land.

The land acquisition officer for the Buffalo National River does not consider the use of any properties within the area's boundaries to be compatible with the purpose of the National River. The approved land acquisition plan for the area did not address many of the requirements set forth in the Park Service's April 1979 policy guidelines. The land acquisition officer stated that the policy has had no effect on his land acquisition program.

The Park Service's land acquisition practices have resulted in some pastoral settings being acquired and not retained as the area was at the time of acquisition. Although congressional hearings indicated that 10 percent, or about 9,400 acres, would be subject to scenic easements, only 2,100 acres will involve scenic easements. The preference for retaining the pastoral setting of the area through scenic easements as expressed in the hearings will probably not be realized because the farmland acquired in fee simple will eventually be allowed to revert back to the original habitat of the area. Some of the land acquired in fee simple is being leased for agricultural purposes. The farmland, however, is limited to harvesting hay only. No tilling of the soil or grazing of cattle is permitted although cattle grazing is the primary use of other farmland.

The Park Service has acquired or plans to acquire through condemnation five houses and lots located on 3.7 acres at an estimated cost of $200,000. The houses and lots are located just within the area's boundaries and could have very easily been excluded from the area through a minor boundary change as authorized in the enabling legislation. The Park Service also planned to purchase 446 acres of a Boy Scout camp and acquire an easement on the remaining 400 acres. This land appears to be compatible with the purposes of the act and therefore should not be acquired in fee simple except for a reasonable amount of land along the river's edge to allow boaters to sit and rest.

The Park Service is housing permanent personnel in 10 residences acquired from private owners. The personnel, however, are

not required by position description to live onsite, and no study to justify their living in the homes has been made.

CUYAHOGA VALLEY NATIONAL RECREATION AREA

Background

The Cuyahoga Valley National Recreation Area located near Cleveland, Ohio, was established by Public Law 93-555 on December 27, 1974, to preserve and protect for public use and enjoyment the historic, scenic, natural, and recreational values of the Cuyahoga River and the adjacent lands of the Cuyahoga Valley.

The land area included in the recreation area has more than doubled since the area was first proposed. When congressional hearings were held in June 1974, the land area proposed for inclusion in the recreation area was 14,843 acres. By the time the law was passed in December 1974, the area had been expanded to 29,000 acres. With the passage of two additional pieces of legislation in 1976 and 1978 the area was increased to 32,000 acres.

Reason for selection

The Cuyahoga Valley National Recreation Area was selected because it had an active land acquisition program. Also, we wanted to look at why so few scenic easements were purchased when congressional hearings indicated that scenic easements would be used to protect as much as 70 percent of the area.

Findings

The enabling legislation required the Park Service to publish a formal land acquisition plan within 1 year or by December 1975. The Park Service, however, did not prepare one until October 1978, which was almost 3 years late. By this time, the Park Service had acquired a considerable amount of land in fee simple and residents living in the area did not have a chance to participate in the planning process.

Further, the Park Service plans to acquire fee simple title to 98 percent of the land, which is contrary to how the majority of property owners thought their land would be acquired according to a telephone survey we made.

Limited use was made of easements as an alternative to fee simple acquisition. The area superintendent directed the land acquisition office to acquire no easements that exceeded 25 percent of the full fee value. Using this 25 percent criterion has resulted in the Park Service acquiring no agricultural easements in the Cuyahoga Valley and none are planned for the future. Because the value of agricultural land was high, easements to prevent the land from being used for agricultural purposes were very high and exceeded more than 25 percent of the fee simple value.

Park Service land acquisition practices have resulted in some pastoral and historic settings such as farms being eliminated, which is contrary to congressional intent. Although some of the land is being leased to local farmers to preserve pastoral settings, the amount of leased land dropped in fiscal year 1980. Because it is the intent of the legislation to preserve the agricultural setting, the Park Service plans to replace the rental system with a bid system to help encourage additional interest in the program.

The superintendent of the area made a very strict interpretation of what constitutes compatible properties. As a result, activities that we believe are compatible with the purposes of a recreation area, such as a recreational camp and a public restaurant serving golfers in the area, are not being allowed to remain.

The Park Service did not vigorously promote zoning as a land acquisition alternative. Rather than relying on the local initiative to protect lands adjacent to the area, the Park Service planned to purchase the community of Boston Mills in both fee simple and easements.

Park Service employees are living in houses purchased by the Park Service, some of which are not needed to maintain the continuity and efficiency of the parks' objectives, even though housing is available within a reasonable commuting distance. This is contrary to Park Service guidelines. In Cuyahoga Valley, nine residences were purchased between 1975-77 and are currently used as park housing. Park officials said that although all nine structures are currently being used as temporary quarters, the Park Service plans in the future to raze those not needed for recreational purposes and employees will be housed instead in historic structures. The nine residences will continue to be used for housing until historic structures are available. According to the superintendent, if all employees are living outside the park and a historic structure becomes available for occupancy, it would be difficult to encourage an employee to move back in the park.

We conducted a statistical telephone survey of 236 landowners in the area and found that many of them did not believe they were properly informed about the Park Service's intent to acquire an interest in their property or were treated fairly during the negotiation process.

--Seventy-seven percent of the 236 landowners said that they did not believe their properties would be acquired.

--Eighteen of 29 landowners who knew their property would be in the recreation area said that the interest to be acquired would be a scenic easement.

--Although the April 26, 1979, Park Service policy required officials to obtain landowners' input in the development

of land acquisition plans, only 5 percent of the 117 landowners who knew of the plan said that they had participated in the development of the plan for the area.

--Thirty-eight percent of the 147 landowners whose property was acquired in fee simple said that they objected to this type of acquisition.

--Thirty-six percent of the 236 landowners said that they believed the Park Service's land acquisition practices at the area were unfair, 33 percent had no opinion, and 31 percent considered them fair.

GUADALUPE MOUNTAINS NATIONAL PARK

Background

The Guadalupe Mountains National Park was authorized by Public Law 89-667, October 15, 1966, to preserve in public ownership an area in west Texas possessing outstanding geological values together with scenic and other natural values of great significance. The park comprises 76,293 acres including Guadalupe Peak, the highest point above sea level in Texas. All park acreage was acquired in fee simple.

Reason for selection

The Guadalupe Mountains National Park was selected because it appeared on the Park Service's listing of areas where 1,000 acres or more had been acquired outside park boundaries.

Findings

The Park Service has not taken prompt action to dispose of unneeded land. Public Law 89-667 authorized the Service to acquire 4,667 acres outside the park boundary in exchange for acreage within the park boundary. After the exchange, the Service had 1,635 acres of ranchland and a 109-acre road easement plus a donated 1,202-acre scenic easement for a total of 2,946 acres outside the park boundary. Although the acquisition program for this area is essentially completed, there were no formal plans for disposal of the 2,946 acres through the General Services Administration. We believe the Park Service should promptly declare the unneeded land excess and turn it over to the General Services Administration for disposal. The Park Service said that it would probably return the 1,202-acre scenic easement to the donor since there no longer appears to be a need for it.

ROCKY MOUNTAIN NATIONAL PARK

Background

The Rocky Mountain National Park was established in Colorado in 1915

"* * * as a public park for the benefit and enjoyment of the people * * * being primarily aimed at the freest use of the said park for recreation purposes by the public and for the preservation of the natural conditions and scenic beauties thereof."

When created in 1915, the park contained about 229,000 acres of land with more than 11,000 acres of private inholdings. As of June 1979, the park encompassed about 264,000 acres with less than 500 acres of non-Federal lands within the boundaries.

Reason for selection

The Rocky Mountain National Park was selected because it would provide geographical coverage in the western part of the United States and because it is one of the older and well established parks.

Findings

Public participation in the development of the land acquisition plan for the park was limited to property owners and interested citizens being given an opportunity to express their views in writing after the plan was drafted by park management. Dissenting views were not stated in the approved plan. Very few changes were made in the plan based upon public comments.

The land acquisition plan for the park, approved in June 1980, is too general. It does not identify specifically the Park Service's intention for each tract and is not specific enough in explaining compatible and incompatible uses. The plan recites verbatim the compatible and incompatible uses from the April 26, 1979, policy but does not further define on a site-by-site basis incompatible use as required by the April policy.

Some Park Service employees are being housed in 45 residences within the park even though we believe suitable accomodations could be found easily within a reasonable commuting distance. This practice is contrary to the Park Service's handbook, which states that housing should not be retained for use as Government-furnished quarters merely because it is available. According to the handbook, housing acquired in conjunction with land acquisition programs is particularly susceptible to unjustified retention. It further states that the Department of the Interior is a reluctant landlord and retention of unneeded housing generally violates the basic purpose of the acquisition program; that is, to acquire land for park, wildlife, or other resource management programs.

SLEEPING BEAR DUNES NATIONAL LAKESHORE

Background

The Sleeping Bear Dunes National Lakeshore was established by Public Law 91-479 on October 21, 1970, to protect the outstanding

natural features that exist in 65,587 acres along the mainland shore of Lake Michigan and on certain nearby islands.

Reason for selection

The Sleeping Bear Dunes National Lakeshore was selected for the purpose of determining whether the Park Service adhered to congressional intent and to include a national lakeshore as part of our review.

Findings

Limited use was made of easements as an alternative to fee simple acquisition. Although a map of the lakeshore as required by Public Law 91-479 showed that 35 percent of the area could be retained by the landowners subject to restrictions on use and development, the most recent plan for the area shows that easements would be acquired on only about 2 percent of the land. Only 2 percent of the owners agreed to restrictions and those that did not were required to sell, which substantially reduced the amount of land that could have been purchased subject to easements.

Some owners were notified of restrictions such as prohibitions against development, construction, or subdivisions to be placed on their properties and asked to sign an agreement that was to be recorded as part of their deeds--in effect an easement. They were not provided compensation for signing the agreement, whereas in other areas, such as Cuyahoga Valley National Recreation Area and Buffalo National River, property owners were provided compensation for scenic easements that ranged from 10 to 71 percent of the property value. Those who would not agree to the restrictions were told by the Park Service to sell or face condemnation. We believe that the Park Service should not have threatened condemnation but should have only informed the owners of actions that would result in their property becoming incompatible with the purposes of the lakeshore and, therefore, make it subject to condemnation.

Some properties were purchased in fee simple because the owners stated that continued ownership of such properties would cause a financial hardship. The Congress did not want to prevent owners from selling their properties if they needed the money for economic reasons. However, the Park Service has not established criteria to be used in determining hardships. As a result, some properties may have been unnecessarily acquired because the Park Service had no additional information to confirm the owners' statements that they were hardship cases.

The Park Service did not promote zoning as a land protection alternative. The Park Service has not discussed zoning with township officials although each township has hired a zoning administrator within the last few years.

The Park Service's land acquisition practices have resulted in some pastoral and historic settings being acquired and not retained as the area was at the time of acquisition. The Park Service has acquired some private properties such as farms, orchards, and camps. The Park Service plans to let the lands revert to a wilderness area rather than preserve these type of properties for public enjoyment as stipulated by legislation establishing the area. The Congress intended that the development of the area be stabilized, not that the area be returned to wilderness.

WHITE SANDS NATIONAL MONUMENT

Background

The President of the United States established the White Sands National Monument near Alamogordo, New Mexico, by proclamation on January 18, 1933. The purpose of the proclamation was to preserve the white sands, gypsum dunes, and additional features of scenic, scientific, and educational values. The monument contains 144,458 acres. All monument acreage was acquired in fee simple.

Reason for selection

The White Sands National Monument was selected because it appeared on the Park Service's listing of areas where 1,000 acres or more had been acquired outside park boundaries.

Findings

The Park Service has not taken prompt action to dispose of unneeded land. Public Law 95-625, approved November 10, 1978, authorized the Park Service to amend the boundaries of the monument. The change resulted in 1,195 acres being located outside the monument's boundaries. The 1,195 acres consist of 755 acres of ranchland and a 440-acre tract of ranchland with water rights. Although the acquisition program for this area was completed before the Park Service's revised land acquisition policy of April 26, 1979, the 1,195 acres had not been declared excess and turned over to the General Services Administration for disposal at the time of our review. The Park Service plans to retain water rights to the 440-acre tract and would like to exchange the 1,195 acres with Federal and/or State agencies. We believe the Park Service should promptly declare the unneeded land excess and turn it over to the General Services Administration for disposal.

YELLOWSTONE NATIONAL PARK

Background

The Yellowstone National Park was established in 1872 as the world's first national park. It was

> "* * * dedicated and set apart as a public park or pleasuring-ground for the benefit and enjoyment of the people * * * for the preservation, from injury or spoliation, of all timber, mineral deposits, natural curiosities, or wonders * * * and their retention in their natural condition."

As of June 1979, the park encompassed about 2.2 million acres (2,020,625 in Wyoming, 167,624 in Montana, 31,488 in Idaho) including about 18 acres of non-Federal lands.

Reason for selection

The Yellowstone National Park was selected because it appeared on the Park Service's listing of areas where 1,000 acres or more had been acquired outside park boundaries.

