REPORT BY THE

Comptroller General

OF THE UNITED STATES

The Federal Drive To Acquire Private Lands Should Be Reassessed

The Federal Government owns over one-third of all U.S. land with authorization to acquire up to $4 billion of private land during the next 11 years.

The National Park, Forest, and Fish and Wildlife Services had been following a general practice of acquiring as much private land as possible regardless of need, alternative land control methods, and impacts on private landowners.

GAO recommends that the Secretaries of Agriculture and the Interior

- --jointly establish a policy on when lands should be purchased or when other protection alternatives, such as easements, zoning, and Federal controls, should be used;
- --critically evaluate the need to purchase additional lands in existing projects; and
- --prepare plans identifying lands needed to achieve project purposes and objectives at every new project before acquiring land.

GAO believes the Congress should oversee the implementation of these recommendations.

This review was made at the request of the Chairman, Subcommittee on National Parks and Insular Affairs, House Committee on Interior and Insular Affairs.

CED-80-14
DECEMBER 14, 1979

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-196787

The Honorable Phillip Burton
Chairman, Subcommittee on National Parks
and Insular Affairs
Committee on Interior and
Insular Affairs
House of Representatives

HSE 1910

Dear Mr. Chairman:

As you requested, this report discusses private land acquisition policies and practices of the National Park Service and the Fish and Wildlife Service, Department of the Interior, and the Forest Service, Department of Agriculture. It also discusses alternatives to full-fee acquisition of private lands.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 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,

Comptroller General
of the United States

HRC 3
HRC 397
HRC 34

land use planning
NAT resources
land management

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.)

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

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

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;

--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.

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CHAPTER 1

INTRODUCTION

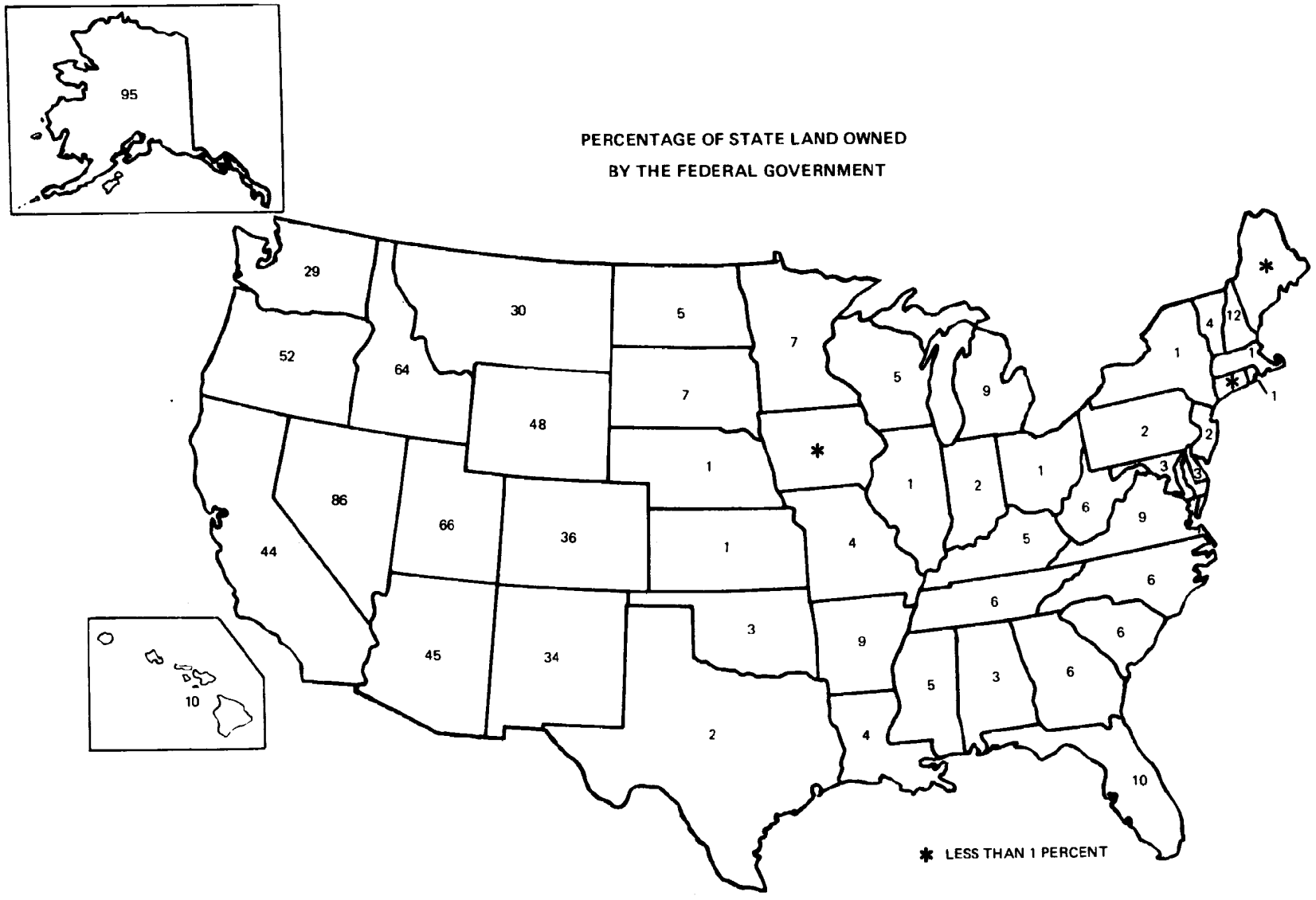
Year after year, more land is being taken over by the Federal Government. Already it owns over one-third of all the land in the United States, with local and State governments holding a small but growing share (6 percent). An additional 2 percent is held in trust for Indians, bringing total public ownership to 42 percent.

The more than 760 million acres of land currently owned by the Federal Government are highly concentrated in the western portion of the country. In fact, more than 90 percent of federally owned land is in 13 Western States. The Government owns more than 40 percent of eight States. By contrast, Federal land is negligible in some Midwestern States, such as Nebraska (1.4 percent) and Iowa (0.6 percent), and some Eastern States, such as Connecticut (0.3 percent) and Maine (0.7 percent). About 700 million of these acres were in the public domain and never owned by private individuals. Thus, some 60 million acres have been acquired by the Federal Government. The amount of federally owned land in each State is shown in the map on page 2.

Ninety percent of the Federal acreage is in forests, wildlife refuges, or grazing areas. Other land classifications include parks and historic sites (3.5 percent), oil and gas reserves (3 percent), and military bases (2.4 percent).

Recent legislation authorizes up to $10 billion 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 for a variety of conservation and recreation purposes.

The Chairman of the Subcommittee on National Parks and Insular Affairs, House Committee on Interior and Insular Affairs, asked us 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. These agencies own or control over a quarter-billion acres of land.


PERCENTAGE OF STATE LAND OWNED
BY THE FEDERAL GOVERNMENT
95
29
30
5
7
52
64
7
48
1
*
86
66
36
1
4
44
45
34
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2
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6
9
5
6
6
6
3
6
4
10
* LESS THAN 1 PERCENT

LEGISLATION AND FUNDING

The three agencies we reviewed are given land acquisition responsibilities under a number of laws and regulations, some applying to more than one agency and others to only one. Including directives on project operation and management, the number of pertinent statutes climbs well past 100. Some legislation--like the act of August 1, 1888, as amended (providing condemnation authority), the Wild and Scenic Rivers Act, and the Wilderness Act of 1964--assigns land acquisition and management responsibilities to more than one agency.

The Land and Water Conservation Act of 1965 signaled the beginning of a large-scale, concentrated Federal program of land acquisition. Its purpose was:

> "* * * to assist in preserving, developing, and assuring accessibility to all citizens of the United States of America of present and future generations * * * such quality and quantity of outdoor recreation resources as may be available and are necessary and desirable for individual active participation in such recreation * * * ."

To fulfill this mandate, the act established the Land and Water Conservation Fund, which divides funds among approved State and Federal programs in a 60/40 ratio, respectively. The Fund is derived from four sources of Federal revenue; surplus property disposals, motorboat fuel taxes, recreation fee receipts and Outer Continental Shelf mineral leasing receipts. Funds are appropriated to the three agencies discussed here plus the Bureau of Land Managment. The Heritage Conservation and Recreation Service, Department of the Interior, has the responsibility to coordinate the use of the Federal portion of the Land and Water Conservation Fund.

Since 1965, the annual authorized funding level has steadily risen to $900 million. Through fiscal year 1978, Federal agencies received more than $1.6 billion from the fund, while States received $1.9 billion. Over the remaining 11-year life of the fund, State and Federal projects could divide close to $10 billion, with almost $4 billion for Federal projects.

The National Park Service relies solely on the conservation fund for its land acquisition projects, but other revenues are available to the Forest Service and the Fish and Wildlife Service. The Forest Service receives funds under the

Weeks Law and the Special Forest Receipts Act for developing and managing forests and grasslands and protecting streams and wildlife habitats. However, these funds have provided less than $20 million since 1965.

The Fish and Wildlife Service's other source of funds is the Migratory Bird Conservation Act of 1929, as amended. This act provides funding from revenues received by the sale of duck stamps and the Wetlands Loan Act. The authority to purchase easements under this act did not exist until 1976.

According to the Heritage Conservation and Recreation Service, Federal land management agencies had obligated $1.2 billion from the Land and Water Conservation Fund since 1965 to acquire 2 million acres as of September 30, 1977.

Agency	Number of tracts	Thousands of acres	Cost (millions)
National Park Service	45,281	977	$ 815
Forest Service	4,177	907	284
Fish and Wildlife Service	512	105	54
Bureau of Land Management	135	6	8
Total	50,105	1,995	$1,161

Current land acquisition plans will require even more funds. Federal agencies have a backlog of land acquisitions amounting to more than 2.4 million acres with an estimated value of over $1.6 billion. At the same time, State programs are growing steadily, acquiring about 1 million acres per year.

AGENCY PROTECTION POLICIES

The agencies' current land protection policies emphasize considering alternatives to full-fee (or fee-simple) 1/ acquisition or acquiring the minimum interest necessary. The National Park Service's new policy, issued April 26, 1979, states:

> --Full consideration will be given to all types of land protection methods such as fee acquisition, scenic

1/The absolute ownership of land with unrestricted rights of disposition.

easements, zoning, cooperative management, rights-of-way acquisition, or other alternatives. The land protection methods used will be discussed in the individual land acquisition plan.

--Scenic easements or other less-than-fee interests shall be described in terms of the degree of protection required to meet the resource management and visitor use needs of the park area. The terms of the scenic or other easement estate to be acquired should be included in the plan to the degree possible.

--Property owners within park area boundaries are responsible for complying with whatever local zoning or development controls are in effect. The park manager should encourage property owners to discuss proposed changes in ownership or structural improvements to the property with him/her.

The Forest Service's policy calls for purchases from willing sellers in all multiuse areas. Alternatives to fee acquisition may be suitable for other management objectives. A new policy provides for consideration of less expensive alternative acquisition methods.

The Fish and Wildlife Service's current acquisition policy states that land should be acquired only when other means of achieving program goals are not available or effective. When acquisition is necessary, only the minimum interest necessary to meet the program objectives is to be purchased.

During fiscal years 1973-77, the Park, Forest, and Fish and Wildlife Services acquired 2.2 million acres of land for $606 million. As shown in the following table, the agencies acquired title to nearly 2 million acres, accounting for 88 percent of the land and 95 percent of the costs. Ownership of partial rights was obtained for 266,000 acres.

	National Park Service	Forest Service	Fish and Wildlife Service	Total	Percent
	Acres				
	(000 omitted)				
Title	1,359	350	236	1,945	88
Partial rights	26	25	215	266	12
Total	1,385	375	451	2,211	100

	Cost				
	----------(000,000 omitted)----------				
Title	$386	$107	$82	$575	95
Partial rights	5	15	11	31	5
Total	$391	$122	$93	$606	100

The Fish and Wildlife Service accounted for 80 percent of the partial acquisitions. Easements were obtained on small seasonal wetlands in North Dakota, South Dakota, Montana, and Minnesota. The Park and Forest Service's partial acquisitions were mineral rights, rights-of-way to Federal lands, and a few easements in national recreation areas and wild and scenic rivers.

SCOPE OF REVIEW

We visited the following projects and the corresponding headquarters, regional, and district offices.

Forest Service:
- Nicolet National Forest (Wisconsin)
- Eleven Point Wild and Scenic River (Missouri)
- Spruce Knob-Seneca Rocks National Recreation Area (West Virginia)
- Lake Tahoe Basin (California and Nevada)
- Whiskeytown-Shasta-Trinity National Recreation Area (California)
- Chattahoochee National Forest (Georgia)
- Chattooga Wild and Scenic River (Georgia, North Carolina, and South Carolina)
- Rogue Wild and Scenic River (Oregon)
- Sawtooth National Recreation Area (Idaho)

National Park Service:
- Voyageurs National Park (Minnesota)
- Lower St. Croix National Scenic Riverway (Minnesota and Wisconsin)
- Grand Teton National Park (Wyoming)
- Cape Cod National Seashore (Massachusetts)
- Golden Gate National Recreation Area (California)
- Yosemite National Park (California)
- Big Cypress National Preserve (Florida)
- Blue Ridge Parkway (North Carolina and Virginia)

Fish and Wildlife Service:
San Francisco Bay National Wildlife Refuge (California)
Conboy Lake National Wildlife Refuge (Washington)

For these projects we reviewed the authorizing legislation; legislative history; and project plans, policies, priorities, funding, and objectives to determine the necessity of certain land acquisitions and whether alternatives could have been or were used. In addition, we visited each project and interviewed Federal officials at the project, regional, and headquarters levels and obtained information on State land protection and acquisition programs in Minnesota, Wisconsin, California, Oregon, Florida, Georgia, and New York. We also interviewed local officials and some private landowners. Further, we contacted the Heritage Conservation and Recreation Service's Lake Central regional office, Ann Arbor, Michigan, and headquarters, Washington, D.C. We also reviewed pertinent laws, policies, regulations, procedures, and records at the agencies reviewed.

We believe that the projects reviewed provided us a fair indication of the private land acquisition practices followed by the agencies at the time we made our review.

HANDLING AGENCY COMMENTS

We obtained formal comments twice on drafts of this report from the Departments of Agriculture and the Interior. The agencies generally agreed with our recommendations or said they were in compliance. However, they sharply disagreed with some of our conclusions and facts. We addressed each item, and our comments are noted immediately following the allegations in the body of the agencies' responses. (See apps. III and IV.) Chapter 4 highlights the agencies' comments and our evaluation concerning the recommendations made in the report.

PRIOR GAO REPORTS

In addition to this report, we issued the following reports.

Endangered Species--A Controversial Issue Needing Resolution (CED-79-65) (July 2, 1979)

We recommended that the Congress no longer fund endangered species land acquisitions inconsistent with Fish and Wildlife Service policies and program criteria. Examples of funded land acquisitions not consistent with Service policies and/or program criteria are:

--Kealia Pond on the Island of Maui, Hawaii, being purchased for approximately $6.4 million even though viable alternatives to Federal acquisition exist.

--Sugar Loaf Key in Florida being acquired for approximately $1.4 million even though Service officials cannot justify that its acquisition is needed to recover the Key deer.

Problems in Land Acquisitions for National Recreation Areas (April 29, 1970) (B-164844)

We recommended that the Secretary of the Interior:

--Consider adjusting the boundaries of certain national recreation areas to exclude expensive properties located on or near the boundary lines of the recreation areas.

--Establish and consistently apply procedures for estimating land acquisition costs.

Opportunities for Improvement in Policies for Acquiring Migratory Waterfowl Refuges (September 11, 1968) (B-114841)

We recommended to the Secretary of the Interior that:

--Waterfowl population goals be established by specific geographical areas and related land investment guidelines be provided.

--Cooperative agreements with States and private owners of wetlands be sought.

--Consideration be given to limiting future wetland acquisitions until goals and guidelines are developed.

--Prior acquisitions be reevaluated in light of the goals.

CHAPTER 2

LAND ACQUISITION PRACTICES

As the value of land continues to increase, the Government must pay more and more to acquire it. Large Government purchases of land contribute to escalating prices of adjacent lands, thereby contributing to the spiraling inflation of land values. Federal land purchases have other impacts, such as eroding local tax bases, stifling economic activity, and precluding agricultural uses. Thus, they often run into local opposition. However, Federal agencies have not adequately considered costs or impacts in the land acquisition decision-making process.

Land acquisition practices followed by Federal agencies result in some lands being purchased which are not needed. At many of the projects we visited, the prime criteria for acquiring land appeared to be availability of funds and opportunity to purchase, rather than a critical determination of need. At other projects, the agency was buying everything within the project's boundaries or as much as the law allowed without determining whether the lands were essential to achieve project objectives.

In newly designated areas, agencies generally begin acquiring lands as soon as funds are available and before land management plans or specific project objectives have been developed. Much of this land is easily acquired from willing sellers when funds are plentiful. This approach results in widely scattered public ownership which makes the remaining lands critical to the use of those already purchased. These remaining lands are usually more costly because of escalating land prices, partly as a result of Federal acquisition. Also they are usually acquired through condemnation, a time-consuming and expensive process.

In older areas, much of the public land was donated, transferred, or withdrawn from public domain. Acquisition funds for private lands were not available; thus there was a mix of public and private ownership in parks and forests. With increased funding now available, agencies are attempting to acquire private lands as quickly as possible. Agencies usually employ the willing-seller approach in these areas, using condemnation only when an incompatible use appears imminent.

LAND COSTS ESCALATING

Rapidly rising land prices are making it much more expensive to establish parks, wildernesses, and recreation areas. According to the National Association of Homebuilders, land prices have risen 1,275 percent since 1949. The Department of Agriculture's 1977 price index showed that the price of agricultural land had doubled since 1972. An acre of Iowa farmland cost $1,375 in 1978, up 10 percent in 1 year. In several New England States, farmland prices exceeded $2,000 per acre. The costs of land in urban areas has likewise escalated.

Thus, while the Federal Government has expanded land acquisition funding substantially, its relative purchasing power has not greatly increased. For example, the Congressional Research Service reported that between 1961 and 1975 the land cost of eight national seashores almost doubled from $79 million to $157 million, largely due to rising land values.