Findings

The Park Service's computer listing of acres of land outside park boundaries showed that 2,455 acres were acquired outside the park's boundaries. The 2,455 acres were transferred to the Forest Service during calendar years 1929-32, but the acres were picked up on the Park Service's listing in error. The park's resource manager also informed us that no land is owned outside the park's boundaries.

ROLE OF NONPROFIT ORGANIZATIONS IN ACQUIRING LANDS FOR FEDERAL AGENCIES

Nonprofit organizations such as the Nature Conservancy, the Trust for Public Land, and the National Park Foundation provide most of the federal land acquired through nonprofit organizations for the National Park Service and the Fish and Wildlife Service of the Department of the Interior, or the Forest Service, Department of Agriculture. These are the principal federal agencies using such organizations to acquire land. Usually acting at the request of a federal agency, these organizations often are able to buy land for less than fair market value and then sell the land to the federal agency at an amount to cover the nonprofit organization's acquisition and holding costs.

We did not determine whether land purchased through nonprofit organizations was actually needed to meet the objectives of an area. Officials from the agencies we talked with told us that various specific and general laws authorized them to purchase land. Therefore, for purposes of our review, we did not question the need for such land.

Because nonprofit organizations have flexibility that federal agencies often lack, they have proven to be a useful tool for the agencies to use in acquiring property when they were unable to do so. Federal officials also cite various reasons for the government's inability to acquire properties that they believe need federal protection including

budget constraints,

authorizing legislation constraints,

limitations on types of federal land purchases, and

preferences by owners to sell to nonprofit organizations.

There is concern that the relationship between nonprofit organizations and federal agencies has developed into such a close one that the nonprofit organizations could or should be viewed as agents of the federal government.

Although the agencies and the nonprofit organizations do work closely together, each maintains its own independence from the other. Therefore, with the exception of the National Park Foundation, an agent relationship between the nonprofit organizations and the federal agencies does not exist.

The National Park Foundation is unique among the nonprofit organizations in that the Foundation was established by an act of congress to receive and administer gifts of real estate and personal property, including money, for the benefit of the

National Park Service. At the time the Congress created the Foundation, it believed that the United States was losing potential private donations to further the Park Service's work because of legal restrictions on the Secretary of the Interior's authority to accept and use such gifts. Therefore, to encourage private gifts for the benefit of the National Park Service, the Congress established the Foundation, giving it considerably broader authority to accept and use donations than possessed by the Secretary. Also, the Congress anticipated that the Foundation would use donated funds to buy real property for additions to the National Park System.

The Foundation, until October 1980, relied directly on the Department of the Interior for a significant amount of its financial and operational support--including the salary of its president and a support staff. The Foundation has only two other employees and has relied almost entirely upon the Park Service to conduct its negotiations and acquisition activities. The Foundation acquires only land suggested by the Park Service for acquisition, although the Foundation can and does decline some Park Service suggestions. The only customer the Foundation has is the Park Service. Thus, the Foundation is used by the Park Service to acquire private property for the benefit of the National Park System by gift or through purchases not subject to the restrictions ordinarily imposed on the Secretary of the Interior.

Although the close working relationship between the agencies and the nonprofit organizations does not constitute an agent relationship except for the Foundation, it does demonstrate a need for written criteria that would govern the working relationship between the Federal agencies and the nonprofit organizations.

One concern of using nonprofit organizations is whether the relationship between the Federal agencies and these organizations might be influencing how the Federal agencies establish their land acquisition priorities. It does not appear that nonprofit organizations substantially influence land acquisition priorities because the agencies usually approach the nonprofit organizations to have them purchase land in areas already authorized or under congressional consideration. However, agencies do prefer to negotiate with a "willing seller." Consequently, once a nonprofit organization has acquired a tract of land, the agency has a willing seller situation, which influences when the agency will acquire the property.

Federal agencies are not legally obligated to buy property that they have requested a nonprofit organization to buy for them, although it appears the agencies feel morally obligated to buy the property. Even in some cases where nonprofit organizations have held property for long periods of time, the agencies have almost always acquired the property.

Because nonprofit organizations are often successful in obtaining donations and bargain sales, the cost of Federal land acquisitions through nonprofit organizations is usually below or at the property's fair market value, even after an allowance has been made for the organization's acquisition and holding costs.

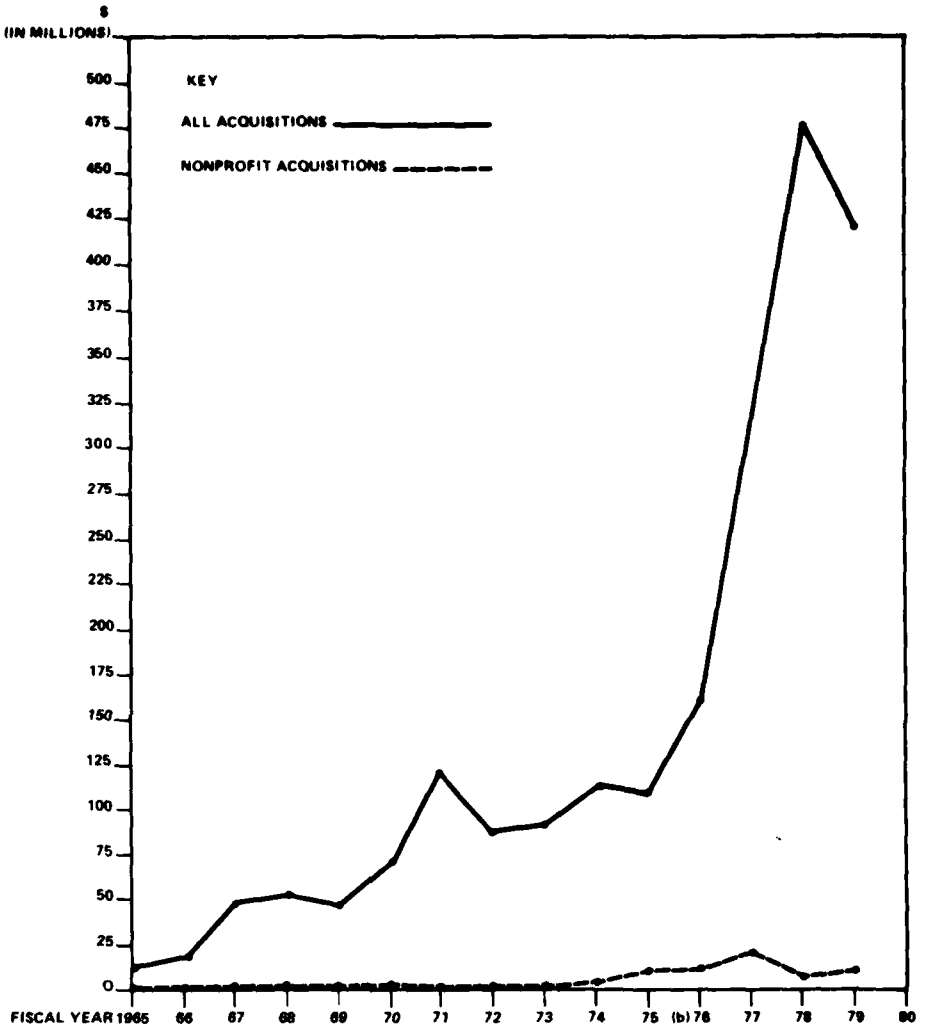
Nonprofit organizations are able to obtain bargain sales and donations more readily than the Federal agencies primarily because of their ability to be more flexible and because they promote the tax benefits more aggressively. The chart below shows the savings to Federal agencies and land acquired through nonprofit organizations for fiscal years 1965 through 1980.

Agency	Acres	Fair market value	Agency cost	Savings
National Park Service	42,438	$ 34,407,216	$ 26,245,143	$10,993,657
Fish and Wildlife Service	458,909	86,639,783	49,255,995	37,383,788
U.S. Forest Service	122,873	41,014,517	38,554,023	2,460,494
Total	624,220	$162,061,516	$114,055,161	$50,837,939

Note: The fair market value of a property was not available in every case. Therefore, the savings figure reflects only those cases where both the fair market value and cost information was available. The savings figure includes donations and would have probably been more had the figures for fair market value and agency cost for all cases been available.

Since 1965 nonprofit organizations have accounted for only 4.5 percent of all land acquisitions by the three agencies. However, the agencies' total acquisitions have increased dramatically over the last few years, and the dollar amount of business through nonprofit organizations has gone up as well. As shown by the chart on page 28, the nonprofit organization's role has not increased dramatically over time in relation to the dollar amount of all acquisitions made by the agencies.

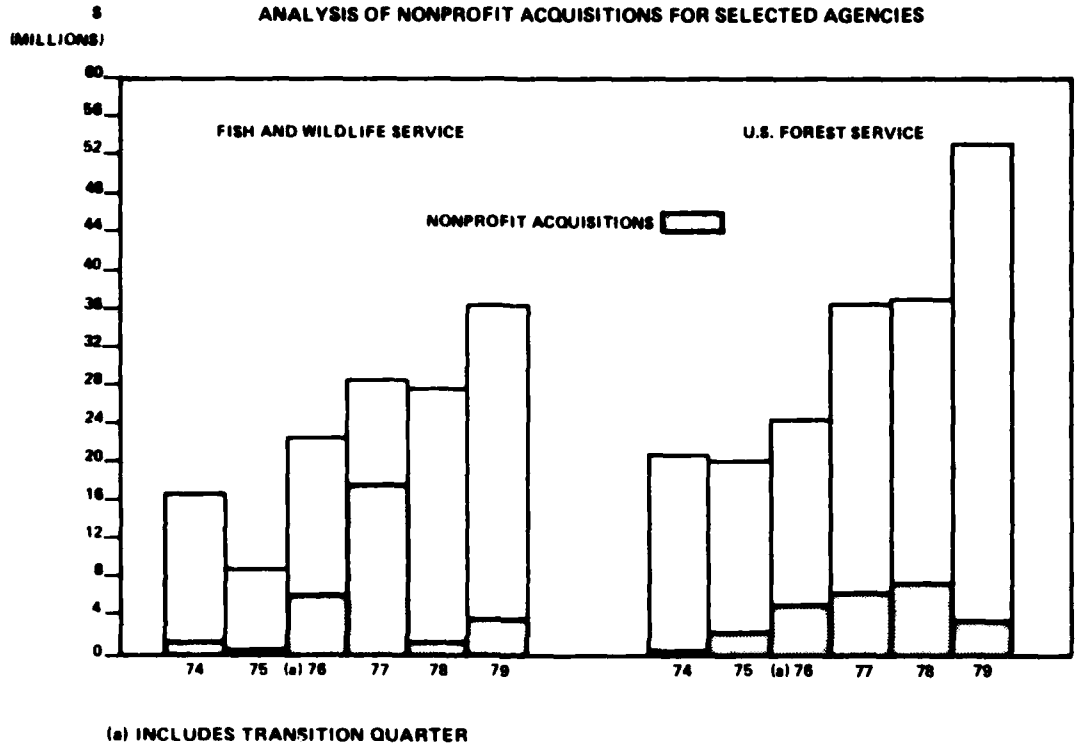
COMPARISONS OF ALL ACQUISITIONS (Note a) WITH ACQUISITIONS MADE THROUGH NONPROFIT ORGANIZATIONS



(a) ONLY INCLUDES ACQUISITIONS MADE BY THE NATIONAL PARK SERVICE, FOREST SERVICE, AND THE FISH AND WILDLIFE SERVICE.

(b) INCLUDES TRANSITION QUARTER.

Even though the relative dollar amount has remained small, nonprofit organizations have accounted for large portions of land acquired for two of the agencies. As the chart on page 29 shows, both the Fish and Wildlife Service and the U.S. Forest Service have used nonprofit organizations to acquire significant amounts of land. In comparison with the other two agencies, the Park Service has used the nonprofit organizations the least--both in relation to its total acquisition and in the actual amounts spent.



(a) INCLUDES TRANSITION QUARTER

Nonprofit organizations are able to obtain bargain sales and donations more readily than the Federal agencies primarily because of their ability to be more flexible and because they promote the tax benefits more aggressively.

The tax benefits associated with a donation or a bargain sale are a major tool used by nonprofit organizations to obtain property at less than fair market value. By understanding the tax laws, the nonprofit organizations have shown both private individuals and corporations how they can financially profit by donating land or selling it at a bargain price.

In addition, a company may be willing to donate property if it has become a financial burden on the company due to such costs as property taxes, liability insurance, and operation expenses. Also, donating property may generate favorable publicity.

Because tax revenue is lost, donations and bargain sales do cost the Federal Government more than the amount an agency shows as the cost of the land. By allowing taxpayers to deduct the value of charitable contributions of land from their taxable income, the Government shares the cost of the charitable contribution. Thus, tax benefits received by a property owner may represent to some persons an additional cost to the Government over and above the amount actually paid to the owner. However, these costs are difficult to determine and they occur whether or not the donation or bargain sale is made directly to the Government or through a nonprofit organization. The cost is difficult to determine because the information needed to make the calculation is not readily available or determinable. Also, no one knows what revenue would be raised if these tax benefits were eliminated.

The Government's total acquisition cost may exceed, however, the fair market value if the donation or bargain sale is made to a nonprofit organization and then the property is later sold to the Government. This can occur because the original landowner still receives the same tax benefits by selling to the nonprofit organization, but the nonprofit organization may sell the property to the Government for more than what it paid for it in order to cover its holding and administrative costs--thus eliminating part or all of the bargain sale or donation as far as the Government is concerned. The holding and administrative costs are simply the price the Government pays to use the nonprofit organization's services.

The services the nonprofit organizations provide to the agencies entail

--avoiding the need to condemn land,

--solving complex title problems,

--moving quickly on a transaction,

--holding properties at reduced prices in rapidly appreciating markets, and

--acquiring land where there is antipathy toward the Government.

The benefits the Federal Government receives by using the nonprofit organizations are as difficult to quantify as are the costs of the lost tax revenue.

APPENDIX IV

DIGESTS FROM PREVIOUS GAO REPORTS

ON FEDERAL LAND ACQUISITION

COMPTROLLER GENERAL'S REPORT TO THE CONGRESS

FEDERAL PROTECTION AND PRESERVATION OF WILD AND SCENIC RIVERS IS SLOW AND COSTLY

D I G E S T

Efforts by the Departments of the Interior and Agriculture to protect wild, scenic, and recreational rivers of the United States have been excessively slow and costly.

A national policy to preserve selected rivers in a free-flowing condition and protect them for the benefit and enjoyment of present and future generations was established by the Wild and Scenic Rivers Act of 1968. (See p. 1.)

The act designated eight rivers as components of the national wild and scenic rivers system and provided that it be expanded through (1) legislation following studies of other wild and scenic rivers conducted by Agriculture and the Interior and (2) addition of State-administered wild and scenic rivers. (See pp. 5 and 6.)

SLOW PROGRESS IN DESIGNATING RIVERS

But as of December 1977 only 11 rivers had been added to the national system, although 58 rivers have been identified for congressional study as potential additions and many more, including State-administered rivers, are potential additions. (See p. 7.)

There are two important reasons for the slow progress:

--Federal agencies take an inordinate amount of time--an average of more than 6 1/2 years from congressional designation--to complete the studies necessary to assess a river's eligibility for the national system. (See p. 10.)

--States have not opted to nominate State-administered rivers for protection and preservation because national designation contributes to increased river use, with attendant problems

CED-78-96
May 22, 1978

GAO Note: Page references in this appendix refer to pages in the reports from which the digests were taken.

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of deterioration of scenic values and increased administrative costs and because States are precluded from nominating rivers that are bordered by large blocks of federally owned land. (See pp. 17 to 19.)

The Bureau of Outdoor Recreation 1/ and Forest Service have issued suggested study time frames of 22 1/2 months and 30 months, respectively. (See p. 10.) River studies, however, are not meeting these target completion dates for a number of reasons.

The primary reasons are that (1) the two study agencies have not developed or issued formal instructions to guide the conduct of river studies and (2) the study teams often lack experienced, qualified personnel. (See pp. 14 to 16.)

Many studies have been delayed because the agencies took a long time--about 3 years--to issue instructions for carrying out requirements of environmental impact statements and the Water Resource Council's standards for water resource projects. (See p. 15.)

The wild and scenic values of some rivers have deteriorated due, in part, to slow progress in designating rivers to the national system. For example, visitor use increased substantially on the Snake River in Wyoming following its designation as a potential wild and scenic river in 1968 and subsequent publicity. The Forest Service study team recorded a recreational use increase of 27 percent annually from 1974 through 1977. (See p. 12.) The

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1/On Jan. 30, 1978, the Bureau of Outdoor Recreation was renamed the Heritage Conservation and Recreation Service. The responsibility for conducting river studies and preparing reports to the President and the Congress was transferred from the Bureau of Outdoor Recreation to the National Park Service effective Apr. 1, 1978.

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increased popularity as well as a lack of facilities along the Snake has resulted in littering, disruption of wildlife, exceptionally high speculative land values, and development of projects along the river frontage, which detract from the river's wild and scenic values. (See pp. 11 to 13.)

COSTLY PROTECTION

The strategy adopted by most Federal agencies to preserve wild, scenic, and recreational rivers is to either buy riverway land or buy the right to control the use of the land. This is unnecessarily costly and was not intended by the Congress. (See p. 23.)

For example, Federal agencies estimated that it will cost $93 million to acquire control over 15 federally administered rivers, which is 2 1/2 times the cost of the original estimate. There are less costly alternatives. The one most promising and called for in the Wild and Scenic Rivers Act is that of working with State and local governments to provide the necessary land use controls over development. By coordinating Federal management with State and local zoning ordinances, not only are costs potentially reduced, but private owners can continue to enjoy the use of their lands. (See pp. 23 and 24.)

This strategy is being used by agencies in both Agriculture and Interior in programs to protect national recreational and other areas from adverse development. (See p. 28.)

RECOMMENDATIONS TO AGENCIES

The Secretaries of Agriculture and the Interior should improve the timeliness of future river studies by

--starting river studies sooner,

--developing guidelines on how river studies should be conducted,

--keeping track of how the studies are progressing and holding study teams to time frames,

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--using experienced personnel to conduct additional studies,

--integrating environmental impact studies into river studies, and

--using the expertise and information available in other Federal and State agencies rather than researching and developing already available information. (See pp. 20 and 21.)

The two Secretaries should also require the heads of their services and bureaus to work with State and local governments to minimize land acquisitions by coordinating Federal management with local zoning to preserve existing as well as additional proposed wild and scenic rivers. Buying lands and easements should be used only if local governments grant permits for noncompatible use and for the acquisition of appropriate public access sites. (See p. 35.)

CONGRESSIONAL ACTION

States are reluctant to participate in helping Federal agencies protect and preserve wild, scenic, and recreational rivers because of increased administrative costs and because of the Department of the Interior's ruling that States cannot nominate rivers bordered by large blocks of federally owned land. Conversely, Federal agencies are not always working with States and local governments to use zoning as a means of preserving rivers but are buying land and easement rights, which may be unnecessarily costly.

To bring about a greater Federal-State-local government partnership, the Congress should (1) provide financial assistance to States to administer nationally designated rivers, thereby reducing Federal involvement and related costs, and (2) amend the Wild and Scenic Rivers Act of 1968 to remove the provision which precludes States from nominating rivers bordered by large blocks of federally owned land. (See p. 21.)

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AGENCY COMMENTS AND GAO'S EVALUATION

Agriculture and Interior generally agreed with GAO's conclusions and recommendations. (See apps. V and VI.)

Both Departments recognize the need to improve the timeliness of river studies and have indicated they are taking steps to implement GAO's recommendations. (See pp. 21 and 22.)

Both Departments felt that GAO's analyses concerning the use of methods other than fee acquisition to protect wild and scenic river areas was too abbreviated. Agriculture agreed with GAO's recommendations but doubted that they would work in a rural environment. Interior said that potentially the advantages of local zoning are great but pointed out that there are certain inherent problems which may be encountered in future years by relying on zoning.

Each river area should be addressed on a case-by-case basis, and alternative land use controls, rather than acquisition, should be used to the greatest extent possible. Examples cited in this report are land use controls applicable to specific locations and circumstances. The examples point out that zoning controls are possible in given cases and are a viable alternative to land acquisition. The Departments should consider for each existing and proposed wild and scenic river whether zoning is a feasible alternative to acquisitions of land and scenic easements. (See pp. 35 and 36.)

Interior said that it was considering providing incentives through the use of land and water conservation funds to encourage States to develop State systems and administer components of the national wild and scenic rivers system. (See p. 22.)

APPENDIX IV

UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

COMMUNITY AND ECONOMIC
DEVELOPMENT DIVISION

JUNE 19, 1979

B-148736

The Honorable Cecil D. Andrus
The Secretary of the Interior

Dear Mr. Secretary:

We have completed our review of the National Park Service's urban national recreation area program. We directed our review primarily toward the first three areas to be designated by the Congress. These are Golden Gate, near San Francisco, California; Gateway in the harbor area of New York City, New York; and Cuyahoga Valley, near Cleveland and Akron, Ohio. We made the review to assess whether the program was meeting its objectives of providing recreational needs of urban populations and protecting and preserving significant natural and scenic settings near large cities.

In summary, the three areas we reviewed were providing recreation for many urban residents. Also, the natural and scenic settings of the areas were being protected and preserved. However, low-income, inner-city residents were not using the areas very often, and Federal costs could increase considerably if all the lands within the recreation areas that are now owned and protected by State and local governments were to be donated to the Secretary. These matters are discussed in more detail in the following sections.

At each of the three areas, we examined the recreation and preservation efforts and goals. At the Park Service's Washington, D.C., headquarters and its north atlantic and western regional offices, we evaluated the Service's plans, policies, procedures, and practices relating to urban national recreation areas. We also reviewed various data and studies; interviewed State and city recreation officials and representatives of community groups about the recreation needs of five inner-city neighborhoods in San Francisco, Oakland, and New York City; and obtained information from Interior's Heritage Conservation and Recreation Service, the Environmental Protection Agency, and the Army Corps of Engineers. We discussed this report with National Park Service officials, who generally agreed with the matters included herein.

CED-79-98
(148570)

MEETING THE RECREATION NEEDS OF URBAN RESIDENTS

Although heavily used as recreation sites, the three areas were not being used very often by transit-dependent, low-income, inner-city residents who, according to several observers, need recreational opportunities the most. Most visitors came from the surrounding affluent communities.

According to city park and recreation officials and community organization representatives we interviewed in San Francisco, Oakland, and New York, most residents of transit-dependent, low-income neighborhoods do not use the urban national recreation areas because the areas are generally inaccessible to them. They also said that inner-city residents generally have a greater desire for close-to-home neighborhood parks and facilities.

Location of recreation areas limits their use by inner-city residents

Park and recreation department officials in San Francisco and Oakland told us that a combination of neighborhood and regional parks is important. They said, however, that regional parks such as Golden Gate are not readily accessible to inner-city residents.

Community organization representatives in the three inner-city San Francisco and Oakland neighborhoods we visited told us that recreation opportunities are most needed within the neighborhoods. Representatives of the Oakland community organization said that its residents were not knowledgeable about Golden Gate or its programs and that a number of closer regional parks offered more recreational activities, as well as open space similar to that available at Golden Gate. Representatives of two San Francisco community organizations said that their residents knew about Golden Gate but were critical of its available recreational activities. They believed that Golden Gate needed to provide more intensive recreational activities, such as swimming, picnicking, and softball, in order to attract low-income residents.

Park and recreation officials and community planning board members in the two inner-city neighborhoods we visited in New York City identified close-to-home facilities as the most critical recreation need. In their opinion, Gateway will not meet this need because the cost in time and money necessary to reach it is too great an investment for inner-city residents. For example, a family of four in New York's Morrisania and Brownsville neighborhoods would spend $8 ($6 on Sundays) for a round trip to Gateway, and the trip--would

involve transferring between subway lines and switching to a bus. On a weekend, the round trip would take 5 hours from Morrisania and 2-3/4 hours from Brownsville.

At Cuyahoga Valley, there was no round trip public transit service from Akron. A round trip from Cleveland's inner-city neighborhoods to the recreation area's Brecksville unit would take about 1 hour and cost $2.80 for a family of four.

Pilot program to improve transportation service has been authorized

Near the completion of our fieldwork, the Congress took action to improve transportation access to urban national recreation areas and to other units of the national park system.

Title III of Public Law 95-344 (92 Stat. 477), approved August 15, 1978, authorized a pilot transportation program to be carried out by the Secretary of the Interior to encourage "the use of transportation modes other than personal motor vehicles for access to and within units of the National Park System * * *." The principal objective of this legislation is to reduce the reliance on automobiles for park access. Senator Harrison Williams, who sponsored the legislation, cited several reasons for promoting transportation alternatives to the automobile. In addition to mentioning reduced traffic congestion and environmental considerations, he said

> "People who do not have cars--particularly the poor, the elderly, the young, and the handicapped--are * * * denied the opportunity to enjoy their country's natural splendors."

The act authorizes appropriations, which are to remain available until expended, of $1 million for fiscal year 1979, $2 million for 1980, and $3 million for 1981.

The National Park Service evaluated 53 proposals submitted by its regional offices for fiscal year 1979. In February 1979 the Service's Director approved 24 transportation improvement projects totaling about $800,000 and initiated a formal reprograming request through Interior and the Office of Management and Budget to finance these projects. Eight projects totaling $317,000 were for the Golden Gate, Gateway, and Cuyahoga Valley national recreation areas. Most of the 24 approved projects provide for the Park Service to participate in cost-sharing arrangements whereby carriers

would extend public transit service into the parks and the Park Service would pay a part of the carriers' deficits. Additional projects are for public education efforts and shuttle services between park areas and existing public transit stops.

As of May 1979 the Service was starting to develop a methodology to study the results of the program and, at the end of 3 years, it plans to submit an overall evaluation to the Congress, as required by the legislation. As part of the evaluation, the Service should assess the extent to which the transportation improvement projects increase the use of the urban national recreation areas by low-income, inner-city residents and the per capita costs of such increases. The results of this assessment should show whether transportation improvements help in furthering the objectives of the urban national recreation areas and the desirability of continuing further efforts aimed at transporting people to these areas.