The Land and Water Conservation Fund is the predominant source of funds for both Federal land management agencies and State acquisition and recreational development programs. The act has been amended four times to increase the authorized level of funding. The fund will increase to $900 million annually beginning in 1979 and if appropriated by the Congress could provide almost $10 billion through 1989.

Even at the $10 billion level, this will not satisfy all projected land acquisitions. For example, a survey by the Bureau of Outdoor Recreation (currently the Heritage Conservation and Recreation Service) in 1974 concluded States and Federal agencies need $45.6 billion and $2.9 billion, respectively, to meet recreation needs through 1989 and to eliminate the Federal acquisition backlog. In 1978, this agency found that over the then remaining 12 years of the fund, Federal agencies predict needs of $6.8 billion, about $2.5 billion in excess of the authorized funding levels.

It should be noted these estimated needs are based primarily on title acquisition and do not reflect any analysis by the agencies of criticality or alternatives, including the option of not purchasing.

IMPACTS OF FEDERAL LAND ACQUISITION

Removing land from private ownership creates a series of economic and social impacts benefiting some and harming others. The severity of the impact depends upon certain factors, such as the land's use, size, location, and productivity, as well as the method of acquisition.

The negative impact most frequently mentioned by local officials was the reduction of local revenues caused by the removal of private property from the tax rolls. The Congress recognized this and enacted legislation to compensate local governments in the form of payments from the Federal Government in lieu of taxes. This practice increases the cost of land acquisition but is generally not recognized as a land cost by Federal agencies. However, several local officials complained these payments do not keep pace with increasing land values. Also, Federal ownership prevents developments or uses of land that would result in much higher revenues to local jurisdictions.

Local resistance to Federal acquisitions

Conflicts between Federal land managers and local landowners are probably unavoidable. The Federal land manager is directed to manage lands in the national interest for specified purposes. Local interests, on the other hand, want to use the land in ways that maximize local benefits. The extent of the conflict depends on local perceptions and expectations of economic gain or loss from the presence of a national area.

Local interests often welcome the establishment of a Federal unit which they expect to generate economic activity or ensure the availability of important raw materials, such as timber or forage. Often they will not oppose Federal acquisition for what they see as benign purposes, such as protecting an archeological site.

On the other hand, local interests are much more wary if they perceive that the Federal land might imperil regional economic development or might later be converted from a full-use area to one where locally important activities are prohibited or discouraged. In these instances, residents may be antagonistic toward Federal land acquisition agencies, especially where the Federal lands form most of the resource base. Many individuals and local officials also object to governmental ownership as a matter of principle and resent the Federal intrusion. This feeling, too, is accentuated in areas where the bulk of the land is federally owned. This was evident in many of the projects we visited.

For example, at Yosemite National Park, Park Service officials said they were trying to acquire 172 acres of

privately owned land, mostly in the town of Wawona, to eliminate a class of "special privilege" persons who have homes inside a national park.

Local officials and landowners are strongly opposed to further purchases by the Park Service.

--According to a survey by the staff of the House Appropriations Committee, nearly 80 percent of the landowners are not interested in selling their property.

--The executive director of the National Park Inholders Association said that if Wawona were a:

> "* * *jumble of apartments and fast-food joints, then I could see [the Park Service's] point. But this town has been here longer than the park and it's hurting no one." (See p. 118)

Many who live in the environs of a national park, national forest, or other public project expect to profit from its presence, either through direct use of the Federal resources or from tourism. Often these expectations are frustrated by national policy or administrative decisions which limit residents' or visitors' use of the land or resources.

PRACTICES RESULTED IN PURCHASE OF UNESSENTIAL LANDS

The objectives of Federal projects range from providing recreational facilities for intense public use to preserving scenic vistas or the status quo. In most instances, the Congress does not mandate a specific acquisition method to achieve project objectives. Instead, the agencies are authorized to purchase lands or interests in lands as they see fit. The Office of the Solicitor, Department of the Interior, commented that the phrase "lands or interests in land is boiler plate," [standard language] not a statement of unfettered discretion. We do not agree with this assessment of legislative intent.

We noted that the Office of the Solicitor, in a 1970 ruling on whether easements could be purchased for refuge purposes, made the following statements:

"In answer to the first part, we think such easements may not be purchased under authority of the Migratory Bird Conservation Act. The said Act provides for the purchase or rental of any "area of land, water, or land and water ***". The general and accepted meaning of "area," according to Black's Law Dictionary (1951), is "a surface, a territory, a region." Thus, "area" connotes the land itself, the whole interest, whether purchased or rented, as distinguished from an interest in land, or "easement." Congress, itself, recognizes this distinction in the Hunting Stamp Tax Act, Section 4, 48 Stat. 451, as amended; 16 U.S.C. 718 d(c), where there is authorized the acquistion of "small wetland and pothole areas, interests therein, and rights-of-way to provide access thereto." [Emphasis added.] Congress has specifically separated "areas" from "interests therein." The latter embraces easements, and since the Migratory Bird Conservation Act deals only with "areas" as such, it is our opinion that said Act offers no authority for the purchase or rental of an "easement."

Thus, in this case, the Solicitor's office has stated that "interests in land" embraces easements.

The land management agencies generally commented that full-fee title has been purchased because (1) it was the intent and mandate of the Congress, (2) it is the only way to protect lands in perpetuity, and (3) alternatives do not work. On the other hand, the agencies all commented that current policies and procedures emphasize full consideration of alternatives to fee-simple acquisition. Regardless, the agencies have generally chosen to purchase title to as much project land as possible, which results in the acquisition of lands which are not essential to meet project objectives, as illustrated in the following examples.

Conboy Lake National Wildlife Refuge

This project was established to provide wildlife for public benefit and to preserve wildlife. The Fish and Wildlife Service has invested 15 years and $1.1 million in this 9,600-acre project without obtaining many of the tracts necessary to develop and restore the area as a refuge. The agency has requested additional funds to continue purchasing land. As of October 1978, the agency owned 6,700 acres which were purchased without benefit of an acquisition plan, priorities, or consideration of alternatives.

We reviewed this refuge in 1968, and our report 1/ questioned whether it should have been established because it was a relatively poor habitat for waterfowl. Of the 10,000 acres approved for acquisition, only 144 contained water and marshes.

At least 4,000 acres were biologically unessential for waterfowl habitat. According to agency correspondence, the area was approved to (1) facilitate the orderly expenditure of duck funds, (2) take advantage of opportunities to buy land from willing sellers, and (3) provide an additional refuge in Washington. The agency's report to support establishment omitted the fact that other areas of higher value for waterfowl had not been acquired.

Thus, it appears this project has resulted in spending available acquisition funds rather than providing a needed refuge. We believe the benefits to be derived from continued acquisition would be minimal. Also, further acquisition would conflict with the agency policy that: "Acquisition will focus on preserving currently productive habitat rather than habitat which must be restored or altered to become productive." (See p. 74.)

Voyageurs National Park

At this project, the Park Service took 7 years to issue a draft master plan which emphasizes preservation of the status quo and classifies only 130 acres as development zones for intense public use. During this period, however, the agency purchased 64,000 acres for $22 million, adding to the 141,000 it already controlled. Plans are to acquire the remaining 14,000 acres for $10 to 23 million through condemnation.

We found no justification for acquiring all lands within this project. The agency could have controlled about 90 percent of the project area by just acquiring the land, or interests therein, owned by one paper company. According to an agency official, this would have been more than adequate to meet project objectives and would have avoided costly and time-consuming condemnations. Also, some 65 percent of the area was protected before any acquisition.

1/"Opportunities for Improvement in Policies for Acquiring Migratory Water Fowl Refuges," Sept. 11, 1968, (B-114841).

The agency commented that

> "* * * although an area can be administered without full fee ownership, it does not mean that its full responsibilities for land acquisition have necessarily been met. In this case the Park Service felt that it was carrying out the specific intent of Congress with further acquisition."

We believe the Secretary had the flexibility allowed by the legislation to stop purchasing or make minor boundary changes whenever deemed appropriate. (See p. 110.)

Big Cypress National Preserve

The Big Cypress National Preserve was established to protect the natural, scenic, recreational, and other values of the Big Cypress Watershed in Florida. At this project, the Park Service is purchasing 570,000 acres of swampland for about $200 million without any land use or development plans. According to agency officials, plans were not prepared because (1) the Congress established clear boundaries and intended that all lands be acquired, (2) the land is virtually all flat, wet watershed land that is not usable or seriously threatened with development, and (3) few, if any, lands will be developed for public recreation use. As of September 1978, the Park Service had purchased 344,000 acres. Also, about 98,000 acres were in condemnation. A land acquisition force of about 140 was hired for this effort.

The Park Service is purchasing lands that are not needed to accomplish project objectives. About 1,000 small tracts with residences or cabins are included in the boundaries. Encompassing less than 1 percent of the lands, these small, isolated private tracts do not present management problems, according to the acting park manager. Although these tracts do not affect the project's objectives, some 90 percent of them will be acquired. Since the Congress did not mandate that 570,000 acres be acquired and since the lands are not usable, we saw no plausible reason for acquiring title to all lands. Further, the Park Service overlooked the Corps of Engineers dredge and fill permit program established by section 404 of the Federal Water Pollution Control Act Amendments of 1972 to protect wetlands. Corps of Engineers officials said there was certainly potential to use this program to provide much of the protection sought for the Big Cypress Preserve.

Again, the Park Service commented that it has followed the intent and mandate of the Congress in acquiring title to all lands in this project. This reading is contrary to the plain language of the legislation, which excludes certain properties from acquisition and gives the authority to purchase interests in lands. (See p. 53.)

Nicolet National Forest

The Forest Service purchases lands in this project based primarily on the availability of funds and willing sellers. According to the forest supervisor, additional lands are not essential to meet the multiple-use purposes of the forest--outdoor recreation, timber, watershed, and wildlife and fish management. Funds, however, continue to be allocated and spent. As of September 1977, the agency already owned 653,000 acres in this 973,000-acre project. The agency has prepared plans which identify another 171,000 acres as suitable for purchase as funds and properties become available.

This project exemplifies our observation that funding rather than need dictates land purchases in some projects. For example, two large lakefront tracts were recently purchased for $620,000 because the owners wanted to sell and funds were available. The Forest Service already owned much of the lake frontage, providing public access and camping facilities. The acquired properties were costly because they had extensive improvements which the agency had no need for and intends to destroy or salvage. The acquisitions were justified as preventing possible future developments. A Forest Service official said that any developments allowed by existing zoning ordinances would not have harmed the lake's scenic or natural environment. Agriculture did not agree and said development would have harmed the natural environment.

The Forest Service commented that existing lands could be managed without further acquisition, but the quality of the National Forest experience and this forest's administrative effectiveness would be greatly enhanced by key additions to the existing land base. We agree that key parcels of land should be purchased; however, in an area where the Federal Government already owns 653,000 acres, it is questionable whether there are 171,000 additional key acres. The Forest Service does not identify these lands as critical, urgently needed, or essential. Instead, they are described as suitable or desirable for National Forest purposes. We

believe the practice of buying lands just because they are suitable is not an efficient utilization of limited Federal resources. (See p. 98.)

Spruce Knob-Seneca Rocks
National Recreation Area

This project was established to provide recreation and conserve scenic, scientific, historic, and other values for public enjoyment. At the time the area was designated, the Forest Service already owned 40,000 acres within the boundaries of the project. It determined that an additional 19,000 acres should be purchased, 7,000 acres should be protected by easements, and the remaining 31,000 acres were not essential to the area's development. As of August 1978, the agency had purchased 13,000 acres for about $4 million from willing sellers. Nearly half of these acres were among those considered unessential. No easements had been purchased.

The Forest Service did not agree it was buying unneeded lands. It stated fee-title acquisition of unessential lands is providing substantial, long-term public benefits. While this could be true, we contend lands, especially those identified by the Forest Service as not essential to development of the recreation area, should not be purchased just because they are suitable under one of the multiple-purpose forest objectives. (See p. 108.)

PRACTICES RESULTED IN ESCALATING
COSTS AND ADVERSE IMPACTS

When Federal agencies attempt to acquire all lands within the boundaries of parks, forests, wild and scenic rivers, or wildlife refuges, the costs of acquiring the land or the impact on the community and private owners is ignored. Generally, the agencies first acquire parcels that are easily negotiated from willing sellers. By this approach, if critical lands are not among the first acquired, much of the appropriated dollars can be spent on nonessential lands. When funds to complete acquisition run out, amendments to cost ceilings are requested. For example, for three wild and scenic rivers 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.

The following table illustrates the original cost ceilings placed on acquisitions at some of the projects we visited and subsequent increases.

	Original authorization		Subsequent authorization		Percent increase
	Date	Funds	Date	Funds	
		(millions)		(millions)	
Eleven Point Wild and Scenic River	Oct. 1968	$ 2.0	May 1974 and Nov. 1978	$10.4	420
Sawtooth National Recreation Area	Aug. 1972	19.8	Nov. 1978	47.8	141
Lower St. Croix National Scenic Riverway	Oct. 1972	7.3	Jan. 1975	19.0	160
Rogue Wild and Scenic River	Oct. 1968	1.7	June 1976	4.8	182
		$30.8		$82.0	166

Under an "acquire as much land as possible" practice, funds were not managed efficiently. Cost ceilings placed on acquisitions were not viewed as limits, and alternative means of effectively managing and administering the project within original cost estimates were not seriously explored.

In some parks, the National Park Service was vigorously buying all land within the boundaries, regardless of cost or impact on communities and landowners. Those affected have reacted negatively for the most part, and the National Park Inholders Association has been formed to lobby against the acquisition program.

In 1969, the National Park Service began its campaign to eliminate private holdings within park boundaries. Through fiscal year 1976, private acreage had been reduced from 124,000 to 36,000. However, the value of the remaining properties has increased and is now valued at $128 million. Despite this cost, the Park Service continued its attempts to eliminate all private holdings. For example, in Yosemite National Park, the agency has attempted to purchase title to the remaining 172 privately owned acres--less than 1 percent of the parklands--as quickly as the sellers offer them, or was condemning them to prevent incompatible uses. Purchasing these tracts will cost an estimated $12 million--$70,000 an acre--and intensify the already strong opposition of landowners and local officials. (See p. 118.)

In the Big Cypress National Preserve the agency is purchas-

ing title to about 570,000 acres as quickly as sellers offer them or is proceeding with condemnation when its offer to buy is refused. Purchasing these tracts will cost an estimated $200 million. Among the privately owned tracts, one comprised 577 acres and had been in the process of being developed for a number of years. Among other things, it contained a trailer park, wells and a water system, houses, and a sewage treatment plant. The estimated value of this property ranged from a Government appraisal of $1.1 million to an owner appraisal of about $8 million. The Park Service considered exempting this property--one-tenth of 1 percent of the project lands--and was well within its authority to do so. However, according to the Park Service, this alternative was abandoned partially because the Governor of Florida strongly objected. The agency then requested authority from the Senate Committee on Energy and Natural Resources to file a declaration of taking on this property. In the request, the agency stated:

> "In processing this alternative, it must be realized that we are committed to payment of the eventual award, whatever it may be. Moreover we are concerned that the guidelines established by your committee for recommendation of declaration of taking are not being fulfilled in that we cannot demonstrate that irreparable damage to the resource will be spared. We believe that such damage has already occurred. Nevertheless, we are making that recommendation in this instance."

The request was approved in August 1978, and a declaration of taking was filed giving ownership to the Park Service in October 1978. (See p. 53.)

The Forest Service adopted a short-term protection strategy to purchase 3,600 acres of land inside the boundaries of the Eleven Point Wild and Scenic River in Missouri. Scenic easements were to be used as a temporary measure to protect the remaining 7,000 acres. In the longer term, however, the agency planned to purchase all lands inside the boundaries. Following this approach has amplified local opposition, delayed project completion, and increased costs so far from $2 million to $10.4 million.

The Forest Service commented that it does not acquire scenic easements as a temporary measure and there is no policy to acquire these same lands later in fee. We agree with this position, but were dismayed by the following

statements made in the land adjustment plan prepared by the Forest Supervisor concerning this project:

--"Scenic easements and partial interest acquisition will be considered as temporary with the ultimate objective being fee simple ownership.

--"Our ultimate land acquisition objective will be to obtain complete fee ownership within the established Scenic River boundary. Although, this is presently impractical under the provisions of Public Law 90-542, it is obtainable, over the long run by using other land acquisition authorities."

This plan was not approved by the Regional Forester and the plan being used does not contain such statements. (See p. 78.)

The Fish and Wildlife Service did not fully analyze the costs or impacts of acquiring land in the 23,000-acre San Francisco Bay National Wildlife Refuge. Fifteen thousand acres of saltponds are being purchased for an estimated $7.6 million, even though the owner will retain full rights to continue his present commercial land uses. Tenants of another 5-acre site, puchased for $345,000, were using it as a boat works. There was considerable opposition from the tenants, whose boats were in various stages of completion, and there were no comparable facilities nearby. This placed a hardship on the tenants to either complete their boats quickly or have them barged elsewhere. Thus, the Service had to pay to relocate them and their possessions. Relocation costs will total an estimated $573,000 as the cost of moving boats--originally estimated at $25 to $200 each--could go as high as $75,000 for some. Also it will cost about $528,000 to develop the 5 acres. (See p. 103.)

CONCLUSIONS

Federal acquisition of land can contribute to escalating land prices; result in extra costs to the Government, including payments in lieu of taxes and relocation costs; involve costly condemnation proceedings; and have undesirable social and economic impacts. A major Federal role is necessary to assure the protection and preservation of nationally significant areas, but this role does not have to be one of blanket ownership in all areas administered by the land management agencies.

Ownership of essential lands is needed to achieve project objectives, but the general practice of agencies has been to buy everything within project boundaries, or as much as the law allows. Unessential, compatibly used lands should not be acquired simply because the lands are suitable and funds and sellers are readily available.

Many of the laws which authorize Federal acquisition of private lands do not set forth guidelines directing agencies to analyze the need for the land. Thus it is up to agencies to decide, and under these circumstances, when funds are available and the opportunity to purchase exists, agencies had no incentive to weigh the need for their acquisitions. Or, as one agency official said, "Since we're eventually going to buy all the land, why plan or prioritize?"

CHAPTER 3

NEW LAND PROTECTION STRATEGIES AND OVERALL POLICIES SHOULD BE DEVELOPED

The Departments of Agriculture and the Interior need to jointly develop new land protection strategies and policies. There are no overall Federal land acquisition standards, guidelines, or policies in effect. Some 27 authorities are used by Federal agencies to acquire land in more than 20 categories. Neither the Congress nor the executive branch has established a national policy governing Federal acquisition of land. In practice, agencies have assumed a mandate to buy as much land as possible within project boundaries.

This practice is unrealistic and an inefficient use of scarce resources, considering the multiple demands and needs for land preservation and public recreation. A policy is needed to provide direction, establish standards and guidelines, and set priorities for Federal land acquisition.

The three land management agencies--Forest Service, Park Service, and Fish and Wildlife Service--have policies which encourage full consideration of alternatives to land acquisition, including zoning and easements. However, land managers at the project level are very reluctant to use alternatives. Further, land managers have not made every possible effort to convince the Congress that alternatives to land acquisition can be effective. Alternatives to full-fee land acquisition are feasible and could have been used at many of the projects we reviewed. Various alternatives to land acquisition should be explored and policies developed 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 other areas. With 36 percent of the Nation's land in Federal ownership and 6 percent in other public ownership, the Federal Government needs to reassess its drive to acquire full title to private lands at existing and new projects. Alternatives such as easements, zoning, and Federal regulatory controls should be used wherever possible.

ALTERNATIVES ARE FEASIBLE

Alternatives have only recently been reexamined, largely because of congressional action and the rising values of land.

Also, in establishing national recreation areas and wild and scenic rivers, the Congress in some instances has limited the amount of land that can be purchased by the Forest Service and Park Service. However, the purchase of easements and other rights to land or reliance on zoning has been used very little in the past.

Historically, Federal land management agencies have rejected out of hand any strategy other than the acquisition of full title to land in the national forest system, park system, and wildlife refuges. They argue that acquiring partial interests, such as development rights or scenic easements, often costs nearly as much as full acquisition, and restrictions on the use of private land are ineffective and a heavy administrative burden. However, obstacles to the use of alternatives are primarily perceived rather than demonstrated. When pressed for examples, Federal officials admitted they knew of few specific instances where problems had occurred.

In some cases, there is clearly no substitute for conventional acquisition approaches. But alternative arrangements may be entirely adequate to control access, to buffer natural or recreational areas, or to ensure reasonable control while permitting compatible development. Easements might be used advantageously for forest holdings, scenic vistas, or agricultural tracts adjacent to public forests. All available evidence shows they can work.

While the price of these alternatives could be high--sometimes approaching that of full purchase--and enforcement could be difficult, substantial benefits could result. Resistance to Federal acquisition should be reduced, since the land will remain on the tax rolls, although perhaps at lower assessed values. Residents will retain their homes, obviating relocation costs. Certain nonforest agricultural lands could remain in productive use, with the scenic values protected. Finally, the Federal Government could be saved the cost of administering the area.

During the review, we were apprised of many alternatives to full-fee acquisition, including purchase-leasebacks, purchase-sellbacks, tax incentives, preemption, easements, and zoning. However, only the latter two have been widely used in the United States and are discussed below. (See App. II for discussion of the others.)

Easements

One of the most widely used alternative land control techniques is the easement. Easements vary in nature and pur-

pose but can be defined as limited controls over land owned by somebody else. Most easements "run with the land;" that is, they are binding on succeeding owners.

Easements have been used for nearly 50 years by public agencies to serve a variety of purposes, as shown below.

Major Public Programs Involving Purchase of Scenic or Conservation Easements

Program and agency/state	When acquired	Acres	Type (see key)
Blue Ridge Parkway, Park Service	1930s and 1940s	1,200	A,B
Natchez Trace Parkway, Park Service	1930s	5,000	B
Adirondack Northway Interchanges, New York	1960s	1,000	B
Piscataway, Park Service	1960s	2,000	C
Sawtooth National Recreation Area, Forest Service	1970s	10,000+	D
Wild and scenic rivers, Forest Service	1970s	5,000+	E
Waterfowl management, Fish and Wildlife Service	1958-1977	1,100,000	F
Great River Road and other State highways, Wisconsin	1950s	17,000	G

Key:
A. No building.
B. No building, except with permission for farm and residential purposes; no tree cutting, dumping, or signs.
C. Only residential development with permission of Park Superintendent.
D. 1 homesite per 200 acres.
E. Public access along river; no building within 20-30 feet of high-water mark; only 2-3 houses on 50 acres.
F. No burning, draining, or filling of wet areas.
G. Minimum 5-acre lot or 300-foot frontage for residences; no new commercial development, dumping, tree cutting, or signs.

The advantages and problems associated with the use of easements were:

Advantages:

--They may be cheaper than titles to land.

--They can be tailored to meet varying needs and conditions.

--Title to land left in the hands of the private owner.

--Land remains on the local property tax rolls, though sometimes at a reduced level.

--Maintenance costs can remain with the owner.

--The value of remaining and neighboring lands may be enhanced by the protection the easement affords.

Disadvantages:

--The value of the rights purchased are difficult to assess.

--Easement restrictions may be misunderstood by landowners.

--Subsequent owners who fail to make title searches may not know of easement restrictions when they purchase the property.

--Easement provisions may prove difficult to enforce if not properly prepared.

--Land often cannot be used by the public.

Fish and wildlife easements

The Fish and Wildlife Service, the largest user of easements, administers easements on 1.1 million acres in the upper Midwest. These easements prevent the owners from burning, draining, or filling small seasonal wetlands. While there have been relatively few violations among the 18,000 easements (340 in fiscal year 1976), officials stated the use of easements provided them 4 times as much land as could have been acquired through full-title purchase. They emphasized that they have found easement benefits can outweigh management costs in this program but that enforcement and administrative costs are not inconsequential decision factors. Active enforcement of easements is needed to prevent easement violations.

Sawtooth National Recreation Area

At this Forest Service project, established to preserve scenic values, scenic easements and a land certification program are being used to protect 25,000 privately owned acres. Regulations cover standards for land use, subdivision, and development. Scenic easements or titles are acquired to prevent incompatible uses or developments. As of July 1978, scenic easements had been acquired on 6,800 acres; 1,460 acres had been purchased outright.

The land use regulations provide for the Forest Service to certify that a landowner is using his/her land in conformance with them. Once the land's use is certified, the property cannot be acquired through condemnation. As of October 1978, the agency had approved 132 of 176 requests to certify current or proposed land uses. Most of the other 44 were denied because the landowners wanted to subdivide their lands for recreation homesites or to construct summer homes on small lots of agricultural land. About 1,000 acres of land will be controlled with certificates.

Scenic easements may be acquired on an additional 15,000 acres if the owners use their lands in violation of the regulations. The agency also planned to purchase only 365 more acres in fee title.

The Forest Service has effectively combined land use controls and acquisition methods in this project. By extensively employing land use certificates and scenic easements, it has protected lands while minimizing the impact on landowners and the local tax rolls. Titles have been acquired only to prevent noncompatible uses. The agency worked with private landowners, conservation groups, State and local governments, and other Federal agencies, to develop a comprehensive master plan for the area before acquisition started. (See p. 105.)

Blue Ridge Parkway

The Park Service's position that easements do not work appears unjustified. This position, which pervades the agency, is primarily based on experience with easements on the Blue Ridge and Natchez Trace Parkways. We visited Blue Ridge and found few problems.

The bulk of scenic easements were transferred to the Park Service by the States, which acquired them in the 1930s.

At that time, according to the Park Service, the States were more interested in getting as much land as possible under their control than in explaining restrictions to the landowners. No easements have been purchased by the Park Service. The major difficulty appears to be that property owners were ill informed about easements. For example:

--They did not fully understand what restrictions had been put on their land.

--Since the easements were acquired, much of the land has changed hands two or three times. Many of these later owners did not realize their lands were subject to easements.

--Zoning, building permits, or other development regulations are unknown in many of these rural areas.

--Some easements did not recognize that private owners must be allowed some economic return on their land.

Despite these problems, the Park Service has gone to court only twice in 40 years to enforce easement requirements, and it won both cases. In addition, the difficulties mentioned should be considered as a lesson for using easements in other areas, not as a grounds against any future use of easements. (See p. 62.)

Zoning

Zoning is the most widely applied land use control. Although zoning has been primarily applied in cities, changing patterns of ubanization have stimulated interest in protecting lands outside cities. Rural zoning has been widely used to preserve open spaces.

Advantages of zoning are:

--It can help to preserve qualities the community believes are desirable.

--It ecourages the use of lands according to their character and suitability.

--It promotes orderly growth. It can help protect agricultural operations by controlling the "leapfrog" movement of subdivisions into farm areas.

--It provides stability and protects individual property owners from future harmful or undesirable uses of adjacent property.

--It provides a means to keep objectionable property uses in their place. It can help keep farm communities from being the dumping grounds for activities trying to avoid municipal regulations.

--It can help keep the lid on farm property taxes that are being forced upward by urban sprawl.

--It can help prevent property losses by reducing damage from floods.

Disadvantages of zoning are:

--It may not be permanent. Pressures for urban changes cannot assure that a community will perpetually retain land use as originally specified.

--It presents an authority role that people may reject.

--Its violators often go unprosecuted.

--It may permit unfair and discriminatory uses and become out of date.

Successful use of zoning

States have used zoning effectively to preserve natural areas. In New York, for example, the largest park in the country is protected by a comprehensive plan that employs State-local cooperation. Oregon also has a very successful program.

Adirondack Park--This park, created in northern New York in 1892, contains 6 million acres, or one-fifth of the State's total land area. Some 2.3 million acres (38 percent) are in the State-owned, constitutionally protected Adirondack Forest Preserve. The remaining acres are private lands devoted principally to forestry, agriculture, and open space recreation.

In the early 1970s, uncontrolled development appeared imminent, while fewer than 10 percent of all Adirondack communities had any local land use controls. The State then established the Adirondack Park Agency to reconcile the need to protect the environment with the need for reasonable growth.

As a result, the agency administers a land use and development plan for the park's private lands.

Under the plan, all private lands have been classified into six general types of land use areas. The plan is concerned more with intensity than with type of development. Any new development activity with potential regional impact requires a permit from the agency. This function can be transferred to local agencies if they adopt an agency-approved land use program. Thus, the park's 107 towns and villages have an incentive to plan and regulate land use. While the plan guides the intensity of development throughout the park, local planning establishes traditional "use districts" through zoning. Amendments to the plan may be requested at any time by a landowner or local government.

The State originally intended to acquire all of the land within the boundaries, but that plan proved neither feasible nor desirable. In 1972 the State allocated $44 million for land acquisition in the park. However, as of March 1977, the agency had found it necessary to spend only $7 million for acquisition. According to a State official, State ownership will probably never exceed 50 percent of the lands.

Oregon waterway protection--Oregon has likewise used zoning to protect lands with a minimum of expenditure and local ill feelings. The State's Land Conservation and Development Commission establishes land use goals for the State. Communities and counties must develop land use plans by 1981 that conform to the commission's goals. If they do not, the commission will regulate land use. The commission also provides a single point with which all Federal agencies can coordinate proposed land acquisitions or restrictions within the State.

In 1970, the State established the scenic waterways system under which landowners must obtain a permit to change land uses, significantly alter existing buildings, or build new structures within a quarter mile of the rivers in the system. If the State finds the intended change will not damage the river's scenic values, a permit will be issued. If a permit is denied, State officials work with the landowner to develop an acceptable compromise. If a compromise cannot be reached, the State can then purchase the land.

This system successfully protects scenic river resources with a minimal purchase of private lands. Approximately 80,000 acres of privately owned land is adjacent to the rivers

in the system. However, as of August 1978, the State had purchased only 19 properties totaling 554 acres for $596,000 and one scenic easement on 106 acres for $16,000.

An example of this system is a 255-mile stretch of the Willamette River. The State has acquired enough land for 40 recreation sites, and the remainder is being preserved primarily through zoning. Along most of the river, farming is an acceptable use. Farmers have left a strip of brush along each bank to minimize erosion and preserve the scenic values. As a result, the river is in a natural state, except where it passes through cities. Even there, land use controls have minimized development at the water's edge.

FEDERAL AGENCIES COULD MINIMIZE ACQUISITIONS BY RELYING ON STATE AND LOCAL CONTROLS

It is not always necessary for the Government to own all the land and eliminate all private uses. The important consideration is that adequate lands be acquired for public access, use, and enjoyment and for efficient administration of project lands. The remaining lands need only be controlled to assure that they are protected and preserved and that private uses are not inconsistent with the purposes of the area.

In some cases, State and local governments are willing to establish and enforce effective land use controls. In other cases, a major Federal role may be necessary to assure the protection and preservation of nationally significant areas. Federal officials, however, appear to have a "mind-set" against alternative controls. So strong is their opposition that they have disregarded opportunities to work with State and local governments to protect land effectively without acquisition.

Whiskeytown-Shasta-Trinity National Recreation Area

In this project, the Congress intended that, within the 210,000 acres managed by the Forest Service, acquisitions of private lands should be held to a minimum. The enabling legislation required that the local counties enact zoning to be approved by the Secretary of Agriculture in order to avoid Federal acquisition of private land. The Secretary's zoning standards, issued on September 16, 1967, detailed

--allowable residential, industrial, or commercial uses and

--provisions to protect natural scenic qualities along roadsides and lakefronts.

Although both affected counties enacted Department of Agriculture-approved ordinances in 1968, they were virtually ignored by the Forest Service. A master coordination plan, developed and approved by the Forest Service in 1971, noted that zoning ordinances were in force for all private lands. Any zoning amendments or variances had to be approved by the Forest Service.

Despite these protective measures, the Forest Service had purchased more than 19,000 acres for $5.4 million as of October 1978. An additional 2,300 acres are to be purchased. The reasons for purchasing lands were the availability of funds and sellers. We believe that since variances to zoning ordinances were subject to the Forest Service's approval, more reliance should have been placed on zoning while land uses remain compatible. (See p. 116.)

Rogue Wild and Scenic River

To protect the Rogue River's scenic qualities, the Forest Service is trying to prevent development on over 3,400 acres of private lands within a quarter mile of the river. In its river management plan submitted to the Congress, the agency stressed reliance on scenic easements, with land purchases to be used when in the public interest or when necessary for recreational development. However, as of December 1978, the agency had acquired 872 acres of private lands through purchases and 882 acres through land exchanges. Scenic easements were held on only 1,000 acres. These acquisitions cost about $3 million. When planned acquisitions are completed, the agency will have acquired 1,900 acres through purchases and exchanges and scenic easements on 1,700 acres to protect the Rogue River at an estimated cost of $4 million, nearly $2 million over the initial authorization.

To minimize acquisitions, the agency could have relied on zoning to control development. The same section of the Rogue River managed by the Forest Service was included in the State scenic river system which, as discussed on page 29, has been successful in preserving scenic rivers through zoning. (See p. 100.)

Lower St. Croix National Scenic Riverway

When this project was designated a component of the Wild and Scenic River System, local zoning ordinances were

changed to provide additional protection for the area. However, National Park Service officials view this as only a temporary measure until it can purchase titles and scenic easements to all the lands in its 27-mile section of the river. The agency does not consider zoning a sufficient safeguard because it is subject to change by local government.

Both Wisconsin's and Minnesota's departments of natural resources plan on using easements and zoning to protect most of the river corridor in their 25-mile section. Consequently, even though congressional limitations on acquisition do not apply to the States, neither department plans to purchase any lands.

The Park Service, however, is purchasing the maximum number of acres interpreted to be authorized. This practice has increased costs from the initial legislated ceiling of $7.3 million to the current ceiling of $19 million. It has also antagonized local communities and landowners.

In this project, the Park Service could have minimized costs and impacts by relying on the local initiatives taken to protect the land. If these provisions were going to change, the agency could still acquire lands through negotiation or condemnation. (See p. 88.)

NEED FOR NEW LAND PROTECTION AND ACQUISITION POLICY

National policy can be found in various appropriation bills and specific acts which authorize the acquisition of land for specific purposes. Federal agencies use some 27 authorities to acquire land in more than 20 categories, such as national parks, forests, wildlife refuges, wild and scenic rivers, recreation areas, and others. However, no overall Federal land protection and acquisition standards, guidelines, or policies are in effect. Thus, unless specifically directed by the Congress, Federal agencies have traditionally used only full-title acquisition to preserve and protect lands.

In this regard, the 1970 report to the President and the Congress by the Public Land Law Review Commission 1/ made the following recommendation:

> "The general land acquisition authority of the public land management agencies should be revised to provide

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1/This commission was established by Public Law 88-606.

uniformity and comprehensiveness with respect to (1) the interests in lands which may be acquired, and (2) the techniques available to acquire them."

Officials of Federal agencies stated that unless the Congress had specifically required the use of alternatives, it intended that all lands would be purchased. This attitude, however, fails to (1) recognize the growing demands on limited funds and (2) maximize efficient management of resources.

Unless a new policy is developed and implemented, Federal agencies will continue to purchase private lands

--not essential to achieve project objectives;

--without detailed evaluation of costs and impacts;

--with little or no consideration of alternative protection strategies; or

--already protected by Federal, State, or local government controls.

The Federal Government owns 36 percent of the Nation's land and will continue to buy more within existing authorities. There are also many proposed bills before the Congress to create new wild and scenic rivers, national recreation areas, wildlife refuges, and other areas of national concern.

We are not aware of any reports or other documents which address the issue of how much land the Government should eventually own in the United States. Land is finite and the more the Government acquires for protection, the less there is for other purposes such as energy, community, and economic development. The benefits of Federal protection and acquisition of land should be weighed against the costs and impacts.

NEED FOR MASTER PLANS

Before acquisition, an examination of the political, social, land use, and economic conditions should be required for each Federal land project. Comprehensive plans are needed to identify all strategies that could meet project objectives. The costs and impacts of different strategies should be weighed. Also, the need for land and the comparative costs, benefits, and impacts for Federal, State, and local governments as well as individuals should be evaluated.

As discussed in chapter 2, Federal agencies are acquiring land not only without consideration of need but, in many cases, before development of master plans that could analyze the relationship of lands to management needs. Because of this practice, the agencies are overlooking effective utilization of resources and alternative strategies.