Program to help cities provide close-to-home recreation has been authorized

In regard to inner-city residents' need for close-to-home recreation, the Congress enacted a 5-year, $726 million Urban Park and Recreation Recovery Program on November 10, 1978, as Title X of Public Law 95-625 (92 Stat. 3538). This title authorizes the Secretary to establish a program of

> "Federal grants to economically hard-pressed communities specifically for the rehabilitation of critically needed recreation areas, facilities, and development of improved recreation programs * * *."

Funds available under this title cannot be used to acquire land or interests in land.

This program is intended to complement certain existing programs by encouraging and stimulating local governments to revitalize their park and recreation systems and to make long-term commitments to continuing maintenance of these systems. Emphasis is to be on public facilities readily accessible to residential neighborhoods. One of the factors to be considered in establishing priority criteria for project selection and approval is

> "* * *demonstrated deficiencies in access to neighborhood recreation opportunities,

particularly for minority, and low- and moderate-income residents."

Within 90 days after the authority for this program expires, the Secretary is to report to the Congress on the program's overall impact. Interior has requested a supplemental appropriation of $37.5 million for fiscal year 1979 to initiate the program. The President's fiscal year 1980 budget includes $150 million for the program.

Conclusions

The first three urban national recreation areas created under the concept of "bringing parks closer to the people" are providing recreational opportunities to many urban dwellers. However, residents of most low-income communities find the access to recreation areas difficult and express a greater interest in close-to-home neighborhood recreation facilities.

The transportation improvement program authorized by Public Law 95-344 is intended, in part, to improve access for people who do not have cars--particularly the poor, elderly, young, and handicapped. The evaluation of this program should include an assessment of whether the transportation improvement projects significantly increase the use of the national urban recreation areas by low-income, inner-city residents.

Recommendations to the Secretary of the Interior

We recommend that the Secretary have the National Park Service include in its evaluation of the transportation improvement program an assessment of the extent to which the projects involving the urban national recreation areas increase the use of these areas by low-income, inner-city residents and the per capita costs of such increases.

THE SECRETARY SHOULD ENCOURAGE CONTINUED STATE AND LOCAL GOVERNMENT OWNERSHIP OF LANDS

Although State and local governments have donated to the Secretary about half the lands they owned within the three recreation areas, they continue to own and protect

the natural character of the remainder. While the laws 1/ creating these areas provide that all State- and local government-owned lands within the areas can be donated to the Secretary, the laws allow the Secretary to encourage States and local jurisdictions to retain lands whose natural character is being adequately preserved. We believe that the Secretary should seek to have the State and local governments retain and protect as much as possible of the remaining lands they own within the three areas.

In legislation creating several additional recreation areas and other national park units in 1978, the Congress supported this concept, recognizing it as a way to achieve adequate preservation of the natural character of such areas with less Federal cost and land ownership. Interior is also studying several approaches to achieve a Federal/State/local partnership in preserving and protecting additional urban open space areas in the future.

Donations of State- and local government-owned lands within the three recreation areas

Of the total of about 97,300 acres authorized to be acquired for the three areas--38,600 for Golden Gate, 26,200 for Gateway, and 32,500 for Cuyahoga Valley--about 44,600 acres were owned by State and local governments. The remaining lands were under military ownership or privately owned.

As of December 1978 State and local governments had donated to the Secretary about 21,500 acres within the three areas. The remaining 23,100 acres State and local governments owned had not yet been transferred. According to State and local government officials, future financial problems may force local jurisdictions to consider donating additional amounts of these lands to the Secretary. Although it is uncertain when and how much of these remaining lands will be donated, Park Service officials said that all such lands will be accepted as they become available.

Park Service officials told us that local jurisdictions are generally doing a good job in managing resources within the urban national recreation areas and the management is consistent with Park Service land-use plans. The officials agreed that the Park Service should seek continued State and

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1/Public Law 92-592 created Gateway; Public Law 92-589 created Golden Gate; and Public Law 93-555 created Cuyahoga Valley.

local government management provided (1) the parks are managed to serve a national or regional constituency and (2) the lands are managed according to comparable standards maintained in the national park system.

State and local government officials generally indicated that if sufficient Federal aid were provided when needed, local governments would be willing to continue local ownership and protection of most of the lands they currently hold in the three areas. The Secretary should encourage continued local protection of lands within the first three urban national recreation areas. The large amounts of land retained indicate that local jurisdictions may be willing to enter into a partnership with the Secretary to assure continued local protection of lands. Greater State and local participation results in shared land management responsibilities and costs. This approach could achieve the congressional objectives of resource protection and preservation with less Federal cost and land ownership.

Examples of State, regional, and local parks operating within the boundaries of the three areas and their status for possible donation or retention follow.

Golden Gate

Within the Golden Gate area, California has retained the 6,200-acre Mount Tamalpais State Park and the 746-acre Angel Island State Park. However, California State park and recreation officials told us that the State may be forced to consider donating these properties if proposition 13 forces future budget cuts for recreation. They said the State had not yet transferred the parks to the Secretary because the State (1) intends to maintain an urban recreation presence and (2) is doing a good job managing the parks so there is no need to transfer ownership.

The Park Service's preliminary Golden Gate land-use plan calls for Mount Tamalpais to be managed essentially the same as the State is presently managing it. Angel Island, however, would be used less for recreation than the State plans. Golden Gate officials were satisfied with the State's management of both parks.

Also, San Francisco has kept the 74-acre Marina Green City Park, which includes two yacht clubs and an adjoining marina. Golden Gate reports that the park will continue under city jurisdiction for about 5 years, at which time the city will consider transferring it to Federal ownership.

Preliminary land-use plans call for continued operation of the two yacht harbors. San Francisco recreation officials said that the city has not donated the park because it generates harbor revenues needed to pay off loans from the State.

Gateway

Within Gateway, New York City has retained four Staten Island beaches, totaling 272 acres of land and 568 acres of water. According to a Park Service official, a State representative has indicated that he would sponsor legislation in the State legislature to authorize conveyance of this property when the Park Service can demonstrate a need for the beaches and when the type and extent of development of these areas are known.

Community opposition exists to the transfer of these beaches, which are used principally by local residents, because of concern about increased traffic on already congested roads, fear of loss of local control, and uncertainty about Gateway development plans.

New York and New Jersey State park and recreation officials told us that local governments are effectively serving the local communities' recreation needs. New Jersey officials also indicated that the State would be willing to operate Gateway's Sandy Hook unit if given sufficient Federal aid.

Cuyahoga Valley

Within Cuyahoga Valley, the Akron and Cleveland metropolitan park districts currently own and administer six parks and other areas, totaling about 6,200 acres. The parks are in good condition and offer numerous recreational facilities and activities.

The park districts' officials told us that no decision had been made on transferring these parklands to the Secretary. They said that sufficient financial resources are available through tax levies to continue managing them. They pointed out, however, that the possibility of future financial problems exists, and that if such problems occurred, the park districts would likely consider donating lands to the Secretary as one alternative to reduce costs. The officials also said they feared voters would resent local governments' turning over their lands to the Federal Government.

If the parks were donated, the Park Service would manage them in basically the same manner as they currently are operated. Their donation, however, would result in a substantial increase in Park Service operating costs. Information provided by the Cleveland metropolitan park district, for example, showed that the operating costs for its Brecksville and Bedford parks would be about $730,000 in fiscal year 1979. Also, the Akron metropolitan park district estimated that up to 10 percent, or $80,000, of its current operating budget was devoted to operating the four parks it retains within Cuyahoga Valley.

Greater State and local participation sought in protecting new park areas

The Congress and Interior are currently examining ways to achieve a Federal/State/local partnership to conserve additional open space areas within urban communities. The Secretary should take this opportunity to work with State and local governments for continued local ownership and protection of lands in the first three urban national recreation areas.

In his March 1978 Urban Policy Proposal to the Congress, President Carter said

> "The quality of life in urban areas is critically affected by the availability of open spaces and recreation facilities. Yet hard-pressed communities often lack the resources to maintain and invest adequately in these amenities * * *. But I believe that a New Partnership--bringing together in a common effort all who have a stake in the future of our communities--can bring us closer to our long-term goals."

Also, in June 1978 hearings before the Subcommittee on Parks and Recreation, Senate Committee on Energy and Natural Resources the Under Secretary of the Interior testified that

> "* * * the Department agrees that full fee acquisition of all future parks is financially impractical, and we therefore support with enthusiasm alternatives that work toward the most cost-effective mix of acquisition and * * * land use control mechanisms by whatever level of government is best able to do the job."

The Director of the National Park Service has also advocated greater Federal, State, and local coordination. In a fall 1978 Park Service publication, 1/ he said that "There should be more coordination between the various levels of government" and that "More use should be made of joint venture and cooperative arrangements * * *."

Interior is currently studying several alternative approaches to landscape protection through which the Federal Government can offer incentives to State, regional, and loc entities to prepare and implement strategies to protect outstanding natural resource areas. One approach, called Areas of National Concern, envisions targeting Federal funds--either through grants provided by separate legislation or through existing Federal recreation assistance programs, such as the Land and Water Conservation Fund--to help economically depressed communities conserve significant open space areas.

In the November 1978 legislation (92 Stat. 3492-98) establishing the Pinelands National Reserve in New Jersey, the Congress embodied the principles of the Areas of National Concern approach. The legislation directs the Secretary to assist in the organization of a State, local, and private planning entity to develop a comprehensive plan for public and private management of the reserve. The plan is to include a coordination and consistency component detailing (1) the ways in which local, State, and Federal programs and policies may best be coordinated to promote the plan's goals and policies and (2) how land, water, and structures managed by governmental and nongovernmental entities within the area may be integrated into the plan.

Of the $26 million authorized, not more than $3 million was to be available for planning, with the remainder available for land acquisition. The State of New Jersey and local governments will manage the acquired lands.

Other recent legislation which gives State and local governments continued preservation and management responsibilities in historic parks and recreation areas includes:

--Public Law 95-290 (92 Stat. 290, June 5, 1978), which established the Lowell National Historical Park in Lowell, Massachusetts.

1/"Trends," Fall 1978, Vol. 15, no. 4, pp. 2-5.

--Title IX of Public Law 95-625 (92 Stat. 3534-38), which authorized establishment of the Jean Lafitte National Historical Park and Preserve in Louisiana.

--Section 507 of Public Law 95-625 (92 Stat. 3501-07), which established the Santa Monica Mountains National Recreation Area near Los Angeles, California.

--Title I of Public Law 95-344 (92 Stat. 474, Aug. 15, 1978), which established the Chattahoochee River National Recreation Area near Atlanta, Georgia.

Under these laws, State and local governments have continuing preservation and management responsibilities for certain park areas, while the Park Service will acquire and develop other areas.

Conclusions

In view of the interest expressed by the President, the Congress, and Interior in achieving resource protection with less Federal cost through greater cooperation with State and local governments, the Secretary should consider greater use of his discretionary legislative authority of choosing to accept State- and local government-owned lands in the Golden Gate, Gateway, and Cuyahoga Valley national recreational areas. The Secretary should consider whether the State or local governments have the financial capability and willingness to manage the lands adequately and if preservation objectives can be achieved by supporting continued State or local government management with Federal assistance.

Recommendations to the Secretary of the Interior

We recommend that the Secretary assess whether the State and local governments that own lands within the Golden Gate, Gateway, and Cuyahoga Valley national recreation areas have sufficient financial capability and willingness to protect and manage the lands adequately and, if so, encourage the governments to retain ownership of such lands.

To achieve shared land management responsibilities with less Federal cost and land ownership, we recommend also that the Secretary determine the following:

--Could existing Federal programs--such as the Land and Water Conservation Fund program, the Comprehensive Employment and Training Act program, and mass

transit programs--be targeted to provide financial support to local governments to address existing problems related to the urban national recreation areas?

--Would changes in legislation be desirable to accomplish the recreation areas' objectives without Federal land ownership? For example, Federal funds could be provided for special purposes (such as, beach stabilization) or in those cases where Federal matching grants are limited to a certain percentage of costs, which would reduce the State or local matching fund requirement.

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Section 236 of the Legislative Reorganization Act of 1970 requires the head of a Federal agency to submit a written statement on actions taken on our recommendations to the House Committee on Government Operations and the Senate Committee on Governmental Affairs not later than 60 days after the date of the report and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report.

We are sending copies of this report to the above committees; the Senate Committee on Energy and Natural Resources; the House Committee on Interior and Insular Affairs; the Director, Office of Management and Budget; and your Assistant Secretary for Fish and Wildlife and Parks; Director, National Park Service; and Inspector General.

Sincerely yours,

Henry Eschwege

Henry Eschwege
Director

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COMPTROLLER GENERAL'S
REPORT TO THE CHAIRMAN
SUBCOMMITTEE ON NATIONAL
PARKS AND INSULAR AFFAIRS
HOUSE COMMITTEE ON
INTERIOR AND INSULAR AFFAIRS

THE FEDERAL DRIVE TO ACQUIRE PRIVATE LANDS SHOULD BE REASSESSED

D I G E S T

Federal agencies need to acquire private lands essential to achieving the objectives of parks, forests, wild and scenic rivers, preserves, recreation areas, wildlife refuges, and other national areas established by the Congress. The Chairman, Subcommittee on National Parks and Insular Affairs, asked GAO to examine the Federal Government's policies and practices for purchasing title to land versus using less expensive protective methods. This report focuses on the activities of three Federal agencies with major land management and acquisition programs--the Forest Service, Department of Agriculture, and the Fish and Wildlife Service and the National Park Service, Department of the Interior.