Essentially, master plans should include

--a clear statement of project objectives;

--an acquisition plan for lands essential to the project;

--analyses of current and future uses on all publicly owned and private lands;

--alternative protection strategies, including an analysis of the costs, benefits, and impacts of each alternative; and

--a plan for periodic review and revision of objectives, protection strategies, and acquisition plans.

In this regard, the Public Land Law Review Commission recommended that a statutory requirement be enacted specifying the findings an agency would have to make in support of a proposed acquisition:

> "Such requirements should include at least (1) the specific management need to be served (a general multiple use purpose would not be sufficient); (2) evidence that alternatives were either not available or had been considered and rejected; (3) the impact of the acquisition on existing uses of the land."

CONCLUSIONS

Alternatives to full-title acquisition are feasible and should be used by Federal agencies, where appropriate. We recognize that some lands must be purchased, but we find no plausible reason why everything must be owned. Further, an overall Federal policy is needed to provide direction, establish standards and guidelines, and set priorities for Federal land acquisition.

Federal agencies could spend up to $4 billion on land acquisition in the next decade. Master plans should be prepared for each project before large-scale acquistion of private lands.

RECOMMENDATIONS TO THE SECRETARIES OF THE DEPARTMENTS OF AGRICULTURE AND THE INTERIOR

We recommend 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 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.

We also recommend 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.

We further recommend 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 Federal, 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

We recommend 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 our 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 our 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;
- --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.

CHAPTER 4

AGENCY COMMENTS AND OUR EVALUATION

In May 1979, we requested written comments from the Departments of Agriculture and the Interior on our draft report. In June 1979, we received voluminous comments from the Forest Service, Fish and Wildlife Service, National Park Service, Heritage Conservation and Recreation Service, and Interior's Office of the Solicitor. We incorporated the June comments where appropriate and devoted this chapter to agency comments on our recommendations and our evaluation.

In August 1979, we again requested comments from the Departments of Agriculture and the Interior. In September 1979, we again received voluminous comments from the Department of Agriculture, the Fish and Wildlife Service, the National Park Service, the Heritage Conservation and Recreation Service, and the Office of the Solicitor. These final comments are included in their entirety, along with our detailed evaluation, in appendixes III and IV.

Overall, four of the five agencies responding, the Forest Service, the Fish and Wildlife Service, the National Park Service, and the Heritage Conservation and Recreation Service, generally agreed with our recommendations or said they were in compliance. However, the agencies sharply disagreed with some of our conclusions and questioned some of the facts contained in the report and our 19 project examples. The Office of the Solicitor disagreed with both the conclusions and recommendations.

We revised the report to incorporate agency comments where appropriate, either clarified or rebutted the comments, and provided additional support where warranted. Some of the agencies' comments were useful for making corrections, providing greater clarity, and providing balance throughout the report. However, other comments either were contradictory with the information we developed, conflicting among the agencies, irrelevant to the issues at hand, or inaccurate.

Following are agency comments on our recommendations followed by our evaluation.

RECOMMENDATION 1

The Secretaries should jointly establish a policy for Federal protection and acquisition of land.

AGENCY COMMENTS

Department of Agriculture

The Department of Agriculture had no objection to the development of general policies guiding Federal protection and acquisition of land. However, the Department said the recommendation should be more specific as to its coverage.

Forest Service

Forest Service said that it does not believe significant benefits would result from such a joint policy statement. It said the program missions of the involved agencies are so diverse that a national statement would be very broad. The Service also said individual agencies appear to have generally consistent views of congressional intent. It said that although not mentioned in the report, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 established a national policy guiding several aspects of acquisitions involving Federal funds. In addition, it said the Department of the Interior Land Policy Group serves to coordinate priorities and policies affecting the use of the Land and Water Conservation Fund moneys. The group includes representatives of the Federal agencies participating in the fund.

The Forest Service said that it does not object to the idea of a policy for Federal protection and acquisition of land. However, it said the policy should be consistent with agency missions. It also suggested that any such statement include all Federal agencies involved in land acquisition and could perhaps best be developed by the President's Domestic Policy Staff in cooperation with the agencies.

Fish and Wildlife Service

Fish and Wildlife Service said that it is already in substantial compliance with this recommendation although its policy was not derived through interdepartmental work. The Service said various program objective statements, the concept plan work in the migratory bird and unique ecosystem programs, and the recovery plans for endangered species serve to identify land acquisition needs, while the preparation of decision documents defines the nature and degree of protection necessary as well as ensures public and local government participation on the specific projects. To bring all of this together, the Service said it is preparing a manual of all its policies and procedures pertaining to land acquisition.

Office of the Solicitor

The Office of the Solicitor said, in its June comments, that it could not agree more that the Department of the Interior " * * *need(s) to develop new land protection strategies and policies." It said within the last several years a tremendous amount has been done in this direction via Redwoods and the Area of National Concern legislation. Unfortunately, the office said, the GAO report does not give any thought whatsoever to these situations.

In its September comments, the Office of the Solicitor said it disagrees that the Secretaries of Agriculture and the Interior can successfully establish a uniform policy on when lands should be purchased or when other protection alternatives such as easements and zoning should be used. The Office also said,

> "* * *in our opinion such concepts can only be used if specifically authorized by Congress or if they can be shown to 'provide adequate long-term protection to recognized park values.' In our judgment, a generic land acquisition policy applicable across-the-board could only be adopted by Congress."

Heritage Conservation and Recreation Service

The Heritage Conservation and Recreation Service stated that practical budget constraints require policies to encourage maximum use of cost-effective techniques. However, it said the recommendation overlooks the work that is already underway and the new tasks which need to be undertaken.

The Service said because of their different missions and programs, each of the four Federal land-managing agencies may need their own land acquisition policies and procedures. According to the Service, (1) these agency policies could operate within the context of a single Federal policy for acquisition and protection of natural, cultural, and recreational resources and (2) such a general policy could stress use of acquisition only as a "last resort," recognizing that alternatives cannot meet all needs but that they should be fully explored prior to the decision to purchase.

The Service stated that, unfortunately, the report failed to note that current policies already contain provisions to assure consideration of alternatives to fee-simple acquisi-

tion. It said adoption of a new general policy statement would be useful, but it will not necessarily remove the obstacles to use of alternative protection strategies in program implementation. The Service said the cases discussed in the report note that even where the Congress has authorized alternative protection strategies, agencies have been reluctant to take full advantage of them. The Service said the report's observations about experiences at Cape Cod, Whiskeytown-Shasta-Trinity, and several wild and scenic rivers suggest that a substantial amount of work needs to be done to convince land managers, landowners, and the public that alternative protection strategies will really work, even where authorized by the Congress.

The Service stated the problem in implementing current policies as well as any new ones stems from the philosophy and awareness of opportunities at all levels within the land-managing agencies, but especially at the level closest to the resources. The Service said the report should recognize the need for training field level land managers to increase their capability to use alternative protection mechanisms. A substantial amount of staff work needs to be done to support formulation of new policies, strategies, and management capabilities, according to the Service.

The Service said that the solution to the problems identified by the report is to undertake the thorough research, analysis, and training program needed to encourage the use of alternative protection strategies. Such a program could, according to the Service, emphasize improving State, local, and private resource values. The Service said it has requested a small amount of funding in the fiscal year 1980 and 1981 budgets to begin work on this type of capacity building and compilation of information on effective resource protection strategies.

In addition, the Service said the Federal land acquisition element of the Nationwide Outdoor Recreation Plan includes three actions to improve policies and procedures. A new planning and decisionmaking process for the identification and protection of potential new national areas is scheduled to be implemented in 1980, according to the Service. It said this process, along the lines of current Park Service study procedures, will include a thorough analysis of alternative protection strategies. It said this process is to be developed and refined by the Land Policy Group and implemented by a joint directive from the Secretaries of the Interior and Agriculture.

To improve budgeting decisions for areas already authorized, the Service stated an automatic data processing system is being developed. According to the Service this system will monitor the implementation of acquisition programs from initial identification as a potential national area through the stages of authorization, appropriation, acquisition, and evaluation.

Finally, it said the action plan calls for the Secretary of the Interior, in cooperation with the Secretary of Agriculture, to develop a policy for the Federal protection and acquisition of land for conservation of natural, cultural, and recreational resources. To support development of this policy, the Service plans to document how alternatives to fee-simple acquisition can be used effectively to protect resource values. It also will be examining the desirability and relative merits of additional tools to use available funds most effectively.

RECOMMENDATION 2

The Secretaries should critically evaluate the need to purchase additional lands in existing projects.

AGENCY COMMENTS

Department of Agriculture

The Department said that as mentioned in the Forest Service's June 29, 1979, response, the land management planning process mandated by the National Forest Management Act of 1976 (90 Stat. 2949) will assure that the plans for all aspects of National Forest System activities will be periodically reviewed. The Department also said that any planning and analysis effort should not interrupt ongoing projects proceeding under previously approved plans.

Forest Service

The Forest Service said this is an ongoing process, and it does not object to the recommendation. It said, however, projects nearing completion should not be disrupted to utilize untried or uncertain protection strategies. It said the "Forest Service Manual" is being revised and will provide for consideration of less-than-fee alternatives in land management and landownership plans.1/ Project proposals are reviewed to ensure adequate consideration of State and local protection mechanisms as well as other alternatives to fee acquisition, according to the Service. The Forest Service land management planning process requires periodic review of plans for all aspects of National Forest System activities. Therefore, it said current Forest Service actions will achieve the objectives of this recommendation.

Fish and Wildlife Service

The Fish and Wildlife Service said that this is a reasonable requirement, one that is informally followed now through

1/Forest Service Manual, chapter 5440, was amended August 1979 to incorporate these revisions. We noted, however, that the revised manual requires justification and Washington office approval of partial interest acquisitions but not fee acquisitions. We believe this implies that the Service views considering partial acquisitions as an exception rather than as a general rule and that this requirement could deter using partial acquisitions as alternatives to fee acquisitions.

the budgetary process. It said many regional and area office managers have made such evaluations as an ongoing part of their responsibilities. The Service also said specific directives for such analysis may well be adopted through implementation of the recently updated version of its land acquisition policy.

National Park Service

The National Park Service said that on April 26, 1979, it published in the Federal Register a Revised Land Acquisition Policy of the National Park Service. It said this policy provides guidelines to the field level for consideration in developing a land acquisition plan for each authorized area. According to the Service, the guidelines direct each area to consider the legislative history for the park and public response. Comment and coordination with the local agencies are encouraged.

It said the policy further states:

"Alternatives to Fee Acquisition

"Full consideration will be given to all types of land protection methods such as fee acquisition, scenic easements, zoning, cooperative management, rights-of-way acquisition, or other alternatives. The land protection methods used will be discussed in the individual land acquisition plan.

"Scenic easements or other less-than-fee interests shall be described in terms of the degree of protection required to meet the resource management and visitor use needs of park area. The terms of the scenic or other easement estate to be acquired should be included in the plan to the degree possible.

"Property owners within park area boundaries are responsible for complying with whatever local zoning or development controls are in effect. The park manager should encourage property owners to discuss proposed changes in ownership or structural improvements to the property with him/her."

All areas of the National Park System are scheduled to have completed land acquisition plans by April 26, 1980. Thus, the Park Service said it considers itself in compliance with this recommendation.

Office of the Solicitor

The Office of the Solicitor stated in its June comments that it believes that for National Park Service areas such a process takes place while the enabling legislation is being considered. The Office said in those situations where alternatives to acquisition have been determined feasible, or where specific interests should or should not be required, the basic legislation has so directed. The Office stated that in its opinion, a legal review of the recent National Park Service legislation and its legislative history will demonstrate that this is correct. The Office said that if the recommendations have merit and will not be dramatically offset by the ever-increasing escalation in the cost of protection, then they should be directed to the Congress for action, not the National Park Service.

In its September comments, the Office of the Solicitor said its primary concern with this issue is that it will delay completion of projects the Congress has specifically directed should proceed and will increase their costs significantly.

Heritage Conservation and Recreation Service

The Heritage Conservation and Recreation Service said that in the past, in areas specifically authorized by the Congress, Federal agencies have operated on a different understanding: that the Congress intended for all land to be acquired within the boundaries authorized for each area, except in a few instances where alternative protection strategies are specifically encouraged. According to the Service, this interpretation is supported by the history of congressional concern about accelerating acquisition programs to reduce the "backlog" in authorized areas. Rather than call for exploration of alternative protection strategies, it said the Congress has established a special account to continue acquisition. It also said the agencies have concluded, with good reason, that the issue of alternative protection mechanisms was addressed when the boundary was established, defining the limits of where acquisition would be used.

The Service stated that based on the interpretation that the Congress intended for all lands within authorized boundaries to be acquired, policies supporting what the report calls "indiscriminate" purchases seem quite reasonable. It said with land prices escalating at 10 to 20 percent each

year, a practice of buying whatever is available can be seen as an effort to maintain purchasing power in the face of inflating land values. Where all land within the boundaries is to be acquired, it said prudent management may suggest that acquisition be completed as quickly as possible, even without making distinctions between relative resource values with the authorized boundary.

The Service said that the Congress is responsible for legislative mandates to acquire land. It pointed out that most authorizations for new national areas do not direct the Secretary to protect resources by "any appropriate means;" he is instead authorized to acquire land, waters, or interests therein. The Service said GAO nevertheless places full responsibility on the Federal agencies. The report should recognize that responsibility for current policies is shared by the Congress and the agencies. The service said that land managers have not made every possible effort to convince the Congress that alternatives to fee-simple acquisition can be effective. At the same time, it said the Congress has not explored or supported alternatives, except in a few isolated instances.

RECOMMENDATION 3

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 Federal, State, and local governments;

--give evidence of 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.

AGENCY COMMENTS

Department of Agriculture

The Department said this recommendation is being implemented on all new projects through the Forest Service's land management planning process. The Department had two minor concerns with the wording in the recommendation. The Department said the first indented item should not be interpreted as requiring a tract-by-tract listing in the management plan. The Department also said the fourth indented item should be revised to recommend "appropriate" rather than "maximum" reliance on existing land use controls. According to the Department, the term "maximum" could be interpreted as ruling out acquisition alternatives when it is in the public interest to acquire a scenic easement or other property rights.

Forest Service

The Forest Service said that it concurs with the need for good plans for acquisition projects. The Forest Service said land management plans are prepared in a National Environmental Policy Act framework that includes consideration of alternatives, evaluates impacts, and provides for full public involvement. It said all new projects will be covered by this type of plan. National forest recreation composite plans also address the recommended items, according to the Service.

National Park Service

The National Park Service said that through the land acquisition plan and information gathered during the legislative process, the need for the land against the costs and impacts on private landowners and Federal, State, and local governments is debated and analyzed, especially during the authorization process. The National Park Service considers itself in compliance with this recommendation but said it will consider it as the land acquisition program proceeds.

The Park Service said that in the recently adopted National Park Service's "New Area Study Program," the points which GAO wants stressed in the planning stages will be covered in an orderly manner before project authorization. It said a section of phase II of this program is relevant to potential land acquisition.

"Phase II. This study phase culminates in the formulation of alternatives for management and protection of resources and assessing their impacts and implications. Each alternative will be evaluated in terms of costs (land development and operations) and environmental impact (natural, cultural, socioeconomic)."

It also said each study will include maps and information on ownership, land use, alternative boundaries, and strategies for resource management, visitor use, and development. The Service said following completion and review of the study, it will recommend the alternative it feels is best considering the nature of the resource, the threat to it, price escalation, cost effectiveness, and other pertinent considerations. The recommendation will be made to the Assistant Secretary, Fish and Wildlife and Parks. Other study participants, reviewers, and the Land Policy Group will have an opportunity to make known their views and recommendations.

The Service stated that as a matter of information, legislative support and/or suitability and feasibility studies have been prepared on areas authorized since July 1959. It said there are 220 parks with approved plans. Of the active acquisition areas, there are 41 areas which do not have approved general management plans. Of the 41, there are 25 areas which have plans currently in progress, leaving 16 on which there are no plans scheduled in fiscal year 1979.

Fish and Wildlife Service

The Fish and Wildlife Service said that it is in substantial compliance with this recommendation already, as can be evidenced by its decision documents which incorporate the listed suggested contents of such plans. Undoubtedly, these will be further refined, according to the Service. The Service stated that it is just as anxious as GAO to buy no more land than is essential and to do so at minimum cost necessary to achieve program objectives.

Heritage Conservation and Recreation Service

The Heritage Conservation and Recreation Service stated that GAO failed to mention several areas and instances where the Department of the Interior has actively pursued alternatives to fee-simple acquisition. During the past 2 years, it said,the Department has been working to develop and refine the area-of-national-concern concept. It said this concept

recognizes that in some instances private ownership can be compatible with protection of public values in natural, cultural, and recreational resources.

It said the area-of-national-concern approach has been applied in the protection strategy adopted for the Pinelands National Reserve (Public Law 95-625, sec. 502). The Service said that, in contrast to traditional authorizing legislation, the act creating the Pinelands National Reserve specifically calls for a cooperatative effort involving local, State, and Federal governments and the private sector as an alternative to large-scale, direct Federal acquisition and management. The act authorizes a modest program of Federal financial assistance to the State for development and implementation of a comprehensive management plan for the Pinelands, relying primarily on the use of State and local police powers to regulate the use of land and water resources, according to the Service. Although the Pinelands program is just getting underway, the Service said the report should recognize this innovative model for resource protection efforts relying on alternatives to fee-simple acquisition.

The Service said the Lowell National Historic Park provides another good example of ongoing efforts to protect areas without relying exclusively on Federal acquisition. It said legislation authorizing this park provides for acquisition of a few key sites and cooperative arrangements with the State and local governments to protect a larger historic landscape. It said the report should include a discussion of the experience to date at Lowell.

OUR EVALUATION

As can be seen, the agencies commenting on our draft report generally agree or say they are in compliance with our recommendations, except for the Office of the Solicitor. However, this is not what we found at the project level where we made our detailed review. Although officials of the three land-managing agencies claim that alternatives to acquisition were considered and in some cases sucessfully used, the project managers at the time of our review were very reluctant to consider anything but full-title acquisition. Thus, alternatives were generally not being used at the project level unless specifically mandated by the Congress.

As Louis A. Allen in his book "Management Profession"1/ points out, "* * *if limits are not set which reflect policy requirements then people will set their own to suit their personal preferences."

Further, some of the comments indicated that congressional intent was to purchase all lands within project boundaries. We believe the Secretaries of Agriculture and the Interior had the authority to use less than fee-title acquisition if alternatives would have achieved project objectives and purposes. We agree with the Heritage Conservation and Recreation Service's observation that the solution to some of the problems identified by our report is to undertake the thorough research, analysis, and training program needed to encourage the use of alternative protection strategies.

We are also glad that the Service is taking the initiative to coordinate the development of a policy for the Federal protection and acquisition of land for conservation of natural, cultural, and recreational resources. We also agree that the Land Policy Group should take an active role in developing a new Federal land protection and acquisition policy for the Secretaries of Agriculture and the Interior. The Service recognized the need for such a policy in its 1978 Nationwide Outdoor Recreation Plan, which concluded:

1. A comprehensive Federal land acquisition policy is needed.

2. If no action is taken, then Land and Water Conservation Fund funding operations will continue with no comprehensive direction of Federal land acquisition priority relative to the many competing purposes.

3. It is unwise to address the estimated $2.5 billion shortage of the Federal portion of the Land and Water Conservation Fund until a national policy which contains direction, standards and guidelines, and responsibilities is established and processed for Federal land acquisitions.

Regarding the Office of the Solicitor's comment that the recommendations should be addressed to the Congress, we disagree because

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1/Allen, Louis A., "Management Profession," McGraw-Hill Book Company, 1964.

--the National Park, Fish and Wildlife, and Forest Services have all recently adopted new, but separate, land acquisition policies;

--the Federal land acquisition element of the Nationwide Outdoor Recreation Plan calls for the Secretary of the Interior, in cooperation with the Secretary of Agriculture, to develop a policy for the Federal protection and acquisition of land; and

--we believe the Secretaries of Agriculture and the Interior have the authority to implement the recommendations.

A final note. We recognize that land ownership is a political and emotional issue not to be taken lightly. Throughout history, there have been constant conflicts and wars over possession of land. With the establishment of the Land and Water Conservation Fund and the setting aside of many new Federal areas, conflicts between the rights of individual property owners versus the rights of the Government to protect significant natural areas and to provide recreation to all the people has emerged. We believe that where it is feasible to protect natural areas and to provide recreational opportunities to the American public by using alternatives to fee-simple acquisition, then the alternatives should be used.

In no way are we against Federal fee-simple acquisition of land when it has been determined that acquiring such land is essential to achieving project objectives. These determinations, however, have not been made in many cases. This is the essence of our report.

APPENDIX I

PROJECT SUMMARIES

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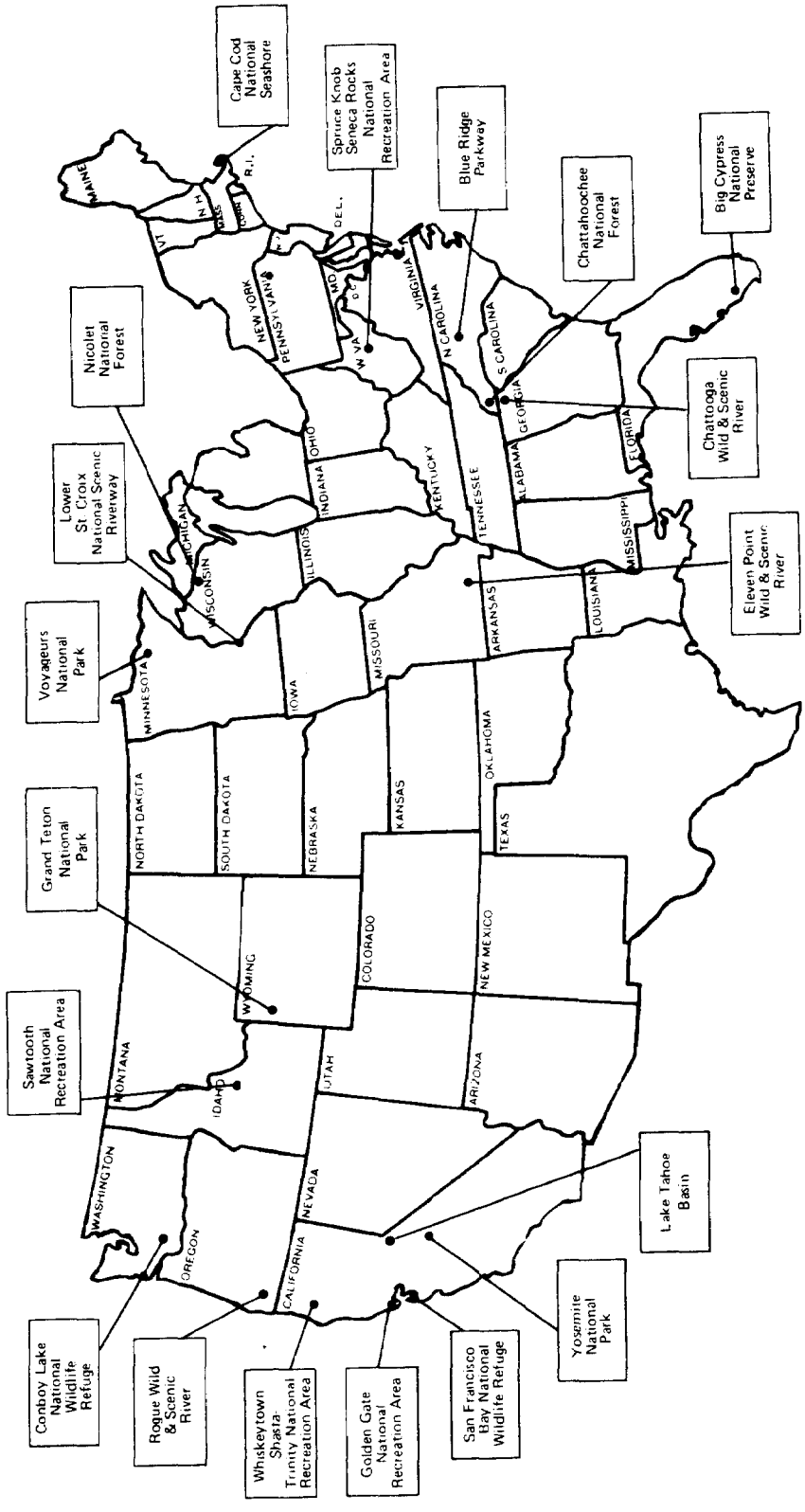
APPENDIX I

LOCATION OF PROJECTS REVIEWED



BIG CYPRESS NATIONAL PRESERVE

The Big Cypress National Preserve was established in 1974 to protect the natural, scenic, recreational, and other values of the Big Cypress Watershed in Florida. The Congress initially authorized a ceiling of $116 million to acquire not more than 570,000 acres of land and water. The National Park and Recreation Act of 1978 increased the ceiling to $157 million. In addition, Florida contributed $40 million for purchases in the preserve. Thus, total funding currently available amounts to $197 million.

PROTECTION STRATEGY

The National Park Service is purchasing all the lands within the watershed's boundaries. Agency officials say the Congress intended that all lands be purchased. Therefore, the agency is purchasing the land as fast as possible, since the Congress limited the land acquisition program to 6 years. The Park Service gives landowners little choice--either sell to the Park Service at the appraised value or go through condemnation proceedings. The act, however, forbids the condemnation of single-family dwellings and other improved properties whose construction began before November 23, 1971, unless the Secretary of the Interior determines that the use of the property will be detrimental to the preserve. According to agency officials, about 100 properties including 250 acres will remain privately owned under this provision.

As of September 1978, the Park Service had purchased 344,000 acres, or about 60 percent of the total lands. Condemnations had been initiated for 98,000 acres. The Park Service plans to purchase an additional 80,000 acres, and 48,000 acres are being donated by various public agencies. Acquisitions are scheduled to end about September 1980.

NEEDLESS PURCHASES

The Park Service is purchasing lands that are not needed to accomplish project purposes and objectives. Without doing land use or development analyses, it decided to acquire all lands. According to agency officials, a plan for development and acquisition was not prepared because (1) the Congress established clear boundaries and (2) the land is virtually all flat, wet watershed that is not usable or seriously threatened with development. (Emphasis supplied.)

For example, about 1,000 small tracts with residences or cabins are included inside the boundaries. Encompassing less than 1 percent of the watershed lands, these small, isolated tracts do not present management problems, according to the acting park manager. Although they do not affect the project's value, the Park Service will acquire 90 percent of these tracts.

These developed lands are costly for the Park Service to acquire. For example, $239,000, or $35,000 per acre, was paid for 19 small tracts. Overall, agency officials said project costs have escalated $40 million above the initial ceiling because

--the number of purchases increased from the expected 35,000 tracts to about 45,000 tracts;

--the sales of subdivided lands caused an increase in land value; and

--improvements were made on some lands, all of which the Park Service believed it had to purchase.

ALTERNATIVE FEDERAL PROTECTION OVERLOOKED

Instead of making further questionable purchases, the Park Service could protect this swampland through the Federal Water Pollution Control Act of 1972 which prohibits putting dredged or fill material into water without authorization from the Army Corps of Engineers. Since July 1975, the Corps has required landowners to obtain permits before initiating landfills. The Corps coordinates its permit review with other Federal agencies. If the Park Service determined that development plans were inconsistent with the project's objectives, the Corps stated it would deny the permit. Corps officials stated there was certainly the potential to use the permit program as an alternative to fee acquisition while still preventing development or damage to the resource.

AGENCY COMMENTS

The Park Service commented in June that it has followed the intent and mandate of the Congress in acquiring land at Big Cypress, because:

"The cost estimate submitted to Congress was based upon fee acquisition. Congress did not reduce the amount as it would normally do if it contemplated a lesser interest to be acquired.

"* * *an acquisition plan for Big Cypress was submitted to the Chairmen of the House and Senate Committees on Interior and Insular Affairs. By following original cost estimates and authorization figures, it should have been clear that fee purchase was contemplated. No objection to the plan was received."

In September, the Park Service made the following comments.

"GAO includes the following comment about Big Cypress in chapter 2 of the proposed report.

"The Park Service is purchasing lands that are not needed to accomplish project objectives. For example, about 1,000 small tracts with residences and cabins are included in the boundaries. Encompassing less than 1 percent of the lands, these small, isolated private tracts do not present management problems, according to the acting park manager. Although these tracts do not affect the project's objectives, some 90 percent of them will be acquired. Since the Congress did not mandate that 570,000 acres be acquired and since the lands are not usable, we saw no plausible reason for acquiring title to all lands. Further, the Park Service overlooked alternative protection methods, such as easements and other Federal controls, which would have involved minimal costs." (Emphasis added.)

"The first sentence from the quote is strictly an opinion of unknown professional qualifications. The last sentence is simply not true. On May 14, 1973, the Assistant Secretary of Interior supplied to the appropriate congressional committee chairmen a summary of seven alternatives considered by the Secretary of Interior with respect to the Big Cypress National Fresh Water Reserve. The alternatives listed and discussed were the following:

"(1) No Action.
(2) Fee Acquisition.
(3) Control by State and County Authorities through Land Use Planning and Zoning.
(4) Joint Local-Federal Control.
(5) Control by Trusteeship.
(6) Federal Control through the Application of Land Use Restriction.
(7) Control by Public Corporation.

"In May 1973, the Secretary of the Interior, Rogers C. B. Morton, before the Subcommittee on National Parks and Recreation, House Committee on Interior and Insular Affairs, testified in part as follows:

"Preservation of Big Cypress is among the top priority legislative proposals of this Administration. It was especially singled out by President Nixon in his message this year on the State of the Environment. You will recall he said:

'It is our great hope that we can create a reserve of Florida's Big Cypress Swamp in order to protect the outstanding wildlife in that area, preserve the water supply of Everglades National Park and provide the Nation with an outstanding recreation area. Prompt passage of Federal legislation would allow the Interior Department to forestall private and commercial development and inflationary pressure that will build if we delay.'

"Can the survival of Everglades National Park be guaranteed if Big Cypress is acquired? I Am sure it will help, but I Will guarantee that if the Big Cypress Swamp is not protected in its natural state--with its drainages unimpaired--Everglades National Park will change drastically. The park resources have changed in the past 25 years--I can think of no benefits, only losses. Some indices show awesome losses. For example, the census of wood ibis has shown that the population of breeding pairs has diminished by 80% Between 1940 and 1969 when the number stood at an estimated 10,000.

"You may also ask whether Big Cypress can be protected in some manner other than by outright purchase. I don't know any other way. We have studied the alternatives, and all fail to do the job, or end up with full fee acquisition. We looked at zoning and at every conceivable combination of federal-state-county arrangement, taken one, two, and three at a time. We looked for innovative legislation.

"We considered new organizational units, such as trusteeships, and a public corporation. We tried easements but ended up needing a substantial part of the fee and the job of policeman. We considered federal compensatory regulations but again saw the possibility of ending up with the fee. We considered a system of parkways and easements. We tried permutations of all these ideas. It came out the same each time. We finally put a blue ribbon panel to work on alternatives to straight-out acquisition but by the middle of the second day, all the participants reached the same conclusion; the only sure way is full fee acquisition. So, while the reports may show only six or seven alteratives, the records will show three or four times that many were considered and rejected.

"Our conclusion is that the Big Cypress should be acquired in fee. If you concur in the relationship between Big Cypress watershed and Everglades National Park and determine it is in the national interest to protect the nation's investment and the resources of the Everglades, then your decision, simply put, is on how to protect Big Cypress Swamp."

"After much deliberation on this issue, Congress passed the Big Cypress legislation in 1974. During the process, the Congress specifically considered 'Compensable Land Use Regulations', but rejected the idea. Congress was quite specific in the interests that were free from fee acquisition and those exemptions have been followed. Under certain conditions they allowed the retention of oil and gas interests and improved properties. In addition on March 11, 1976, an acquisition plan for Big Cypress was submitted to the Chairmen of the House and Senate Committees on Interior and Insular Affairs. By following original cost estimates and authorization figures, it should

have been clear that fee purchase was contemplated. No objection to the plan was received.

"GAO reached the conclusion that protection of the Big Cypress watershed of more than a half-million acres could have been accomplished at no cost. Its conclusion is based on the erroneous assumptions that the watershed is flat and covered with water, thus being subject to imposition of regulations by the Corps of Engineers, and is not seriously threatened.

"The area, by and large, does not consist of tidal or navigable waters. The area is heterogeneous, consisting of flat, wet areas interspersed with pine stands and hammocks. Assuming that the Corps of Engineers' jurisdiction extends across the Big Cypress watershed, an assumption that is tenuous at best, it would be extremely difficult to ascertain with certainty which of the 46,000 parcels would be subject to regulation. To our knowledge, the Corps of Engineers is not staffed or funded to administer a permit program of the scale the Big Cypress would require. Moreover, the denial of permits would lead to endless and costly litigation in which landowners would allege that such denial constitutes confiscation of their property without just compensation.

"Rather than accepting the offhand opinion of unnamed officials, it would be interesting to know what would have resulted if the General Counsel of the Corps, or the Attorney General, had been asked for a formal ruling on this question.

"The watershed is divided into nearly 46,000 ownerships and has been subjected to the construction of drainage canals, roads and airstrips. We believe that these conditions are proof positive that the area is seriously threatened. The National Park Service is charged with the long term protection of the area, not just for the immediate future.

"In conclusion, it is believed strongly that the National Park Service has followed the intent and mandate of Congress in acquiring land for the Big Cypress National Preserve."

OUR EVALUATION

The last sentence quoted on page 55 by the National Park Service has been modified. In addition, we reviewed the National Park Services' environmental statement for Big Cypress which addresses the alternatives the Service considered. Our

opinion is that while alternatives were discussed, they were not pursued beyond a discussion of why they might not work. For example, one alternative mentioned was joint local-Federal control. The Chairman of Commissioners of Collier County, Florida, told us that the Federal Government never came to the county to involve it or consult with it on this land acquisition project. He said the county believed a compromise plan could have been worked out with the Federal Government which would have fully protected Big Cypress through use of existing zoning ordinances.

We disagree with the Park Service that Big Cypress is not protected by the Federal Water Pollution Control Act Amendments of 1972. In 1974, several environmental agencies, later joined by the State of Florida, brought suit against the Corps, saying that section 404 mandated an expansion of the Corps' regulatory program to protect wetland areas beyond the traditional limits. On March 27, 1975, the United States District Court for the District of Columbia directed the Corps to expand its traditional authority from navigable waters of the United States to include wetland areas adjacent to almost all waters. Other Federal court rulings have supported this expansion of the Corps' jurisdiction.

The Corps of Engineers published in the Federal Register on July 25, 1975, interim final regulations to carry out its responsibilities under section 404. Thus, effective July 25, 1975, the Corps extended its existing jurisdiction over the traditional navigable waters of the United States to also include their adjacent wetlands.

The objectives of the Corps' permit program are to:

--Avoid discharge activities which will significantly disrupt the integrity of the aquatic ecosystem and the food chain system and that will inhibit the movement of fauna.

--Avoid discharge activities that will destroy wetland areas having significant functions in maintaining water quality. Furthermore, the Corps must be cognizant of the fact that the discharge might destroy areas which retain floodwaters.

--Minimize turbidity levels and activities that will degrade aesthetic, recreational, and economic values and avoid degradation of water quality.

--Consider degradation of water uses. These considerations prohibit the Corps from issuing permits for discharges in certain areas, such as in proximity of a public water supply intake, in areas of concentrated shellfish production, and in areas which will significantly disrupt fish spawning.

In addition, the disposal site designated must minimize the impact on wildlife and marine or aquatic sanctuaries and recreation areas. Also, the discharge is not to affect threatened or endangered species.

Corps of Engineers officials informed us that a section 404 permit would be required for any development in Big Cypress. Further, Corps officials said that as part of the review process, the National Park Service could object to the issuance of a permit, and the Corps would not override this objection. Thus, a permit would not be issued and development would be precluded. The Corps officials also said that the courts have held that section 404 permits are valid even if the landowner is left with nothing to develop. Corps officials concluded that section 404 could be a feasible alternative to Federal land acquisition in Big Cypress.