The three agencies generally followed the practice of acquiring as much land as possible without regard to need and alternatives to purchase unless specially spelled out in legislation. Consequently, lands have been purchased not essential to achieving project objectives, and before planning how the land was to be used and managed. Because of this practice, Federal agencies overlooked viable alternative land protection strategies such as easements, zoning, and other Federal regulatory controls including the dredge and fill permit program for protecting wetlands administered by the Corps of Engineers, Department of the Army. (See p. 9.)

CED-80-14
December 14, 1979

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MAGNITUDE OF FEDERAL LAND OWNERSHIP AND PURCHASES

Over one-third of all the land in the United States is owned by the Federal Government with local and State governments holding a small but growing share (6 percent). Additional land is held in trust for Indians, bringing total public ownership to 42 percent. Most of this was in the public domain and never owned by private individuals (700 million of the 760 million federally owned acres). Thus, some 60 million acres have been acquired. (See p. 1.)

During fiscal years 1973-77, the National Park, Forest, and Fish and Wildlife Services acquired full or partial title to 2.2 million acres for $606 million. The predominant acquisition method used was purchase of full title, accounting for 88 percent of the acreage and 95 percent of the costs. Current legislation authorizes up to $10 billion through the Land and Water Conservation Fund--$4 billion for Federal acquisition and $6 billion for grants to States and local governments--for land acquisition and development over the next 11 years and assures that Federal agencies as well as State and local governments, will continue to increase their inventories of land. (See p. 5.)

COSTS AND IMPACTS SHOULD BE CONSIDERED IN LAND PURCHASES

Government acquisition of private lands for protection, preservation, and recreation is costly and usually prevents the land from being used for resource development, agriculture, and family dwellings. It also removes the land from local property tax rolls, although payments are made to local governments in lieu of taxes. (See p. 10.)

Agencies have regularly exceeded original cost estimates for purchasing land. The cost of many projects has doubled, tripled, even quadrupled from original estimates and authorizations. Also, agencies have bought

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land without adequate consideration of the impact on communities and private owners by viewing acquisition of full title as the only way to protect lands within project boundaries.

For example, for three wild and scenic rivers GAO reviewed, the original congressional ceilings had increased from $11 million to $34 million, an increase of 210 percent. This is in a program where land acquisition was intended to be minimal. Yet, agencies are buying as much land as possible, leading to increased costs and local opposition. (See p. 17.)

NEW LAND PROTECTION STRATEGIES AND OVERALL POLICIES NEEDED

The Federal Government has no overall policy on how much land it should protect, own, and acquire.

When the objectives of a project concern preservation, conservation, or aesthetic values, the Government need not necessarily own all of the land but could control the use of lands by alternative means such as easements and zoning. Alternatives are feasible and have been used successfully. For example, the Forest Service at the 754,000-acre Sawtooth National Recreation Area in Idaho, successfully worked with private landowners, conservation groups, State and local governments, and other Federal agencies to develop a comprehensive master plan for the area effectively combining land use controls, easements, and selected private land acquisition for this project. (See p. 22.)

Although the National Park, Forest, and Fish and Wildlife Services now have policies requiring consideration of less than full-fee acquisition, many agency officials argued that partial interests are costly, ineffective, and administratively burdensome. These feelings could hamper effective implementation of the agencies' policies. Further, their

arguments seem to be perceived rather than demonstrated because there has been successful use of acquiring partial interests in land. For example, the Fish and Wildlife Service administers wetland easements on 1.1 million acres in the upper Midwest. While there have been relatively few violations among the 18,000 easements (340 in fiscal year 1976) officials stated that the use of easements provided protection of four times as much land as could have been acquired through full-title purchase.

Alternatives could offer other benefits. Resistance to Federal acquisition should be reduced, since the land will remain on the tax rolls. Residents will retain their homes, obviating relocation costs. Certain agricultural lands could remain in productive use, with the scenic values protected. Finally, the Federal Government would be saved the cost of administering the area although there could be costs associated with enforcement and maintenance. (See p. 23.)

Opportunities also exist to work with State and local governments. For example, when a 52-mile section of the Lower St. Croix River was made a component of the Wild and Scenic River System, local zoning ordinances were changed to provide protection. The Park Service, however, viewed this as only a temporary measure until it could purchase titles and restrictive easements to all the lands in the Park Service's 27-mile section. Costs have increased from the initial legislated ceiling of $7.3 million to the current ceiling of $19 million.

This attitude toward zoning has antagonized local communities and landowners. On the contrary, the States of Minnesota and Wisconsin, which have responsibility for 25 miles, feel easements and zoning can adequately protect the river. Thus, neither plans any major fee-title purchases. In this and several other projects it reviewed, GAO believes the Federal agency could have

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relied on the local initiatives taken to protect the land until it was evident that the protective provisions would change. At that time, Federal agencies could either protest the change or, if necessary, proceed to purchase lands through negotiation or condemnation. (See p. 30.)

In summary, alternatives to full-title acquisition, such as easements, zoning, and other Federal regulatory controls, are feasible and could be used by Federal agencies where appropriate. GAO recognizes that some lands must be purchased if they are essential to achieving project objectives. (See p. 34.)

RECOMMENDATIONS

GAO recommends that the Secretaries of the Departments of Agriculture and the Interior jointly establish a policy for Federal protection and acquisition of land. The Secretaries should explore the various alternatives to land acquisition and provide policy guidance to land-managing agencies on when lands should be purchased or when alternatives should be used to preserve, protect, and manage national parks, forests, wildlife refuges, wild and scenic rivers, recreation areas, and others.

GAO further recommends that the Secretaries evaluate the need to purchase additional lands in existing projects. This evaluation should include a detailed review of alternative ways to preserve and protect lands needed to achieve project objectives.

GAO further recommends that at every new project, before private lands are acquired, project plans be prepared which

--identify specifically the land needed to meet project purposes and objectives;

--consider alternative land protection strategies;

--weigh the need for the land against the costs and impacts on private landowners and State and local governments;

--show close coordination with State and local governments and maximum reliance on their existing land use controls; and

--determine minor boundary changes which could save costs, facilitate management, or minimize bad effects.

RECOMMENDATION TO THE CONGRESS

GAO is recommending that the Congress during its authorization, oversight, and appropriation deliberations require the Secretaries of Agriculture and the Interior to report on the progress made in implementing GAO's recommendations. This should include a determination on the extent project plans for new and existing projects have been prepared which, as a minimum,

--evaluate the need to purchase lands essential to achieving project objectives,

--detail alternative ways to preserve and protect lands, and

--identify the impact on private landowners and others.

Congressional oversight in implementation of GAO's recommendations is needed because of the

--large sums of money available from the Land and Water Conservation Fund for acquisition of private lands;

--practice followed by Federal agencies of acquiring as much private land as possible resulting in unnecessary land purchases and adverse impacts on private landowners;

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--successful use of alternatives to full-title acquisition to achieve project objectives; and

--reluctance on the part of many agency officials to use less than full-title acquisition to achieve project objectives.

APPRAISAL OF AGENCY COMMENTS

Four of the five agencies responding--Forest Service, Department of Agriculture; Fish and Wildlife Service, National Park Service, and Heritage Conservation and Recreation Service, Department of the Interior--generally agreed with GAO's recommendations or said they were in compliance. The agencies sharply disagreed with some of GAO's conclusions and defended their practices as being consistent with Congressional intent. (See pp. 37 to 49.)

The Heritage Conservation and Recreation Service stated that what is needed is a thorough research, analysis, and training program to encourage project managers to use alternative land protection strategies. GAO agrees this is needed and should be considered during the development of a new Federal land protection and acquisition policy. (See p. 48.)

Interior's Office of the Solicitor disagreed with the conclusions and recommendations. Its major point was that the recommendations should be addressed to the Congress.

GAO believes the Secretaries of Agriculture and the Interior have the authority to implement GAO's recommendations. Further, it should be noted that the National Park, Forest, and Fish and Wildlife Services have adopted separate policies requiring consideration of less than full-fee acquisition. (See p. 48.)

GAO believes the case examples included in the report and appendix I adequately support

the conclusions reached. Further, GAO believes that where it is feasible to protect areas and to provide recreational opportunities to the American public by using alternatives to full-title acquisition, then the alternatives should be used. In no way is GAO against Federal full-title acquisition of land when it has been determined that acquiring such land is essential to achieving project objectives. This is the essence of the report.

COMPTROLLER GENERAL'S REPORT TO THE CONGRESS

FEDERAL LAND ACQUISITIONS BY CONDEMNATION--OPPORTUNITIES TO REDUCE DELAYS AND COSTS

D I G E S T

The Federal Government has a backlog of over 20,000 court cases in which it seeks to acquire by condemnation private land for public use. At the close of fiscal year 1978, the land in question was appraised at $481 million. Actual acquisition costs probably will be much higher because of administrative costs, awards or settlements in excess of Government appraisals, and long delays in court.

The large caseload arises from the many sizable land acquisition programs for such public purposes as recreation, environmental and wildlife protection, civil and military public works, and various other programs authorized by the Congress. One large National Park Service land preservation project alone accounted for over 10,000 cases pending in September 1979. Condemnation action is generally needed when a landowner is unwilling to sell at the Government's offered price or when the Government cannot acquire clear title without judicial determination.

Sharply rising real estate prices and administrative expenses make it particularly desirable to expedite acquisitions, although the condemnation of real property is a complex process that cannot be easily simplified.

Another report issued by GAO in December 1979 points out that agencies of the Departments of Agriculture and the Interior have followed practices leading to the acquisition of more land than is essential for achieving project objectives (the protection of natural resources of national significance). These agencies could have used other land protection strategies instead of full-title

acquisitions. The recommendations in the 1979 report were intended to reduce the volume of future land acquisitions and, together with the recommendations in this report, should help reduce the backlog of condemnation cases.

DEPARTMENT OF JUSTICE CASELOAD REDUCTION PLAN

To reduce the increasing caseload and long delays in the disposition of cases--some have taken up to 4 years--Justice is implementing a plan that will help overcome staff shortages and other management problems. (See ch. 2.) The plan includes developing a computerized caseload tracking system. Since some of Justice's client agencies already have sophisticated information systems, while others lack systematic data on the status of their acquisitions, GAO recommends that Justice coordinate the development of its proposed system with client agencies and provide for an exchange of data needed for effective caseload management.

ESTABLISHING TITLE EVIDENCE

The Department of Justice requires Federal agencies to establish evidence of title to the desired property so that ownership and other claims against the property are known and compensation is paid to the proper parties. Obtaining this information in a timely manner often is difficult, and delays have hampered the processing and closing of condemnation cases. Some agency officials have expressed concern over the effort and money spent by the Government and questioned the need to buy commercial title insurance for most properties. (See ch. 3.)

The limited availability of title companies to do the Government's work, and restrictive State laws or local practices that sometimes require the Government to buy more protection against title defects than it considers necessary, make it desirable

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to explore the feasibility of alternative and less costly procedures. The low loss ratio in title insurance and the Government's general policy to act as self-insurer may allow it to assume a greater risk in lieu of title insurance.

GAO recommends that Justice change certain sections of its standards for preparing title evidence and arrange for a Government-wide study, in cooperation with other Federal agencies experienced in land acquisitions, to determine the most expeditious and economical ways of obtaining needed title evidence.

STRENGTHENING PROPERTY APPRAISALS

To convince the court in a condemnation proceeding that the Government's valuation of the land represents "just compensation," in contrast with the owner's higher claim, the Government must provide for

--adequately supported appraisal reports prepared by qualified appraisers;

--a competent administrative agency review to affirm the acceptability of the reports;

--timely updating for developments up to the date of taking or date of trial, whichever is earlier; and

--persuasive testimony in court.

GAO found that Government-wide uniform appraisal standards and individual agency manuals of instructions provided generally adequate guidelines. However, some weaknesses existed in Government appraisal practices, and GAO recommends that Justice and the land acquisition agencies emphasize to their staffs the need to overcome these weaknesses. (See ch. 4.)

SETTLEMENT INSTEAD OF LITIGATION

The law prescribes a uniform Federal policy to encourage and expedite the acquisition

of real property by agreements with owners to avoid litigation and relieve congestion in the courts. In 1978 the Department of Justice emphasized the need for greater flexibility on the part of acquisition agencies in approving settlements with owners. Also, it requested that agencies thoroughly review all acquisitions valued at $10,000 or less before referring the cases to Justice for condemnation. (See ch. 5.)

Although Federal agencies have made the majority of their acquisitions by negotiated purchase and not by condemnation, GAO found that agencies could improve their chances of reaching agreement with owners by more realistically weighing owners' counteroffers against the high costs of litigation.