The Park Service's statement that the area was seriously threatened with development contradicts our first-hand observations (by flying over and driving through the area) and statements made by Park Service officials at Big Cypress. Big Cypress encompasses 570,000 acres, most of which is inaccessible and under water.

The act establishing Big Cypress on October 11, 1974, did not mandate fee acquisition of all lands and required the Secretary of the Interior, within 1 year after enactment, to submit to the Congress a detailed plan which was to indicate

--the lands and areas which he deems essential to the project and public enjoyment of this preserve;

--the lands which he has previously acquired by purchase, donation, exchange, or transfer for administration for the purpose of the preserve; and

--the annual aquisition program (including the level of funding) which he recommends for the ensuing 5 fiscal years.

On March 11, 1976, the Secretary of the Interior, in a letter to the Chairman, Senate Committee on Interior and Insular Affairs, stated that

"* * *we have determined that all lands within the boundaries, as defined on the enclosed map are essential to protection and public enjoyment of the preserve."

No additional details were provided on why it was essential to acquire all the lands. Total Federal funding was indicated at about $120 million.

In view of the fact that Federal court rulings have broadly interpreted the Corps of Engineers 404 permit program as applicable to all U.S. waters, which would include Big Cypress as a wetland, we believe there was a viable alternative which could have at least been considered for protection of the preserve. In addition, we do not believe it was essential to the project and public enjoyment of this preserve for the Park Service to acquire virtually all the lands within the authorized boundaries.

BLUE RIDGE PARKWAY

The Blue Ridge Parkway is a 470-mile, elongated national park extending from Virginia to North Carolina. Established in 1936, it is designed for pleasurable travel past scenic, historic, and recreational areas. On June 30, 1961, the Congress authorized the Secretary of the Interior to purchase and exchange titles to and interests in land--to consolidate the parkway, to adjust ownership lines, and to eliminate hazardous crossings and accesses. The act did not define the lands or limit the funds for the project.

PROTECTION STRATEGY

The National Park Service is acquiring all lands in the parkway. Zoning controls to protect these lands generally did not exist in North Carolina and are considered inadequate in Virginia. According to agency officials, zoning only delays development. The agency considers scenic easements hard to enforce, difficult to value, ineffective in deterring land damage such as timber harvesting, and not always acceptable to future landowners.

As of July 1978, the Park Service had acquired 77,000 acres costing $5 million. Ninety-seven percent of the land was purchased; the balance was donated or assigned right-of-way easements. The agency had plans to purchase an additional 5,000 acres for an estimated $6.7 million.

SCENIC EASEMENTS IGNORED

The Park Service has not adequately considered using scenic easements. No easements have been purchased by the Park Service. The States, however, donated 177 scenic easements covering 1,300 acres to the Park Service in the late 1930s. Agency officials stated easements often contained vague and permissive provisions and were unpleasant to enforce when used to maintain the status quo in an area under increasing development pressure. Agency officials state that their experience over a great number of years is that easements are very difficult to manage and enforce. They also state that it should not be overlooked that a program of stringent education and enforcement is not without expense when it must be done ad infinitum.

Nevertheless, only two easement cases in the parkway have ever gone to court, and the Park Service was upheld. We recognize that the success of easements will depend on efforts to educate the public. However, the task of management and enforcement will also depend on how well easements

are written; past experience from easements can contribute to their improvement and application.

ALTERNATIVES TO ELIMINATE ACCESS ROADS IGNORED

The Park Service is purchasing more lands than are needed for project purposes and objectives. It justifies most purchases as eliminating access roads up to and across the parkway. It often purchases landowners' entire tract to prevent them from being landlocked. In this regard, agency officials estimate that at least 1,000 excess acres have been purchased.

In purchasing land, the Park Service has not adequately evaluated or used alternatives. For example, the Park Service paid $1.8 million to purchase developed and undeveloped lands that included 14 houses and a swimming pool to preserve scenic values and close off a State highway that crossed the parkway.

Alternatives included an underpass for the highway, which agency records indicate could have been built for about $450,000. In addition, in 1973 the Park Service determined that the scenic qualities of the parkway could be preserved and several hazardous accesses could be eliminated without acquisition of the developed portion of this area.

Also, the Park Service ignored its own study of the potential for constructing alternative access roads that would not cross the parkway. A 1974 study indicated it could be cost beneficial to build new access roads, permitting the Park Service to acquire only the access rights to existing crossroads instead of buying entire tracts of land.

The Park Service stated that this study is very tentative and is now out of date. We note, however, that the study did precede major acquisitions completed in fiscal years 1976 through 1978. We were also told that Park Service regional officials were not aware of the study; thus, the suggestions made were not studied or followed up by the Park Service.

AGENCY COMMENTS

"The National Park Service is continuing to learn from its scenic easement and other estate management experiences. The Blue Ridge Parkway is the pioneer area of the National Park

System insofar as the use of scenic easements is concerned. So far as economy is concerned, it should not be overlooked that a program of stringent education and enforcement such as the report suggests is not without expense, especially when one considers that this must be done ad infinitum. Nevertheless, the advantages and disadvantages of scenic easements will be carefully considered in the new land acquisition plan.

"In the appendix, the GAO proposed report criticizes the Service for purchasing more land than is needed. One category of "unneeded purchases" is landlocked parcels.

"Where a remaining property would be totally or substantially landlocked, creating high severance damages, fee acquisition of the remainder is a sensible course of action. Simply landlocking an owner and letting him sit would be unfair to an owner and could lead to suits for inverse condemnation. Such action would be a violation of Public Law 91-646.'

"The purchase of land to eliminate "access roads up to and across the parkway" is criticized***in***the proposed report.

"The problem of public and private accesses onto or across the parkway motor road is one of the most serious management problems existing at this area. The private accesses were created***for the convenience of farmers and local residents. In recent years, with subdivision developments and so on, they have become first-class headaches for management and portend to increase in difficulty. The motor road was not built to interstate highway standards, being instead a road intended for leisurely and contemplative sight-seeing. These accesses, consequently, are a real traffic hazard.

"Parkway officials over the years have been alert to every opportunity to relocate roads, to provide alternate access points, or otherwise to resolve the problem without fee acquisition. These efforts will continue in the future. However, not every case is susceptible of simple solutions. In many cases, acquisition of the property served by an access or crossing right is the only feasible solution.

"The example quoted above cites the Service for ignoring alternatives and spending $1.8 million to purchase developed lands to close a highway. This undoubtedly refers to***the

APPENDIX I

Mahogany Rock area of the parkway. Here acquisition was undertaken primarily to preserve the scenery in the area of Mahogany Rock and the state park at Stone Mountain. Elimination of an access point, though a benefit of the acquisition, was not the motivating factor. In addition, the study referred to in the report is a very tentative one and is now out of date. Indeed, the topography of this area would make the construction of alternate access a troublesome proposition.

"Overpasses and underpasses are not the simple solutions that they seem. At the Groundhog Mountain development, an overpass built by the Service at considerable expense was just recently held by the U.S. Court of Appeals not to be a satisfactory arrangement for the landowners. The Park Service still must permit direct access to the Parkway. Even though the property owners in the development have other means of access, the only way that they can be denied direct access from the Parkway, according to the ruling, is by the payment of just compensation. All of the points discussed above can be considered during the development of the land acquisition plan."

OUR EVALUATION

We agree that using scenic easements can have some disadvantages (see p. 25), but believe they ought to be used where feasible. While the Park Service states it has been alert to alternatives to fee acquisition over the years, it has not purchased any scenic easements in over 40 years. We also agree that not every situation is susceptible to the use of alternatives.

CAPE COD NATIONAL SEASHORE

The Cape Cod National Seashore was established in Massachusetts in 1961 to preserve the seashore and its unique resources permanently and to ensure their availability for public enjoyment. The seashore's authorized boundaries included 44,600 acres of surface and submerged lands. The act initially authorized $16 million for land acquisition, but in 1970 it was amended to raise the ceiling to $33.5 million.

Landownership as of September 1978

	Acres
Federal	25,900
State and local	14,200
Private a/	4,500
Total	44,600

a/Of the privately owned acres, 1,300 were in condemnation.

PROTECTION STRATEGY

The National Park Service, responsible for managing and developing the seashore, has essentially acquired all properties within its boundaries, except where condemnation was prohibited. Purchase has been the primary means used in acquiring these lands. Agency officials maintain that purchase precludes development and accomplishes preservation.

The act provided that towns adopting zoning rules under Department of the Interior standards could exempt areas from the Government's power to condemn dwellings built before September 1, 1959. An estimated 550 tracts met these criteria.

These improved properties and some lands owned by the towns and the State remain indefinitely outside the Park Service's authority to condemn. However, agency officials surmised they will eventually acquire all lands within the boundaries because the law permits acquisition under certain conditions. For example, if any exempt property is used in a manner that is incompatible with public enjoyment of the seashore, it may be condemned. Also, any lands may be purchased from willing sellers.

Through fiscal year 1977, about $31 million of the authorized $33.5 million had been appropriated. The Park Service was requesting another $4.5 million to complete acquisition by purchasing 67 private tracts comprising 162 acres.

Agency officials stated zoning was never intended as a substitute for acquisition. The approved zoning only limits acquisition by condemnation. However, if an improved property is subdivided, the purchaser of a portion could legally develop it. Acquisition, therefore, according to agency officials, would be the only means to preclude development.

LANDS ACQUIRED UNNECESSARILY

Although the act authorizes the purchase of any lands within the seashore's boundaries, not all lands must be purchased. Agency officials, however, believe acquisition is the only means to achieve the act's purposes. Many lands were acquired because of their potential for development. However, the threat of impending development was not analyzed for each tract purchased.

Even though nearly all the available land has been acquired, 67 tracts (approximately 162 acres) remain and are proposed for purchase at $4.5 million. According to Park Service estimates, this is extremely expensive, as shown below:

Type of land	Acres	Cost	Cost per acre
		(millions)	
Unimproved	106	$1.5	$14,200
Improved (land and improvements)	56	3.0	$53,600
Combined	162	$4.5	$27,800

In addition, only two of these tracts, comprising about 7 acres, were identified as zoning violators requiring acquisition. Many of the other tracts were already protected under approved zoning ordinances or were vacant portions of improved properties excluded by the Park Service from condemnation.

In our opinion, if individual property uses are compatible with the purpose for which the seashore was created, acquisition is not necessary. The Park Service, however, is trying to acquire all lands regardless of (1) zoning regulations approved by the Secretary of the Interior and (2) the protected status of certain properties mandated by the Congress.

AGENCY COMMENTS

The zoning aspects of the Cape Cod legislation are discussed in this revised draft. The zoning issue is still in litigation. Arguments concerning the zoning issue have been heard by the Court, but no ruling has been made. Consequently, we do not believe it is proper to comment further on this issue at this time. We defer to the comments of the Department's Solicitor on this issue.

APPENDIX I

CHATTAHOOCHEE NATIONAL FOREST

The Chattahoochee National Forest in Georgia was established in 1936, with boundaries encompassing about 1.6 million acres. As of September 1978, the Forest Service owned 745,000 acres, or about 45 percent of the land. During fiscal years 1973-77, the Forest Service purchased 2,555 acres costing $854,000 and acquired 727 acres by exchange.

PROTECTION STRATEGY

The Forest Service acquires lands to consolidate its ownership inside the boundaries. Lands are managed for multiple use--that is, producing timber, protecting fish and wildlife, preserving watersheds, and providing recreation. Except for rights-of-way, lands are purchased from willing sellers. According to agency officials, the multiple-use land management objectives require ownership of lands; zoning controls or easements provide insufficient controls.

The Forest Service did not have goals for the acquisition or management of lands. At about 5-year intervals, it prepares land adjustment plans to show the lands it wants to dispose of or acquire. The plans do not establish acquisition priorities. According to agency officials, priorities would not be useful because their policy is to delay purchasing land until the owner offers to sell it.

OBJECTIVES DISREGARDED

The Forest Service is purchasing some lands whenever tracts and funds become available rather than as needed to satisfy specific program objectives. Individual acquisitions are justified under one or more of its multiple land use objectives but are not specifically related to the landownership pattern which would best protect forest resources, maximize opportunities for forest use and enjoyment, or permit management efficiency. In one case, the Forest Service paid $23,000 for 12 acres to provide a new access route to a recreation area. Although the Service needed only a right-of-way access on this tract, it purchased the entire tract because the owner refused to sell just the right-of-way willingly, and the agency did not want to condemn. In another case, two tracts that included 312 acres were purchased for $279,000, but neither tract was identified as necessary or desirable for any of the forest's purposes.

Below is a chronology of events relating to one of these tracts.

--March 1967--The Land Adjustment Plan designates this area priority I.

--December 1970--The landowner proposed an exchange that would reduce forest holdings in this priority I area.

--January 1971--The Service rejects this proposal which would have been contrary to Land Adjustment Plan direction.

--1972--Owner again proposes essentially the same exchange.

--January 1973--The new Land Adjustment Plan now designates forest holdings in this area from priority I, urgently needed, to not desired.

--April 1973--The Service essentially agrees to the proposed exchange. However, the agency never completed this proposed exchange due to workload constraints.

--June 1975--Owner offers to sell his holdings.

--December 1976--Nature Conservancy, at Forest Service request, purchases the land.

--December 1977--Forest Service purchases the land from Nature Conservancy despite the tract not being designated for acquisition.

--March 1978--The current Land Adjustment Plan now redesignates the entire area as desired for acquisition.

This land was not designated for acquisition on the pertinent Land Adjustment Plan. It appears the Forest Service bought this land because it and funds were available.

AGENCY COMMENTS
AND OUR EVALUATION

(See p. 136 in app. III.)

CHATTOOGA WILD AND SCENIC RIVER

The Chattooga Wild and Scenic River is 57 miles long. It begins in North Carolina and becomes the boundary between Georgia and South Carolina. When the Chattooga was designated a scenic river in May 1974, the Forest Service already owned 14,000 acres, or 86 percent, of the land inside the legislated boundaries. The Congress authorized up to $2 million for land acquisition.

Stretches of the river are classified into three categories that determine the degree of protection and development. Seventy percent of the river is classified as "wild," which precludes any new development and preserves the river in its primitive state. Four percent is "scenic," which permits some public use facilities; and 26 percent is "recreational," which allows campgrounds, agricultural uses, residential areas, and commercial facilities. The Forest Service's objective is to provide recreational opportunities consistent with these classifications.

PROTECTION STRATEGY

The Service is attempting to purchase all 2,300 private acres within the legislated boundaries. Scenic easements are being considered only if title cannot be obtained. Agency officials stated that scenic easements are too costly, are difficult to manage and enforce, and take most of the owner's rights except the right to pay taxes. Zoning is not considered a viable option to protect the lands. North Carolina and South Carolina counties had not adopted zoning ordinances. A Georgia county zoning ordinance was not considered effective.

As of September 1978, the Forest Service had purchased 781 acres costing $1 million. The agency plans to spend $1.6 million to buy 1,486 more acres as sellers offer them and to purchase a scenic easement on 8 acres whose owner is unwilling to sell. The acquisition method for the remaining 50 acres of the river area is undecided. Agency officials said project costs will exceed the authorized ceiling by an estimated $600,000 because of rising land prices and the increase in the amount of land to be acquired.

FUNDS SPENT INDISCRIMINATELY

The practice of considering a scenic easement only when a property owner is unwilling to sell all rights is the re-

verse of the logical approach. The Federal Government already owns over 90 percent of the land within this project's boundaries, which is more than adequate to meet the project's objectives. This project illustrates that opportunity and the availability of funds dictate purchases, rather than need.

For example, in South Carolina a half-mile frontage that includes both small, subdivided lots with cabins and unimproved lots is being purchased for $234,000, even though it is located in a "recreation" segment of the river where residential developments are permitted. The Forest Service considered the purchases justified to preclude adverse developments. Agency officials acknowledge, however, that these properties are being used in a manner compatible with the project's objectives, and they foresaw no imminent incompatible developments.

In North Carolina, the Forest Service was negotiating the purchase of 828 acres valued at $745,000 in a tract at the river's headwaters. In the past, however, the agency had considered the lands in this area to be mostly outside the project's boundaries and unneeded to protect the river or to provide public access.

The Forest Service stated this tract was identified as a needed addition to the National Forest System several years before the Chattooga became a wild and scenic river and had been trying to acquire this property since the late 1960s. The latest negotiations occurred in the fall of 1978.

We found evidence which showed the Forest Service attempted to negotiate purchase of this tract from the owner in the early 1970s but was unsucessful. Then, after further study of the river, the Forest Service believed adjustments to its acquisition plans were in order. As a result, a letter was sent to the landowner in December 1976, which read in part:

> "We now believe that the Chattooga can be given adequate protection through purchase of considerably fewer tracts or easements along the River. We have also determined that use restrictions will not be enforced through government acquisition for the headwaters area or that portion of the Chattooga River upstream from approximately 1 mile north of the Grimshaw Bridge. Land or easements will be acquired for a narrow strip below this point.

According to our maps, your property appears to lie sufficiently back from the River or on the headwaters 1 mile or more above the Grimshaw Bridge. Therefore, the Forest Service will not be interested in acquiring your land or restricting your use through a scenic easement." (Emphasis supplied.)

Apparently, these lands became desirable only when funds became available to purchase them.

The Forest Service, in commenting, stated:

"Our reviews of this project tend to support the GAO findings* * *the almost exclusive use of fee acquisitions in this project appears excessive."

AGENCY COMMENTS
AND OUR EVALUATION

(See p. 137 in app. III.)

CONBOY LAKE NATIONAL WILDLIFE REFUGE

The Conboy Lake National Wildlife Refuge comprises 10,200 acres of land and water in Conboy Valley, near Glenwood, Washington. The Migratory Bird Conservation Commission established the refuge to preserve wildlife. Funds for refuges are derived from the sale of duck stamps, required of all waterfowl hunters. As of October 1978, the Fish and Wildlife Service owned 6,700 acres costing $1.1 million.

PROTECTION STRATEGY

The Fish and Wildlife Service planned to purchase all refuge lands for an estimated $1.3 million. No alternative land acquisition or control strategies were considered because agency policy, until August 1977, prescribed fee-simple purchase only. In addition, until early 1976, the Service had no authority to purchase less than fee interests under the Migratory Bird Conservation Act.

A November 1966 management plan specified that developments costing $291,000 were necessary to accomplish refuge wildlife and recreation objectives. No acquisition plans or priorities were established, however, to specify the tracts necessary to meet the objectives.

Between 1964 and 1971, the Fish and Wildlife Service purchased 5,500 acres costing $796,000. However, the tracts acquired were not contiguous, which hampered their development as a refuge. To overcome this obstacle, in August 1971, the agency filed a "declaration of taking" on three tracts encompassing 1,300 acres. The Governor of Washington reacted by withdrawing his support for further expansion of the refuge. During the next 7 years, the agency's authority to condemn additional lands was litigated in court. In September 1978, the U.S. District Court of Appeals upheld the condemnation of the 1,300 acres. However, political pressures, including exclusion of funds to operate the refuge from the fiscal year 1980 budget, have forced the Service to reevaluate the condemnations. In November 1979, a Service official informed us that the agency is now considering not proceeding with the condemnation of the 1,300 acres in return for protective easements on the three tracts involved.

In May 1978, the refuge manager drafted an environmental assessment for the acquisition, operation, maintenance, and development of the refuge. Alternatives for refuge development were:

--Purchasing no additional lands. Under this alternative, 30 percent of the anticipated wildlife benefits would be achieved.

--Purchasing 480 acres to achieve an estimated 70 percent of the wildlife benefits.

--Purchasing 2,300 acres, achieving an estimated 100 percent of the wildlife benefits.

The agency had not decided which of the three alternatives it will implement. It was leaning toward purchasing 2,300 acres and had requested $375,000 to purchase 960 acres during fiscal years 1979-82. Agency officials said the probability of getting this funding is low, however, since acquiring private holdings within a refuge is a low-priority use of duck stamp funds.

WASTE OF FUNDS

This was an ill-conceived project, designed more to spend available acquisition funds than to meet program objectives. Probably the refuge should never have been established. To make matters worse, the Fish and Wildlife Service, acting without land acquisition plans or priorities, had invested 15 years and $1.1 million without developing the refuge to improve its potential as a wildlife habitat. The agency had requested funds to continue purchasing lands but had not completed its evaluation of whether additional land was necessary.

Establishment questionable

Our report issued September 11, 1968, (B-114841), questioned establishment of the Conboy Lake Refuge because it was a relatively poor habitat for waterfowl. Of the 10,000 acres approved for acquisition, only 144 contained water and marshes. At least 4,000 acres in the refuge were biologically unessential to a waterfowl habitat.

Agency correspondence indicated that the Conboy Lake area was considered for acquisition to (1) facilitate the orderly expenditure of duck stamp funds, (2) take advantage of opportunities to buy land from willing sellers, and (3) provide an additional refuge in Washington. The agency's report to support the establishment of the refuge omitted the fact that other areas of higher value for waterfowl had not been acquired.

Alternatives available

Alternatives for the refuge have not been adequately considered. One choice is to disband the refuge and sell the land. According to agency officials, this alternative was not selected because the area "has excellent potential for wetland improvement," following minimal additional land acquisition. Based on an uncompleted assessment of alternatives, the Service's Portland regional office has requested funds to purchase another 960 acres to continue development of the refuge. However, it needs additional tracts to begin or complete development of two of the three ponds in the refuge. Agency comments stated that no decision has been made as to whether funds will be allocated, as this proposal must be weighed against others on a national basis.

If continued development of the refuge can be justified, alternative land control methods should be considered. Only a small portion of the refuge lands will become permanent or seasonal ponds. Agency officials stated that current negotiations are being conducted for substantial lesser interests, primarily as an accommodation to landowners. The remaining land will be wet meadows, grazing lands, croplands, or timberlands. Lands that will not be managed for wildlife habitat could be sold, either with restrictive covenants preventing development or with the development rights restricted under a scenic easement. The proceeds from the sale of refuge lands could be used to purchase remaining key tracts.

Agency officials note that this option has only recently become available. Until a few years ago, funds from sold refuge lands reverted to the Treasury. Officials stated such funds could now be rechanneled nationally to finance other purchases. All refuges could be evaluated to identify the lands that, without interfering with the refuge's mission, could be sold with restrictions on development. Benefits of this option include the following:

--Payments to compensate local governments for property taxes would be reduced.

--Maintenance costs of lands would be reduced (with a slight increase in administrative costs).

--Lands would be returned to private ownership and use.

AGENCY COMMENTS
AND OUR EVALUATION

(See p. 157 of app. IV.)

ELEVEN POINT WILD AND SCENIC RIVER

The Wild and Scenic Rivers Act of 1968 designated the Eleven Point River for protection in its natural, free-flowing condition. The legislated boundaries include 14,000 acres in southern Missouri. At the time of the act, the Forest Service owned 3,500 acres, or 25 percent, of the lands inside the boundaries. The Congress initially authorized $2 million to acquire additional land or interests in lands inside the boundaries. The authorized funds were increased to $4.9 million in 1974 and to $10.4 million in 1978.

The Forest Service classified the entire 44-mile segment as "scenic," that is, free flowing, accessible by roads, and having a largely primitive shoreline. This classification permits some improvements, public facilities, and a wide range of agricultural and other uses. The agency established objectives to preserve the scenic, recreational, and other values of the land and water and to provide for more outdoor recreation.

PROTECTION STRATEGY

Because of the limits on land acquisition in the Wild and Scenic Rivers Act, the Forest Service planned a short-term protection strategy to purchase 3,600 acres. This land had outstanding scenic, recreational, or other values; areas needed for access or public facilities; improvements and structures that damaged the river environment; or other scenic features for which scenic easements could not be obtained. Scenic easements were to be used as a temporary measure to limit or control new development on the remaining 7,000 acres. The Land Adjustment Plan prepared by the Forest Supervisor made the following statements:

--"Scenic easements and partial interest acquisition will be considered as temporary with the ultimate objective being fee simple ownership.

--"Our ultimate land acquisition objective will be to obtain complete fee ownership within the established Scenic River boundary. Although this is presently impractical under the provision of Public Law 90-542, it is obtainable, over the long run by using other land acquisition authorities."

This plan was not approved by the Regional Forester, and the plan being used currently does not contain these statements.

As of November 1978, the agency had acquired only one-third of its adjusted acreage goals.

	Acres		
	Purchased	Goal	Percent of goal
Fee title	2,300	3,110	74
Easements	680	6,370	11
Total	2,980	9,480	31

According to an agency official, all the remaining tracts will require condemnation, which will not be completed until sometime in late 1980.

INADEQUATE PLANNING

In this project the agency did not effectively identify and acquire critical lands. Deficiencies in land acquisition plans and practices aggravated local opposition to the project, delayed its completion, and increased costs. The Service had to resort to condemnation powers nearly twice as often as it expected. Up to 35 percent of the fee purchases were justified only as preventing a potential incompatible use; thus, scenic easements might have been used at a lower cost.

While purchasing unessential tracts, the agency postponed acquisition of key tracts. For example, purchase of a title and scenic easements on 2,600 acres of a 7,000-acre tract was postponed because it contained highly controversial values and because the agency planned to purchase the entire 7,000 acres. As of November 1978, the Service had not begun to condemn.

AGENCY COMMENTS AND OUR EVALUATION

(See p. 135 of app. III.)

GOLDEN GATE NATIONAL RECREATION AREA

California's Golden Gate National Recreation Area was established in 1972 to (1) preserve for public enjoyment certain areas of Marin and San Francisco Counties with outstanding natural, historic, scenic, or recreational values and (2) maintain recreational open space necessary to urban environment and planning. The Secretary of the Interior was directed to preserve the recreation area in its natural setting and to protect it from development and uses that would destroy its beauty.

The enacting legislation in 1972 designated the area to include 34,000 acres of land, including 16,000 privately owned acres for which a budget ceiling of $62 million was established. Amendments in 1974 and 1978 expanded the areas to include an additional 4,700 acres.

PROTECTION STRATEGY

All private lands to be acquired within the legislated boundaries either have been acquired or are in various stages of condemnation. National Park Service officials felt they had a mandate from the Congress to acquire all lands within the boundaries.

PROTECTION ALTERNATIVES NEGLECTED

Although alternatives to purchasing were available, the Park Service ignored them. The legislation does not require acquiring title to all lands. It states:

> "Within the boundaries of the recreation area, the Secretary may acquire lands, improvements, waters, or interests therein, by donation, purchase, exchange or transfer." (Emphasis supplied.)

In addition, even though there is still no final management or development plan, an interim plan proposed in 1973 had as an objective:

> "To acquire all privately-owned land within the Recreation Area boundaries with the following exceptions. The properties generally known as the Audubon Canyon Ranch and the Zen Center are exempted from this objective for as long as they continue being managed for public use. Additional

properties may be excluded from this objective where existing uses are compatible with the objectives of the Recreation Area and less-than-fee interest would assure the realization of the Recreation Area objectives." (Emphasis supplied.)

The Park Service apparently forgot this resolve, since it followed a policy of full acquisition without analyzing the need. This policy has resulted in a number of costly condemnation cases, with the Park Service paying some 700 percent over appraised value in three of the five cases settled as of July 1978. An additional 37 cases, appraised by the Park Service at about $2.5 million, were in various phases of condemnation.

AGENCY COMMENTS

"The proposed GAO Report quotes from a NPS interim plan proposed in 1973 which stated that some properties may be excluded from acquisition and less-than-fee interest acquired in some areas. The GAO then goes on to say, 'The Park Service apparently forgot this resolve, since it followed a policy of full acquisition without analyzing the need.'

"The Golden Gate National Recreation Area was established on October 27, 1972. The boundary as established in 1972, was revised by an Act of December 26, 1974. The old boundary map was deleted from the original act and a new boundary map established. Quite obviously, any changes proposed in 1973 could have been included in the 1974 revision. Although about 925 acres were added to the 1974 revision, about 50 acres were deleted in the community of Stinson Beach, which needed the land for orderly growth. The acquisition of land at Golden Gate has followed plans and maps as presented to the Congress.

"The GAO makes reference to court awards which were 700 per cent over the NPS appraised value in three cases. These cases involved a legal interpretation as to whether or not community water supplies would be available to the tracts for development. Acting in agreement with the Department of Justice, the NPS, based upon the best evidence available, appraised the properties on the basis of a low density development due in large part to the lack of a community water supply. The court ruled otherwise. Currently, the Department of Justice is considering an appeal."

GRAND TETON NATIONAL PARK

The Grand Teton National Park in northwestern Wyoming is the center of a 27,000-square-mile, predominantly wild region. The area includes five national forests, three National Park Service areas, and the National Elk Refuge. As initially established in 1929, the park encompassed 96,000 acres. In 1950, a new Grand Teton National Park was established, encompassing 310,000 acres, The new park includes all of the original parklands as well as virtually all of the former Jackson Hole National Monument lands.

As of September 1978, 98.5 percent of the 310,000 acres were federally owned.

	Acres
Federal	305,583
State	1,406
Teton County	11
Private	3,350
Total	310,350

The 4,800 acres of non-Federal lands are scattered among 157 tracts, ranging in size from 0.03 acres to 1,200 acres. As shown below, 141 tracts measure less than 10 acres in size.

Tract size (acres)	Number of tracts
Less than 1	82
1 to 10	59
10 to 100	8
Over 100	8
Total	157

Four private landowners and the State own 13 large tracts which encompass 4,600 acres. These lands are used for dude ranching, recreation, and grazing. The other 144 tracts, accounting for the remaining 130 acres of non-Federal lands, are primarily used for summer or full-time residences or as recreation homesites.

PROTECTION STRATEGY

Under the 1950 act, residences, cattle grazing, and other uses consistent with the park's purposes may be continued for the lifetimes of the owners and their immediate families. The Park Service has not prepared a land acquisition plan. Private lands are acquired as owners offer them, unless they subdivide or develop their lands, in which case declarations of taking are used. All owners are contacted every few years to determine if they are interested in selling.

During fiscal years 1973-78, the agency purchased 1,200 acres for $11.8 million and grazing rights on 238 acres for $40,000. Only two tracts were acquired by condemnation.

EXCESSIVE PURCHASES

The Park Service should investigate methods to control the remaining lands without further purchases, thereby minimizing the adverse impact on the local tax rolls and land values and reducing project costs.

The Federal Government already owns 1.7 million acres, or 96 percent, of Teton County lands. Additional acquisition of private lands will increase the local government's anxiety about the loss of lands on the tax rolls and contribute to escalating land values. The Park Service paid an average of $9,500 per acre for the 1,200 acres it purchased during fiscal years 1973-78. At this price, the remaining holdings will cost an additional $45.3 million.

Federal ownership may not be necessary to prevent adverse developments or uses on the remaining holdings. Agency officials agreed that alternate controls, such as scenic easements, could adequately protect some of the remaining areas. However, such alternatives have not been considered because, according to Park Service officials, they are not expressly authorized in the park legislation. However, neither are they expressly prohibited, so we believe they should be tried, to minimize economic damage while still preserving the area.

AGENCY COMMENTS

"The proposed report suggests that the National Park Service should consider scenic easements to control land uses. Scenic easements have been considered previously in

the Grand Tetons. As pointed out in the proposed report, land in the area is quite high. The reason for this is its potential for recreational development. If uses were restricted to the grazing of cattle, for instance, a very high percentage of fee value would have to be paid for the scenic easement. The public in return would not gain any appreciable use of the property except to look at it. Nevertheless, it will be appropriate to look anew at the easement possibility during the formulation of the new land acquisition plan."

LAKE TAHOE BASIN

The Lake Tahoe Basin, administered by the Forest Service in cooperation with a bi-State agency, comprises 328,000 acres (122,000 are submerged). About 75 percent of the basin lies in California and 25 percent in Nevada. As of July 1, 1978, the Forest Service was administering 130,000 acres (63 percent) of the basin land.

PROTECTION STRATEGY

Public concern for protecting the basin's environment has resulted from the rapid development which has taken place since 1950. Creation of the Tahoe Regional Planning Agency in 1970 by the Bi-State Compact between California and Nevada was a direct result of these concerns. This agency was empowered to adopt and enforce a regional plan of resource conservation and orderly development and to exercise effective environmental controls. The Congress, in approving the compact, directed the Secretary of Agriculture to cooperate with the planning agency.

In 1974 the Forest Service, in cooperation with the bi-State agency, released "Land-Capability Classification of the Lake Tahoe Basin, California-Nevada." This study classified all lands in the basin according to their inherent capacity to withstand development without incurring permanent environmental damage. Approximately 76 percent of the basin's lands were classed as highly hazardous for use and development. High-hazard lands are characterized by steep slopes with a fragile environment and are supposed to be protected against development and remain generally in their natural condition.

As of July 1, 1978, the Forest Service administered 130,000 acres (63 percent) of the land in the basin. An additional 12,000 acres (6 percent) was in other public ownership. A Forest Service land acquisition program provides for the purchase of additional private lands to bring public ownership to about 85 percent of the area. Of the 64,000 acres (31 percent) in private hands, the Forest Service identified about 33,000 acres for public ownership.

The Service has recommended purchase of some 27,000 acres at an estimated cost of $42 million for fiscal years 1978-83. Those parcels identified for purchase in 1978 are not necessarily of a higher priority than those listed for future years. Since the Forest Service has, to date, obtained land on a willing-seller basis, the availability of private lands on the open market determines what parcels are purchased first.

ALTERNATIVES NOT USED

Forest Service officials said they have generally considered various alternatives to full acquisition and, even though each method may have its advantages, full purchase affords them the greatest control over the fragile environment of the basin.

Justification reports prepared for land purchased before fiscal year 1978 were general and included evaluative statements concerning public administration benefits and environmental analysis. There was no evidence in the files that alternatives to purchase were considered.

Forest Service officials said it has been their experience that private landowners are generally not willing to sell partial interests because of high speculative and developmental pressures in the area. Also, they said the Forest Service cannot rely on current zoning to adequately protect the fragile lands in the basin.

However, the bi-State agency developed a land management plan in 1973 to provide a general, long-range strategy for managing, using, and protecting these lands. This plan divides the basin into land use districts, the largest of which--general forest--encompasses 170,000 acres. This designation limits development and use of the land.

Many persons affected by this zoning have sought legal compensation, alleging that such action constituted a "taking" of property without just compensation. Claims for damage have been filed, but county officials said the courts are unlikely to rule in favor of the claimants. However, they did agree that rights had been zoned away and saw the Forest Service's land purchase program as a way of at least partially compensating those landowners.

Although the Forest Service does not have a specific mandate to achieve the 85-percent ownership goal, it does have the authority within existing laws. Forest Service officials said their policy is a result of Federal, State, and local concerns, and theirs is the only agency with staffing and funding to carry out the plan.

At this project, the Forest Service was using a numerical ranking system which considers costs, benefits, and needs. This type of planning could be used as a valuable tool in land acquisition decisionmaking. However, with 33,000 acres identified as suitable for purchase, continuation of the willing-seller policy, and continued funding, this system

loses much of its potential value. For example, depending on who is willing to sell when, the Forest Service is just as likely to purchase the lowest priority parcel as the highest if funds are available.

The Forest Service should revise its program to reflect existing regulatory controls and alternatives, such as easements. It should also utilize its priority ranking system to acquire only those lands critical to the project, rather than buying any lands defined as suitable or desirable.

Service officials stated that existing zoning does not preclude developments which could adversely affect the water quality of Lake Tahoe. They also stated that easements would cost about 90 percent of fee value and would not provide lands for public outdoor recreation use. In addition, they stated another factor limiting full reliance on zoning is the longstanding uncertain status of the bi-State agency, with a distinct possibility that it will cease to exist in 1979.

AGENCY COMMENTS
AND OUR EVALUATION

(See p. 138 in app. III.)

LOWER ST. CROIX NATIONAL SCENIC RIVERWAY

The 52-mile Lower St. Croix National Scenic Riverway, a component of the wild and scenic river system, forms part of the boundary between Minnesota and Wisconsin. The northern 27 miles of the river is administered by the National Park Service; the southern 25 miles, by the two States. The overall goal is "to preserve the existing scenic and recreational resources of the Lower St. Croix River through controlled development." Establishing this section in 1972, the Congress authorized up to $7.3 million for the acquisition and development of lands within the boundaries of the Federal portion of the river area. In 1975, the Congress amended the ceiling to $19 million.