To GAO's knowledge, the U.S. Army Corps of Engineers is the only agency which has developed systematic procedures to recognize costs of litigation during negotiations, but its guidelines to negotiators need elaboration and assistance from the Department of Justice. GAO recommends that all land acquisition agencies establish such procedures and that Justice assist them in making reliable estimates of litigation costs.

WAYS TO OBTAIN FAIR AND SPEEDY TRIALS

The Department of Justice has been much concerned with Government efforts to obtain fair and speedy adjudication by the courts. Increased use of a court-appointed commission or a U.S. magistrate may help to meet this objective. (See ch. 6.)

To help assure the appointment of competent, unbiased commissioners, GAO recommends that the Judicial Conference of the United States initiate a change in the rules for judicial procedures in condemnation cases by strengthening the position of the parties regarding the selection of court-appointed commission

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members. GAO also recommends that Justice instruct its attorneys to request trial by magistrates, in conformity with legislation enacted by the 96th Congress which authorizes the referral to magistrates of civil cases regardless of complexity or amount at issue.

IMPROVING TREATMENT OF LANDOWNERS

While GAO observed Federal agencies' efforts to comply with the statutory requirement for uniform and equitable treatment of landowners, it also learned of various complaints by landowners who either did not fully understand condemnation procedures or claimed they were not fairly treated. Landowners have complained about inadequate information on their rights in the acquisition process, lack of courtesy by Government personnel, and delays in acquisitions; also, lack of funds has delayed negotiations with, or payments to, landowners. (See ch. 7.)

GAO recommends that Federal agencies seek better communications with owners and more considerate treatment, especially of small owners who find it difficult to cope with the complexities of the acquisition process. Also, agencies should properly plan acquisition projects so that they have available, or can make timely requests for, adequate funds to acquire designated lands expeditiously, avoiding uncertainty and inconvenience to landowners.

INTEREST ON DEFICIENCY AWARDS

The Declaration of Taking Act (40 U.S.C. 258a) allows interest on the amount by which the compensation awarded by the court exceeds the compensation deposited by the Government at the time of taking the property. The interest covers the period from the date of taking until the deficiency is paid into the court. The 6-percent rate, established in 1931 when the act was passed, is no longer in line with economic conditions when landowners can invest their money at considerably higher rates. (See ch. 7.)

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GAO recommends that the Congress amend the act by allowing landowners a more equitable rate, corresponding to prevailing market conditions. This goal could be accomplished by tying the rate to the average yield on outstanding marketable obligations of the U.S. Treasury during the period for which interest is payable. Or, fixing the rate could be left to judicial determination as part of the award of just compensation for the property taken by the Government.

AGENCY COMMENTS

GAO received comments from the Departments of Justice, the Army, Agriculture, and the Interior which generally agreed with the report and the recommendations. The agencies stated that the recommendations were constructive, thoughtful, and objective. They offered certain clarifying comments and mentioned actions being taken that would meet the objectives of GAO's report. These comments are recognized in the appropriate report chapters.

The Administrative Office of the United States Courts advised that GAO's recommendation to amend the rules of civil procedures would be referred to appropriate committees of the Judicial Conference of the United States for study and eventual report to the Conference.

APPENDIX IV

COMPTROLLER GENERAL'S REPORT
TO THE HONORABLE TED STEVENS
UNITED STATES SENATE

LANDS IN THE LAKE CHELAN NATIONAL RECREATION AREA SHOULD BE RETURNED TO PRIVATE OWNERSHIP

D I G E S T

Since October 1968, when Public Law 90-544 established the Lake Chelan National Recreation Area in the State of Washington, the National Park Service has spent about $2.4 million to acquire over half of the area's 1,730 acres of privately owned land. This is contrary to the Congress' intent that land acquisition costs be minimal, the private community of Stehekin in the recreation area continue to exist, existing commercial development not be eliminated, and additional compatible development be permitted to accommodate increased visitor use. The Service:

--May have encouraged sales by (1) continuing to project the potential of condemnation for any development action taken by a private landowner, (2) apparently suggesting to owners of commercial facilities that they could be deprived of a reasonable return on investment, and (3) not informing private landowners concerning recreational development plans for the area. (See p. 8.)

--Spent over $506,000 to acquire 42 tracts of land, each less than 2 acres. Seven of the tracts did not have to be acquired because they had modest homes--small, single-family dwellings--identified by the Service Director as compatible with the recreation area. Others were too small to be subdivided under the existing zoning ordinance or developed in a way which would make them incompatible with the recreation area. (See p. 12.)

--Never offered private landowners the alternative of owning their land in perpetuity with scenic easements even though the

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January 22, 1981

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Service Director assured the Congress that this alternative land protection strategy would be used. (See p. 13.)

After spending about $357,000 to acquire the three private lodges and the restaurant at the boat landing, the Service converted the largest lodge into a visitor center rather than bring it up to fire and health safety standards. This decreased lodging accommodations in Stehekin by about 50 percent even though the Congress had stated that additional development was necessary to accommodate increased visitor use. Yet the Service has prohibited new private commercial development to increase lodging accommodations and to provide needed restaurant and grocery services for both residents and visitors. (See p. 14.)

Moreover, the Service plans to acquire most of the remaining privately owned land in the recreation area. Interior contends that it was the intent of the Congress that eventually all privately owned land in the recreation area was to be brought into Federal ownership by means of an opportunity (willing seller--willing buyer) purchase program. Toward this end the Service's Acting Pacific Northwest Regional Director had requested another $3 million to acquire about 369 acres or almost 57 percent of the remaining 648 acres of privately owned land without first clearly defining uses incompatible with the enabling legislation. His request is based on the premise that the Service must acquire the major areas subject to subdivision to prevent a prospective building boom in recreational homesites. (See p. 16.)

Subdividing the tracts to be acquired is highly unlikely at this time. Six of the 11 tracts have modest homes which GAO believes could be adequately protected by scenic easements or zoning and still be compatible under the act. Another tract is less than an acre and cannot be developed under the existing zoning ordinance, while the owner of another is planning to build a home. The owners

of two other tracts are considering building lodging accommodations. The owner of the remaining tract had no development plans. Therefore, GAO sees no plausible reason for the Service to acquire these lands at this time, even if the owners are willing to sell. (See p. 17.)

While Interior and Service officials constantly raise the specter of density subdivision and intense development to justify both past land acquisitions and the need for increased land acquisition funding authority, GAO found that Service policies, or the lack thereof, may have encouraged subdivision and development in the recreation area. The Service had

--not defined compatibility, resulting in periods of increased private development;

--concentrated private development at the head of the lake where construction has continued unabated, creating a potential visual intrusion to the scenic value which makes Stehekin unique; and

--acquired existing homes to house Service employees and concession workers, generating pressure for new home construction. (See p. 19.)

GAO believes that the statutory ceiling for land acquisitions in the Lake Chelan National Recreation Area should not be raised another $3 million. If the Service defines compatible and incompatible uses based on the legislative history, those lands previously acquired that are compatible with the recreation area could be sold back to the highest bidder, including the previous owners or other private individuals. The proceeds would be credited to the Land and Water Conservation Fund in the U.S. Treasury. Funds obtained in this manner would then be available for future acquisitions if an incompatible use is identified, subject to the $4.5 million appropriation ceiling on total acquisitions under Public Law 90-544. (See p. 17.)

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If the Service sells back lands, the last owner(s) should be offered first opportunity to reacquire the property. The Land and Water Conservation Fund Act of 1965, as amended, limits this right of first refusal to 2 years after the Service has acquired the property to be conveyed. Since the lands in the recreation area were acquired between 1969 and 1974, GAO believes that the Congress should exempt land acquired pursuant to Public Law 90-544 from the 2-year limitation to assure that those private landowners adversely affected by Service acquisitions have first opportunity to reacquire the property. (See p. 18.)

RECOMMENDATIONS TO THE SECRETARY OF THE INTERIOR

GAO recommends that the Secretary require the Director, National Park Service to:

--Develop a land acquisition plan for the Lake Chelan National Recreation Area. The plan should define compatible and incompatible uses based on the legislative history; clarify the criteria for condemnation; identify the reasons for acquisition versus alternative land protection and management strategies, such as scenic easements and zoning; address recreational development plans for the area; and establish acquisition priorities. The plan should apply to both private and Service actions.

--Sell back to the highest bidder, including previous owners or other private individuals, all land compatible with the recreation area. This would include the modest homes, the lodges, and the restaurant. The Service could attach scenic or developmental restrictions to the deeds before the properties are resold to assure that their use will be consistent with the enabling legislation.

RECOMMENDATION TO THE SENATE AND HOUSE LEGISLATIVE COMMITTEES

GAO recommends that the Senate Committee on Energy and Natural Resources and the House

APPENDIX IV

Committee on Interior and Insular Affairs hold oversight hearings to determine why the National Park Service has not carried out the Congress' intent at the Lake Chelan National Recreation Area.

RECOMMENDATIONS TO THE CONGRESS

GAO recommends that the Congress:

--Not increase the statutory land acquisition appropriation ceiling under Public Law 90-544 above the $4.5 million already approved until the Service has defined compatible and incompatible development, prepared a land acquisition plan justifying the need to acquire land from private owners, and spent the funds obtained from selling back all compatible land to private individuals.

--Exempt land acquired pursuant to Public Law 90-544 from the 2-year limitation stipulated in the Land and Water Conservation Fund Act of 1965, as amended. This would give the last owner(s) the right to match the highest bid price and reacquire property sold to the National Park Service.

APPRAISAL OF AGENCY COMMENTS

Interior sharply disagreed with GAO's interpretation of what the Congress intended and thus with the findings, conclusions, and recommendations in GAO's report. However, GAO believes that virtually all Interior's comments contradicted previous information received from Interior or other sources, were irrelevant to the issues at hand, or were inaccurate. (See p. 31.)

APPENDIX IV

GENERAL ACCOUNTING OFFICE
REPORT TO THE HONORABLE
DANIEL P. MOYNIHAN
UNITED STATES SENATE

THE NATIONAL PARK SERVICE SHOULD IMPROVE ITS LAND ACQUISITION AND MANAGEMENT AT THE FIRE ISLAND NATIONAL SEASHORE

D I G E S T

The National Park Service's zoning standards at Fire Island National Seashore are more restrictive than necessary to meet the requirements of Public Law 88-587, and the Park Service is unnecessarily acquiring private lands at Fire Island. GAO believes that the Park Service should revise its zoning standards to comply more closely with the Congress' intent and should sell back to private citizens lands it has acquired but does not need.

GAO reviewed these issues at the request of Senator Daniel P. Moynihan and former Senator Jacob K. Javits.

ZONING STANDARDS UNNECESSARILY RESTRICT PROPERTY OWNERS' RIGHTS

The Park Service issued zoning standards for Fire Island in September 1980 that were to be followed by local communities. The act protects property owners in existing developed communities from the threat of condemnation and undue intervention by the Federal Government. However, GAO believes that parts of the standards are more restrictive than necessary to meet the requirements of the Fire Island National Seashore Act.

The Park Service's zoning standards are particularly restrictive about homes that have to be rebuilt after being damaged or destroyed by a catastrophe. According to the standards, homes rebuilt after 1963 have to be rebuilt in accordance with local ordinances. Local authorities, however, allow variances to their ordinances if, in their judgment, the variances will not cause harm to Fire Island's natural resources. The Park Service's zoning standards find variances to be unacceptable and, if variances are

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May 8, 1981

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granted by the local authorities, provide that such property can then be condemned.

In addition, the Park Service's zoning standards restrict some property owners from increasing the size of their homes. GAO believes that the act permits these property owners to increase their home size and that the standards should be changed accordingly. (See pp. 7 to 13.)

PARK SERVICE IS ACQUIRING UNNEEDED LANDS

The Park Service acquired a number of properties on which the owners had built at variance with the local community's zoning ordinances. Many of these variances do not appear to harm Fire Island's natural resources. The act allows but does not require the Park Service to condemn properties with variances. However, the Park Service routinely objects to almost all variances granted by the local communities apparently to be in a position to condemn the properties when funding is available.

Further, the Park Service does not adequately show how variances harm Fire Island's natural resources. Before the Park Service condemns property because of a variance, it requests approval from the Senate Committee on Energy and Natural Resources. GAO's review of the five requests sent to the committee from January 1, 1977, through June 17, 1980, showed that the Park Service did not state either the nature of the variance or the adverse effect the variance would have on Fire Island's natural resources. (See pp. 13 to 14.)

THE PARK SERVICE NEEDS BETTER LAND ACQUISITION CRITERIA

The draft land acquisition plan for Fire Island was inconsistent with the Park Service's Land Acquisition Policy of April 26, 1979. The draft plan should, but does not, identify which properties will be acquired or specify why they should be acquired. The plan should list the reasons for purchase or condemnation, such as public need, incompatible use, or resource

management. The plan simply cites variances or exceptions to local zoning ordinances as acquisition criteria. As a result, property owners are uncertain and confused about the kinds of uses which will subject their homes to possible acquisition. (See p. 16.)

PARK SERVICE SHOULD SELL UNNEEDED LAND

The Service should sell properties previously acquired that are compatible with the purposes of Fire Island. The Service should first offer the property back to the previous owner at the highest bid price (right of first refusal), unless it can demonstrate that the last owner's use of the property harmed Fire Island's natural resources. If the previous owner does not want the property, the Park Service should sell it to the highest bidder.

The Land and Water Conservation Fund Act of 1965, as amended, limits the right of first refusal to 2 years after the property to be conveyed is acquired by the Park Service. Since many properties on Fire Island were acquired more than 2 years ago, GAO believes that the Congress should exempt land acquired pursuant to the act from the 2-year limitation. This exemption would assure that private landowners whose lands were condemned by the Park Service would have first opportunity to reacquire the property at the highest bid price. (See p. 17.)

RECOMMENDATIONS TO THE SECRETARY OF THE INTERIOR

GAO recommends that the Secretary of the Interior require the Director, National Park Service, to:

--Revise the Fire Island zoning standards so that homes reconstructed or improved in accordance with locally approved variances to local zoning ordinances will not be condemned unless the variances adversely affect Fire Island's natural resources.

--Stop routinely objecting to variances, unless the Park Service specifically justifies why the variances would harm Fire Island's natural resources, and revise the zoning standards accordingly.

--Specify in its requests to the Senate Committee on Energy and Natural Resources how variances would adversely affect Fire Island's natural resources.

--Revise the Fire Island land acquisition plan to state more specifically the circumstances under which properties will be acquired.

--Sell back to the highest bidder all acquired lands that are compatible with the purposes of Fire Island in communities where the Congress allowed development. The property should be offered first to the previous owner at the highest bid price unless the Park Service can demonstrate that the previous owner's use of the property harmed Fire Island's natural resources. The Service could attach scenic or developmental restrictions to the deeds before the properties are resold to assure that their use will be consistent with the enabling legislation. (See pp. 18 and 19.)

AGENCY COMMENTS AND GAO'S EVALUATION

The National Park Service disagreed with some of GAO's recommendations. The main disagreement concerns the Park Service's belief that its zoning standards balance natural resource preservation against landowners' rights. GAO believes the standards should be more flexible to allow homeowners to rebuild their homes at variance with local zoning ordinances as long as the variances do not harm Fire Island's natural resources. (See app. V.)

PREVIOUS GAO RECOMMENDATIONS ALSO APPLY TO FIRE ISLAND

In a January 1981 report entitled "Lands in the Lake Chelan National Recreational Area Should Be Returned to Private Ownership" (CED-81-10), GAO recommended that:

--The Secretary of the Interior sell back to the the highest bidder, including previous owners or other private individuals, all lands that are compatible with the recreation area.

--The Congress exempt land acquired from the 2-year limitation stipulated in the Land and Water Conservation Fund Act, as amended.

GAO believes these recommendations also apply to Fire Island and possibly to other areas and that the Secretary of the Interior therefore should have general authority to sell back lands to previous owners without a time restriction. (See p. 19.)

APPENDIX V

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

Mar. 1981

Mr. Henry Eschwege
Director, Community and Economic
Development Division
U.S. General Accounting Office
441 G Street, N.W.
Washington, D.C. 20348

Dear Mr. Eschwege:

This is in response to your letter of June 30, 1981, in which you requested our comments on the General Accounting Office (GAO) Draft Report entitled, "Overview of Federal Land Acquisition and Management Practices". Our comments will be directed primarily toward the recommendations appearing on page 11 of the draft report. Before we get to the comments, however, I would like to bring you up to date on land acquisition planning of the National Park Service and my office during the last few months and since the GAO report was initiated. As you know this Administration is devoted, as part of a larger budget strategy, to reducing Federal expenditures for land acquisition. However, we are equally concerned with land acquisition practices from a non-budgetary standpoint. During the last three months we have:

- convened a Departmental task force to study, among other things, the use of alternatives to fee.

- begun the revision of the National Park Service land resources policy (formerly land acquisition policy) to utilize other than direct Federal purchase wherever practicable consistent with law and park purpose.

- asked the National Park Service to test their revised policy in the next few months on several National Park System areas to determine its applicability on a case-by-case basis and to assist in further refinement of the policy.

- Undertaken revision of the housing policy along the lines discussed in the request.

Once the policy has been firmed up we will revise land resources plans (formerly land acquisition plans) for all National Park System areas where private land remains within park boundaries. In addition we will continue to work with others in developing new

GAO Note: Some page references in this appendix have been changed to correspond with page numbers in the final report.

tools and strategies that will provide for protection of significant resources in a variety of ways. Among these are exchanges, possible tax incentives, cooperation with private land trusts, etc.

[GAO COMMENT: We agree with the thrust of the recent actions being taken by the Park Service and its plan to revise its land resources plans (formerly land acquisition plans) for all National Park System areas where private land remains within park boundaries. It appears that the Park Service is looking more seriously at ways it can reduce the amount of land it purchases in fee simple. Whereas the Park Service did not significantly decrease the amount of land it purchased in fee simple as a result of revising its land acquisition policy on April 26, 1979, the recent emphasis the Park Service is giving to alternatives to fee simple may result in significantly more land being acquired in less costly ways.]

First Recommendation

Require park superintendents to more aggressively use alternatives to fee simple acquisition such as zoning and easements to protect areas.

Comments on First Recommendation

We agree that there are opportunities for greater use of less-than-fee alternatives, and consistent with the comments above are taking steps to employ them wherever consistent with legislation and park purpose. There are times when less-than-fee interests are satisfactory alternatives to acquisition of fee title. However, such is not always the case. The primary factors governing the choice of interest to be acquired must be the intended public use of the land or the degree of resource protection desired. Planned construction of permanent improvements for visitor use, for example, dictates acquisition of fee title. Preservation of natural resources in an unimpaired condition and provision for public access to those resources generally require acquisition of fee title. Protection of views, on the other hand, may possibly be accomplished through scenic easements or zoning or other methods.

[GAO COMMENT: The Park Service's proposed action meets the intent of our recommendation.]

Second Recommendation

Develop specific criteria to be used in determining which properties should be purchased because of economic hardships to landowners or acquired in fee simple because of the high cost of easements.

Comments on Second Recommendation

Criteria for determining hardship conditions were recently prepared by the Department of the Interior and inserted in the Congressional Record (Page H2637, June 4, 1981) by Representative Joseph M. McDade of Pennsylvania. Those criteria, as stated by Representative McDade, are as follows:

> "Hardship cases will ordinarily dictate the use of the Land and Water Conservation Fund (LWCF) for land acquisition in those instances where failure to proceed with acquisition would result in the loss of a significant and unreasonable amount of financial outlay by the proposed seller, or unreasonable deprivation resulting from financial hardship associated with the seller's reasonable expectations regarding the acquisition. Hardship as defined here would be similar to notions associated with zoning statutes defining grounds for variances, and would generally mean actions that are unduly oppressive, arbitrary, or confiscatory.
>
> "Further specificity concerning hardship criteria would preempt Secretarial discretion necessary for adequate review on a case-by-case basis."

These criteria appear to be entirely satisfactory, but park superintendents and land acquisition personnel will, of course, need to be satisfied that hardship conditions indeed exist when acquisition is justified on that basis.

We have reservations about the establishment of fixed guidelines for deciding to acquire fee simple title in favor of easements. Convincing arguments can be made that, once a particular interest has been determined to be appropriate, (see comment on first recommendation, above) no greater interest should be acquired, regardless of cost. Equally convincing arguments can be made that at some point the easement cost in relation to fee value renders the acquisition of an easement uneconomical. The latter argument begins to weaken, however, when one considers that amounts paid for easements as well as fee title often exceed appraised values, and the argument collapses altogether when it is recalled that court awards in condemnation cases frequently exceed appraisals by substantial margins. Thus, cost alone is a poor indicator of the point at which easement acquisition should be forsaken in favor of fee. Factors other than cost, not the least of which are the wishes of the affected landowner, should also be considered. Accordingly, we believe the choice of easement versus fee should be left to the discretion of park superintendents and land acquisition personnel on a case-by-case basis consistent with planning guidelines and policies.

[GAO COMMENT: While the recently prepared criteria which was inserted in the Congressional Record defines more specifically a hardship case, the criteria still lacks specificity in determining when a hardship exists. We do not see where the revision will prevent the inconsistencies we noted during our review. Interior believes that "further specificity concerning hardship criteria would preempt Secretarial discretion necessary for adequate review on a case-by-case basis." Unless terms such as "loss of a significant and unreasonable amount of financial outlay" and "unreasonable deprivation" are more specifically defined, however, different interpretations will be made by the various superintendents. The result will still be that a situation may be considered a hardship at one park but not at another.

Although the initial choice of easement versus fee should be made on a case-by-case basis at the local level, we do not believe that this choice should be totally left to the discretion of the park superintendents. If this is done, situations which we noted during our review such as (1) compensation being paid for easements in one park but not in another and (2) easements being acquired as high as 71 percent of the purchase price in one area but not acquired in another area if it exceeded 25 percent of fee simple will continue to happen. We recognize that some discretion should be left to the superintendents, but the wide differences we noted during our review among the various park system areas demonstrates a need for some criteria.]

Third and Fifth Recommendations

For each area in the National Park System, determine which properties are compatible with the purposes of the area and not subject to acquisition, and include this information in land acquisition plans.

Leave pastoral and historic settings in private ownership as intended by the Congress for specific areas by using easements or other methods.

Comments on Third and Fifth Recommendations

The land acquisition practices being advocated by GAO have gradually been coming into use by the National Park Service over the last two years since adoption of the Service's Land Acquisition Policy of April 26, 1979. Moreover, the effects of that policy were not realized at most parks for almost a year following issuance of the policy during which time the Land Acquisition Plans required under that policy were being developed. Thus the policy has actually been effective for barely more than a year. Much of GAO's criticism relates to practices that prevailed prior to adoption of the policy. Consideration of less-than-fee alternatives and acceptance of existing compatible uses will be even more prevalent under the Service's revised land resources policy and guidelines now being developed. The proposed policy is an outgrowth of the work referred to in the cover summary and pages 9 and 11 of the draft report.

[GAO COMMENT: Although some of our criticism did relate to Park Service practices prior to April 26, 1979, most of our criticism is directed to practices subsequent to this time. We purposely took the period September 30, 1979, to December 31, 1980, to determine how seriously the Park Service was considering alternatives to fee simple. According to our analysis, only 3 percent of the land acquired during this time was acquired in less than fee simple although there was an increase of 2 percent from that which was acquired prior to April 26, 1979. We believe that until the Park Service's land acquisition policy is revised to clearly define what properties are or are not compatible, the Park Service will be reluctant to acquire properties in less than fee simple. By stressing more consideration of less-than-fee alternatives and acceptance of existing compatible uses under the Service's revised land resources policy and guidelines, the Park Service may improve its percent of land acquired in other than fee simple.]

Fourth Recommendation

Reevaluate all units currently being used for employees housing and discontinue all housing rentals not in accordance with Interior Departmental Handbook.

Comments on Fourth Recommendation

The Department of the Interior requires that each bureau publish its own individual policy statement on employees housing. The National Park Service is in the final phase of publishing such a policy statement, which will include a requirement for the justification of each structure's use as quarters. There are a number of factors, in addition to required occupancy, that OMB circular A-18 recognizes as justification for employee housing. These factors include remote location of duty station, lack of housing in nearby communities, etc. Therefore, following publication of the policy statement we plan to review and reevaluate all of the Service's government furnished housing for compliance with OMB, Departmental, and Service policy. All housing that is not in compliance will be discontinued.

[GAO COMMENT: The Park Service's proposed action meets the intent of our recommendation.]

Sixth Recommendation

Accurately determine how much land, especially for Badlands National Park, the Park Service has currently outside its parks' boundaries.

Comments on Sixth Recommendation

We acknowledge that there are deficiencies in our land record system. The system consists of thousands of individual records that have been computerized during the last 10 years. Errors that predate the computer system have been carried forward. Corrections in data and improvements in the system are constantly in progress. Special emphasis will be given to upgrading records pertaining to lands under National Park Service jurisdiction outside unit boundaries.

[GAO COMMENT: The Park Service's proposed action meets the intent of our recommendation.]

Seventh Recommendation

Promptly dispose of all its unneeded land outside authorized boundaries to the General Services Administration.

Comments on Seventh Recommendation

Lands lying outside unit boundaries have usually come into National Park Service jurisdiction through: 1) transfers from other Federal agencies of blocks of land, which were larger than needed, 2) adjustments in unit boundaries leaving lands outside the relocated boundaries, or 3) purchase of uneconomic remnants under Section 301(9) of Public Law 91-646. We believe that lands in this category should be retained for use as trading stock for the acquisition by exchange of other lands within unit boundaries as long as an active land acquisition program is underway. Once it becomes apparent, however, that exchanges at a particular project are no longer practicable, the excess lands should be disposed of promptly as GAO recommends.

We are pleased to note that GAO found that "It did not appear that land outside park area boundaries was acquired contrary to the authorizing legislation or the intent of Congress."

[GAO COMMENT: Our review showed that the Park Service is not disposing of lands promptly. Some of the area had completed land acquisition programs but still retained excess land.]

Eighth Recommendation

The Secretaries of Agriculture and the Interior [should] jointly establish policies and guidelines on the use of nonprofit organizations in acquiring land. The policy should provide guidance to the agencies on when to use nonprofits, what the working relationship should be, and what unique land acquisition procedures might be appropriate.

Comments on Eighth Recommendation

We agree that guidelines for governing Federal agency relationships with private nonprofit organizations would be desirable, and we will undertake development of them in the near future. In doing

so we will strive to retain the desirable flexibility that has made the participation of nonprofit organization so beneficial to the Federal Government.

We appreciate the opportunity to comment on the draft report.

Sincerely,

G. Ray Arnett
Assistant Secretary for Fish
and Wildlife and Parks

[GAO COMMENT: We agree with the actions planned by the Park Service to undertake development of guidelines for using nonprofit organizations in acquiring private lands. This should help the Service obtain consistency in its dealings with nonprofit organizations.]

United States Department of Agriculture | Forest Service | Washington Office
12th & Independence, SW
P.O. Box 2417
Washington, D.C. 20013

Reply to 1420

Date JUL 28 1981

Henry Eschwege, Director
Community and Economic Development Division
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Eschwege:

We have reviewed your draft report to Senator Ted Stevens entitled "Overview of Federal Land Acquisition and Management Practices."

The only question directly involving the Forest Service, USDA, is, "What is the interrelationships of the National Park Service, and Fish and Wildlife Service, Department of the Interior; and the Forest Service, Department of Agriculture, with the nonprofit organizations' increased role in the acquisition of lands?"

On page 5, paragraph 3, you state, "However, the Federal agencies have no written policies or procedures to guide them as to when it is appropriate to use a nonprofit organization, what the working relationship should be, or what the proper amount of compensation for purchasing the land should be." In the 2nd paragraph of the conclusions on p. 10 you state, "However, the Departments of Agriculture and the Interior have not established policies and guidelines on using nonprofit organizations in acquiring land." This is repeated in the recommendation on page 11 of the draft.

The Forest Service is in the process of revising Forest Service Manual (FSM) 5420 concerning land purchases and donations. Revised FSM 5420.31 listing policies on purchases includes:

"Conservation organizations will only be asked to acquire a property for resale to the Federal Government if it meets at least one of the following conditions:

a. Funds have been appropriated for the project.

b. The project is included in the Administration's recommended program to Congress.

c. There is documented agreement between the Chief and Regional Forester that the property is of high priority. The agreement will identify the approved project plan and fiscal year the Regional Forester will include the property in his recommended program."

GAO Note: Some page references in this appendix have been changed to correspond with page numbers in the final report.

FS-6200-11 (8-80)

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The revision is in the final stages of processing and distribution is expected within the next few months. This will provide guidance on the use of non-profit organizations in acquiring land.

We suggest your report be changed to reflect this direction.

Thank you for the opportunity to comment on the draft report.

Sincerely,

Douglas Leisz

DOUGLAS R. LEISZ
Associate Chief

John B. Crowell, Jr.
Assistant Secretary for
Fish and Wildlife and Environment

[GAO COMMENT: At present, the manual does not contain a section on policies regarding purchases with conservation organizations. During our review, the Department was in the process of drafting a policy to be added to its manual.]

APPENDIX VII

national park foundation

POST OFFICE BOX 57473
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202-785-4500

July 20, 1981

Mr. Harry Eschwege
Director
Community and Economic Development Division
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Eschwege:

Thank you for providing me with the opportunity to review your proposed report entitled "Overview of Federal Land Acquisition and Management Practices."

Without making any general assessment of the merits of the report or discussing it on a paragraph by paragraph basis, there are several ambiguities or misunderstandings relating directly to the National Park Foundation which should be clarified, for the sake of the report's accuracy.

1) In the experience of the National Park Foundation, the National Park Service has not always eventually acquired the property which the Foundation has purchased. For example, we have just completed private sale of a piece of property which the National Park Service initially had indicated it wished to obtain for acquisition, but then reversed its plans after the Foundation had acquired the property, with the result that the Park Service purchased only one-half of the tract acquired by the Foundation.

[GAO COMMENT: We revised the report to show that the Federal agencies do not always acquire property which they ask nonprofit organizations to purchase for them. In this particular case, however, it is difficult to know whether the remaining piece of property will be eventually purchased by the Park Service because not enough time has elapsed.]

2) Characterization of the National Park Foundation as an "agent" of the Federal Government appears to be inconsistent with the legal definition of the agency relationship. Specifically, the Foundation acquires property with privately donated funds, and its Board is composed predominantly of private citizens, who exercise their independent judgment regarding acquisition and conveyance of properties.

[GAO COMMENT: The report was revised to show that while there may not be a true agency relationship between the National Park Foundation and the Park Service, a close working relationship does exist between the two organizations.]

3) With respect to support from the Department of the Interior which was terminated in October, 1980 at the Foundation's initiative, it should be noted that at no time did the support staff referenced include more than three persons. Further, Federal assistance was limited to "administrative support" and therefore at no point were any Federal funds used for grants or land acquisitions, which were always supported totally through private funds.

[GAO COMMENT: We added a sentence to the report to show that the support staff of the Foundation was small. Also, the report was revised to show that the land purchases were made with Foundation funds, not Park Service funds.]

4) While the Foundation has, of course, always encouraged donations of property, we have rarely been involved in bargain sales or purchases at less than fair-market value.

[GAO COMMENT: Our statement in the report referred to nonprofit organizations, in general, and should not be construed to mean that it applies equally to all nonprofit organizations.]

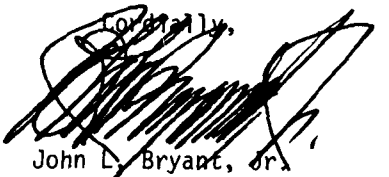
5) As you know, the National Park Foundation's sales to Federal agencies have been limited to the National Park Service. As a portion of the report refers to extensive usage of nonprofit organizations by the Fish and Wildlife Service and the U.S. Forest Service, but not by the National Park Service, it might seem appropriate to clarify that only The Nature Conservancy and The Trust for Public Land (and not the National Park Foundation) are referred to in that portion.

[GAO COMMENT: We say in the report that the only customer the Foundation has is the Park Service.]

6) The National Park Foundation does not provide prospective donors or sellers with any analysis or suggestions regarding potential tax benefits arising from a gift or sale, nor do we make any approach on the basis of prospective tax consequences. Rather, it is our policy that considerations of tax benefits are left to the donor and any advisors whom he or she may privately engage. It bears noting that the tax laws applying to the National Park Foundation and other nonprofit organizations in the conservation field are the same as those applying to all nonprofit charitable organizations. It would be inaccurate to imply that there are some unique conceptual issues in taxation raised in a bargain sale or donation simply because the donee eventually conveys the property to the government, instead of to a private purchaser.

I hope that you will review these issues thoroughly in preparing your final report, and I would be pleased to consult with you if that would be helpful.

Cordially,



John L. Bryant, Jr.
President

[GAO COMMENT: The report states that the nonprofit organizations have been able to use the tax laws and their nonprofit status to acquire land at a savings to the agencies. We do not believe that our report implies that there are some unique conceptual issues in taxation raised in a bargain sale or donation simply because the donee eventually conveys the property to the Government, instead of to a private purchaser.]

The Nature Conservancy

1800 North Kent Street, Arlington, Virginia 22209
(703) 841-5300

July 16, 1981

Mr. Henry Eschwege
Director
Community and Economic Development Division
Washington, D. C. 20548

Dear Mr. Eschwege:

Thank you very much for sending me the portions of GAO's report, entitled "Overview of Federal Land Acquisition and Management Practice", that relates to the pre-acquisition of land for the Federal Government by non-profit organizations.

While we generally agree with GAO's conclusions, there is one major oversight that we would like to see corrected in the final report. Namely, of the three groups identified, The Nature Conservancy (TNC) is the only organization that is supported by the general public and primarily concerned with the private conservation of significant natural areas. The report is careful to explain how the National Park Foundation (NPF) differs from The Nature Conservancy (TNC) and the Trust for Public Land (TPL) but implies that TNC and TPL are in effect organized, financed and run in a similar manner.

Such is not the case. Therefore, we feel quite strongly that the report should go a step further in its analysis and explain how TNC differs from TPL and NPF.

We would like to note the following important characteristics of TNC which distinguishes us from the other two groups.

1. TNC is a membership organization. We have over 100,000 individual members who contribute annual operating support.

2. Less than 10% of the roughly 200 projects that TNC completes each year are reconveyed to the Federal Government.

3. The Conservancy's land acquisition program is focused on private sector conservation. In 1980, we acquired $43.4 million dollars worth of land to be held for private sector conservation, versus $10.8 million dollars worth of land for eventual transfer to federal, state and local conservation agencies.

continued..../..

4. TNC never buys land that it intends to re-sell to a governmental agency unless it has been asked in writing by the agency to try and acquire the land.

5. TNC presently owns and manages 770 private natural area preserves.

6. Overall, TNC "loses money" on its government assistance program and relies on its private contributors to subsidize the program. The Conservancy does not seek to make any kind of surplus "profit" when we sell land to a governmental agency. Our policy is to sell land at our cost, including the direct costs of acquiring the land and some recovery of our indirect costs.

Since of the three organizations, The Nature Conservancy has done the vast majority of the pre-acquisitions for government agencies and has tried very carefully to maintain an arms length relationship, we feel that it is important that any analysis of our governmental program stands on its own. Our program is separate and distinct from any other non-profit's.

Sincerely yours,

David E. Morine

David E. Morine
Vice President
Land Acquisition

[GAO COMMENT: We recognize that there are differences among non-profit organizations in how they interact with Federal agencies and how they operate. We did not highlight these differences to the degree the Nature Conservancy wanted because to do so would have made the report more complex than necessary to address the issues Senator Stevens wanted us to look at.]

July 21, 1981

United States General Accounting Office
Community and Economic Development Division
Washington, D.C. 20548
Attn: Henry Eschwege, Director

Re: Comments on Portions of Draft Report Entitled
"Overview of Federal Land Acquisition and Management Practices"

Dear Mr. Eschwege:

Thank you for the opportunity to review portions of your proposed report entitled "Overview of Federal Land Acquisition and Management Practices." The two portions we have reviewed in draft are entitled "Use of Nonprofit Organizations" and "Role of Nonprofit Organizations in Acquiring Land for Federal Agencies."

We will comment on only one aspect of the material we reviewed. Your principal recommendation seems to be that the federal land acquisition agencies develop written policies and procedures for dealing with nonprofit organizations. Since you conclude, rightly so, that there are no significant problems with the relationship between nonprofit organizations and federal land acquisition agencies and that the nonprofit organizations perform a valuable public service, the call for written procedures strikes us as something of a non sequitur.

The problem with written policies and procedures is that they may turn out to needlessly complicate a relationship which is working quite well without them. As you recognize, we deal with federal land buying agencies on an "arm's length" basis; we assist with the implementation of Congressional policy; we pass on significant savings to the government; and we provide creative solutions to land acquisition problems. Written policies and procedures are more likely to mess up this happy circumstance than they are to enhance it.

It would be particularly inappropriate for such policies and procedures to deal with "the proper amount of compensation for purchasing the land" as your draft report recommends. To compensate us for purchasing land, as distinguished from the land itself, would make us a provider of services and thus an agent, which is a relationship we scrupulously avoid for the sake of our continued effectiveness. Presently we are treated like any other landowner who is a willing seller. The land buying agency determines the amount of "just compensation" for a parcel of property and then we customarily waive "just compensation" and offer the property to the agency for a reduced price. The decision to waive "just compensation" is ours and not the agency's. Were it the agency's it would subvert our independence and thus our continued effectiveness.

82 SECOND STREET
SAN FRANCISCO
CALIFORNIA 94105
(415) 495 4014

APPENDIX IX

United States General Accounting Office July 21, 1981
Attn: Henry Eschwege
Re: Comments on Draft Report
Page 2.

Besides cost savings, the flexibility with which nonprofit organizations can bridge the needs of landowners and the needs of government and the speed with which we are capable of acting are attributes which may be diminished with written policies and procedures. We therefore suggest that you reconsider your recommendation for written policies and procedures.

If written policies and procedures are to be prepared the task should be approached as simply as possible and in a positive manner. For example, such policies and procedures could suggest the types of endangered properties and difficult and distress situations in which federal land buyers should be encouraged to seek out nonprofit organizations as a means of protecting lands which might otherwise be lost to inappropriate uses.

We hope to continue to serve the need for additional land for recreational and other public uses with ethical, creative, and cost-effective techniques.

Very truly yours,

THE TRUST FOR PUBLIC LAND

Ralph W. Benson
General Counsel

RWB:REB

[GAO COMMENT: While we also believe the relationship between Federal agencies and nonprofit organizations is working well, we saw some differences and lack of uniformity among the agencies that may be eliminated if the agencies have written policies and procedures. In some instances, we even found differences among regional offices within the same agency. We believe the relationship would improve with written policies and procedures and agree with the nonprofit organizations that the policies and procedures do not need to be very detailed. We believe the relationship needs to be more formal than it is. Thus, there will be more consistency among the Federal agencies such as when it is appropriate to use nonprofit organizations.]

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* U.S. GOVERNMENT PRINTING OFFICE : 1981 - 341-843/779


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