PROTECTION STRATEGY

As of July 31, 1978, the Park Service had purchased title to 3,100 acres and easements on 1,700 acres at a cost of $7.6 million. The Park Service plans to purchase the remaining maximum allowable fee acreage; all remaining lands, except those in incorporated villages, are to be protected by scenic easements.

Under the Wild and Scenic Rivers Act, fee purchases were limited to 2,700 acres on both sides of the river; however, the Park Service is purchasing over 5,000 acres, based on a 1969 Department of the Interior memo which stated:

> "The legislative history of the Wild and Scenic Rivers Act makes it clear that the acreage limitations* * *apply only to those uplands extending back from each side of the river. These provisions do not require that the acreage of islands in the river or the acreages of the riverbed itself, which are included within the exterior boundary of a river area, be included in calculating the 100 and 320 acreages limitation."

The Park Service identified for purchase some 2,600 acres of islands and adjacent water areas that were not counted against the 2,700-acre limitation. Another 2,500 acres are being acquired and counted toward the limitation; thus, according to the Park Service, fee purchases will be 200 acres below the maximum.

As of March 15, 1978, the Federal, State, and local governments together owned 3,379 acres. This is 956 acres below 50 percent of the total project acreage. Although the Park Service's condemnation authority expires when half the project is pubicly owned, it began condemnation proceedings on an additional 2,093 acres at that time. Agency officials state that although condemnation procedures were started, these were not declarations of taking. Further, no title would pass until a trial had been held and judgment issued by the court. Officials state that the National Park Service has always been aware that the 50-percent public ownership limitation would be reached when there were still approximately 900 acres of fee lands to be acquired. At that time it intends to change the interest to be acquired on the remaining fee tracts to some form of easement interest.

LOCAL ZONING IGNORED

As for the State-managed portion of the river, neither Minnesota nor Wisconsin plans to purchase title to any land. Instead, the lands will be controlled with zoning regulations and scenic easements. Wisconsin planned to purchase easements on 1,300 acres at an estimated cost of $715,000, about 55 percent of the land's value.

As of September 1, 1978, neither State had purchased any easements. However, local zoning ordinances have been changed to protect the river and control development. Also, Wisconsin requires that counties establish and enforce zoning, and the State controls zoning variances. In addition, both States have implemented statewide regulatory controls over shorelands and floodplains. Although both States are relying on zoning regulations to protect the river corridor, the Park Service considers zoning as only a temporary measure until it can purchase title or easements for virtually all the land in its section.

On this project, the National Park Service has not adequately considered alternatives to fee acquisition. It is moving ahead to acquire fee title to as much land as has been interpreted as allowable, apparently without critically analyzing other ways to protect the resource. Once the allowable fee acreage is met, the Park Service will then "change the interest to be acquired on the remaining fee tracts to some form of easement interest."

This, however, was not the intent of the Congress. In a short colloquy between Senators Mondale and Nelson during floor debate in the Senate in August 1967, the following discussion took place:

"Mr. Nelson. We limited the boundaries of any scenic river area to not more than 320 acres per mile on both sides of the river, and within those boundaries restricted fee acquisition to only 100 acres per mile. In addition, on rivers where Federal ownership presently exceeds 50 percent of river bank property, no additional acquisition by condemnation is permitted.

"Mr. Mondale. In allowing the Secretaries to acquire up to 100 acres per mile in fee title, was it the committee's intention that they should in fact exercise that authorization to the fullest extent possible?

"Mr. Nelson. No. As a matter of fact, the committee's intention was just the opposite. We intended the Secretaries' powers of condemnation to be used to protect scenic and wild rivers from commercial and industrial destruction, not for indiscriminate acquisition. The bill is not a land grab, and the condemnation power is primarily for acquisition of appropriate public access sites.

"Mr. Mondale. Even in areas where industrial or commercial development threatens the river, would the bill require that the Secretary in every case purchase the fee title to the land for protective purposes?

"Mr. Nelson. No. We hope that the Secretaries will in every possible case use their power to acquire scenic easements instead of outright purchase. Not only will this be cheaper and less costly, but also, it will provide suitable protection for the scenic and recreational qualities of rivers without unduly disturbing existing patterns of residential ownership."

Mr. Nelson further went on to say:

> "I believe this establishes the committee's intention that the acquisition power of the Secretaries is to be used judiciously--primarily for public access and facilities. On the lower St. Croix River in particular, protection for the river should be accomplished by zoning and if necessary, by the purchase of scenic easements."

The maximum fee acreage therefore, was not considered a goal, and the committee's intention was not necessarily for the Park Service to exercise its fee acquisition authority to the fullest extent.

In addition, we believe the Park Service practice of initiating condemnation of some 2,100 acres in fee when it knew it could only condemn an additional 956 acres (1) is unfair to the landowners and (2) vividly illustrates the lack of any critical need determination. Landowners are put in the position of not knowing whether their land will be taken in fee or easement. In addition, the practice encourages those who do not want to sell in fee to delay, by any means, their court proceedings until the condemnation limit is reached.

AGENCY COMMENTS

"Several references are made to the ceiling increases for wild and scenic rivers and to the St. Croix River in particular. A paragraph in the Digest cites the increases in authorized ceilings for wild and scenic rivers and then continues with this sentence:

> 'This is in a program where land acquisition was intended to be minimal.'

"Further on in the Digest the following paragraph is contained.

> 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.

"In Chapter 2 a table is presented which shows the increases in authorized ceilings for wild and scenic rivers (including the Lower St. Croix). That table is followed by the following paragraph.

> Under an "acquire as much land as possible" practice, funds were not managed inefficiently. Cost ceilings placed on acquisitions were not viewed as limits, and alternative means of effectively managing and administering the project within original cost estimates were not seriously explored.

"The last sentence, as far as the Lower St. Croix River is concerned, is not true. The cost ceiling was viewed seriously. A plan was prepared, and presented to Congress, on the basis of a $7.275 million acquisition program. Even though the Dept. of Interior and the Administration opposed the legislation to increase funding, Congress authorized the additional funding to complete the project as originally contemplated. The difference in cost estimates was due to a slight difference in time (land has increased in value in the area) and a more complete study by the National Park Service. Both estimates were prepared on the same plan.

"In a statement by the Assistant Commissioner of the Minnesota Department of Natural Resources before the House Subcommittee on National Parks and Recreation, on August 2, 1974, the following remarks were included.

> 'On behalf of Governor Wendell Anderson and the State of Minnesota, I am grateful for this opportunity to testify on H.R. 12690, legislation sponsored by Messrs. Quie, Thomson, and Blatnik to supplement the initial appropriation for the Lower St. Croix Natioal Scenic Riverway.
>
> 'The natural and historic values of the Lower St. Croix River underscore its importance as a nationally significant resource.

APPENDIX I

'Both the original Scenic River Study and the joint Master Plan completed in October of 1973 note that the 52-mile segment from Taylors Falls to Prescott exhibits the following characteristics:

---A highly scenic course, complemented by an island and slough river environment in the upper reaches and lake-like river environment in the lower reaches;

---Water of high quality suitable for many outdoor recreation pursuits, including whole-body contact activities;

---A colorful history that follows the development of the Upper Midwest from the days of the early Indian settlements through the logging era;

---An outstanding area of geologic interest, notably the Dalles and the St. Croix; and

---Close proximity to the Minneapolis-St. Paul urban area, with a population in 1970 of over 1.8 million people.

'These are the fundamental reasons why in 1972 the Lower St. Croix was included by the Congress in the National Wild and Scenic Rivers System.

'An ancillary reason is the multiplicity of political subdivisions. It was becoming very difficult, if not impossible, to preserve the oustanding attributes of the Lower St. Croix with the many governmental agencies involved--two states and some thirty-five local units of government.

'Thus, upon congressional authorization of the Lower St. Croix as part of the National System, the federal government undertook the responsibility of preserving some 27 miles or, in short, more than half of the lower River.

"The State of Minnesota is pleased to have the opportunity to play a role in the preservation of this magnificent resource for generations to come. This is an ongoing responsibility which

Minnesota has recognized both in its Legislature and in the Executive Branch. Every effort has been made by our state to expeditiously fulfill our commitments.

'We are deeply troubled, however, by the minimal federal involvement recommended in the Master Plan. In reviewing Section 6 (a) of the federal Lower St. Croix Act, namely the funding provision, it should be noted that the proposed comprehensive master plan for the Lower St. Croix River succinctly identifies the problem:

> "The provisions of Section 6 have exerted the greatest constraints on preserving a significant portion of the Riverway and in controlling development in the remaining portion." (p. 28).

'Minnesota is in support of the continuation of the established land acquisition policy of the Upper St. Croix in the "Scenic" portion or the first 10.3 miles of the Lower St. Croix River, as outlined in the Master Plan. With the exception of the purchase of islands not already publicly owned and a 100-acre site for development, however, the protection of the remaining 16.7 miles of the Federal Recreational River Zone will be entirely dependent upon zoning. Essentially, this means that the States and their local units of government will inherit virtually the entire responsibility for preserving the River in this 16.7 mile reach through the administration of zoning controls. This is over and above the states' responsibilities in the lower 25 miles. This seriously compromises, if not actually subverts, the legislative intent of Section 2 of the federal Lower St. Croix River Act which states that,' the upper twenty-seven miles of this river segment shall be administered by the Secretary of the Interior'.

'The following language of the Comprehensive Master Plan recognizes the need for fee and scenic easement acquisition in the 16.7 mile reach of the river, but is forced to recommend a zoning protection program by default, due to the inadequacy of funding:

APPENDIX I

> "Given the level of funding authorized in Public Law 92-560 (The Lower St. Croix River Act of 1972) it is not possible to acquire lands in fee or scenic easements in the Federal recreation zone without seriously compromising the preservation intent in the scenic zone. Protection of the 16.7 mile reach on both sides of the river between the Chisago-Washington County Line and the northern boundary of the city of Stillwater will be primarily dependent upon the passage and enforcement of zoning controlled by three counties, five townships, and one village." (p.33).

'Zoning, historically, has proven to be the weakest tool available for the protection of land - or, in this case, a riverway corridor. Zoning laws are not a strong bulwark in the onslaught of development pressures. A few variances, for example, if incompatible with the National Wild and Scenic Rivers Program, could jeopardize the environmental quality of the entire Lower St. Croix National Scenic Riverway. In addition, it has been extremely difficult in the courts to justify zoning standards primarily on the basis of esthetics.

'Early in the preparation of the Master Plan it was determined that the $7,275,000 would be inadequate to meet the original proposal as depicted by the U. S. Bureau of Outdoor Recreation report of October, 1972, namely, the "Scenic River Study of the Lower St. Croix River". In fact, after detailed investigation of the River and adjacent lands by the National Park Service, it was determined that the cost of the B.O.R. proposal would be approximately $18,700,000. This projected cost is more than 2-1/2 times the appropriated funding for the River project in the Lower St. Croix federal legislation.

'The members of the Lower St. Croix River Management Commission were made aware of this gap in funding several months ago by federal planning officials. It was the consensus at that time to continue the established land acquisition policy of the Upper St. Croix in the "scenic" portion of the Lower St. Croix, or the first 10.3 miles, while seeking additional funding to protect and preserve those remaining lands

included in the original B.O.R. proposal. Given this constraint, it now appears that the federal government will be abdicating its responsibilities due to a lack of funds.

'With the Master Plan having been completed, the gaps in funding and in the level of protection afforded the Lower St. Croix River are all too apparent. This is the crucial issue in the consideration of this bill. To assure the perpetual protection of the outstanding scenic and recreational values of the Riverway, as recommended in both the Scenic River Study and the Master Plan, the additional funding proposed in this legislation is essential to achieve the original goal of the Lower St. Croix River Act of 1972.

'In summary, we are delighted by the recent favorable action of the Senate Subcommittee on Public Lands in recommending passage of this legislation. This is, indeed, a welcome and encouraging first step. Now we urge that you pass H. R. 12690 before you today, so that the desired management program for the Lower St. Croix River can be implemented in the immediate future and in a manner that fulfills the congressional intent and spirit of the 1972 Act.'

"Similar statements were presented by Senator Nelson and others from the States of Wisconsin and Minnesota. The National Park Service strongly believes that it is acquiring what the Congress and the state leaders intended."

OUR EVALUATION

We are not questioning the establishment of the Lower St. Croix National Scenic Riverway. However, we are questioning the practices employed by the Park Service in acquiring land in the project area. Regarding the increase from $7.275 million to $19 million, we believe our statement is true. The original 1973 Scenic River Study, which formed the basis for the $7.275 million acquisition program, was based on buying 2,700 acres in fee. The 1976 Master Plan, prepared by the National Park Service, increased the number of acres to

be acquired in fee by almost 100 percent to 5,310. This was accomplished by application of an internal memorandum which interpreted the acreage limitation. (See pp. 88 and 89 for details.)

Regarding the practices concerning condemnation, we note the Park Service chose not to comment.

NICOLET NATIONAL FOREST

The Nicolet National Forest, established in 1928, encompasses 973,000 acres, covering parts of six counties in northern Wisconsin. As of September 1977, the Forest Service owned 653,000 acres, about 67 percent of the land. Seven percent is commercial timberland and 3 percent is State or Indian trust land. The remaining 23 percent is scattered private holdings.

PROTECTION STRATEGY

The Forest Service's strategy is to acquire from willing sellers title to all lands inside the boundaries except residential properties, undeveloped subdivided areas, and agricultural land. Officials thought other methods to control land were incompatible with the multiple land use objectives--timber production, protecting watershed, protecting fish and wildlife, and recreation.

The Service has prepared plans which identify 171,000 additional acres as suitable for purchase as funds and properties become available. No cost estimates have been assigned.

Priority was assigned based on size and probability of a willing seller. For example, lands owned by timber companies and Indians were not prioritized regardless of their desirability, because it was determined these lands would not become available for sale. The properties identified for purchase were primarily scattered inholdings which were considered very desirable by the Forest Service because of the benefits to the United States in reduced administrative costs.

EXPENSIVE, UNNECESSARY PURCHASES

Forest Service officials stated that any purchase can be justified under one or more of the multiple land use objectives. According to the Forest Service, existing lands could be managed without further acquisition. It justifies additional purchases as greatly enhancing the quality of the National Forest experience and the forest's administrative effectiveness.

Thus, lands are purchased primarily on the basis of the availability of willing sellers and acquisition funds rather than to satisfy critical project needs. For example, two

large lakefront tracts costing $620,000 were purchased because the owners wanted to sell and funds were available. The Forest Service already owned much of the lakefront, with public access and camping facilities. Both of the acquired properties had extensive improvements that figured in their cost--a summer residence and a large recreation camp, which the Forest Service plans to destroy or salvage.

In another case, the Service purchased a tract from a willing seller even though the county had established a special zoning ordinance to protect the land. The Forest Service justified this purchase as consolidation of National Forest ownership and protection of the wild and scenic beauty of the river. However, this property bordered on on a State-designated wild river. Under a State mandate, the county had adopted a special zoning ordinance which protected the river by limiting development and use of lands in a 500-foot zone on each side of the river.

The Service already owns 653,000 acres which account for over 50 percent of the land in the six affected counties and plans to purchase another 171,000 acres it considers suitable for forest purposes.

We believe the practice of buying lands just because they are suitable is not an efficient utilization of limited Federal resources. Practically any tract of land can be justified as desirable or suitable under the multiple-purpose forest objectives. Before purchasing additional lands, the Forest Service should determine if they are critical to program needs or to management efficiency. Otherwise, they should not be purchased or should be controlled through less expensive alternatives or zoning ordinances.

AGENCY COMMENTS
AND OUR EVALUATION

(See p. 133 in app. III.)

ROGUE WILD AND SCENIC RIVER

The Rogue River in Oregon was one of eight rivers designated under the Wild and Scenic Rivers Act of 1968 for protection in a natural, free-flowing condition. The Forest Service administers a 37-mile stretch of the river. The Service was authorized $1.7 million to acquire lands and scenic easements, which was increased to $4.8 million in 1976.

PROTECTION STRATEGY

To protect the river's scenic qualities, the Service is trying to prevent development on over 3,400 acres of private lands within a quarter-mile of the river. On October 1, 1969, the Service submitted its river management plan to the Congress. The section concerning non-Federal lands stressed reliance on scenic easements, with land to be purchased when in the public interest or necessary for recreational development.

In July 1971, the Service identified 94 percent of the private land as needing control. The remaining lands were in a community or beyond the line of sight from the river and would not be acquired.

The acquisition plan did not estimate the cost of purchasing scenic easements for the private lands. When the plan was prepared, the Service expected to receive all the necessary funds.

As of December 1978, the Service had acquired 1,800 acres of private lands through purchases and land exchanges and held scenic easements on 1,000 acres, at a total cost of about $3 million. When planned acquisitions are completed, the Service will have acquired 1,900 acres through purchase and exchanges and scenic easements on 1,500 acres to protect the Rogue River at an estimated cost of $4 million, nearly $2.3 million in excess of funds initially authorized.

STATE ZONING IGNORED

To minimize the number of acquisitions, the Service could have used existing zoning to control developments. If necessary, acquisition could have been made where the landowner disregarded zoning ordinances.

Since 1970, Oregon has had a scenic river system which includes the same section of the Rogue River that the Forest Service manages. Oregon, in contrast to the Federal agencies, uses zoning to control development along the riverbanks. Landowners must obtain a permit to change land uses, to alter

buildings significantly, or to build new structures within a quarter-mile of protected rivers. A permit will be granted only if the intended change will not damage the river's scenic values. If the permit is denied, State officials will try to work out a compromise with the landowner. Failing that, the State can purchase the land through condemnation.

The Congress wanted the Federal agencies to work with State and local governments on zoning ordinances to protect the river corridors. The act stated that:

> "* * * [the] Federal agency charged with the administration of any component of the National wild and scenic river system may enter into written cooperative agreements with the Governor of a State * * * in the administration of the [river]."

Furthermore, the Senate report (No. 491, Aug. 4, 1967) that accompanied the Wild and Scenic Rivers Act noted:

> "* * * it is the intention of the committee that both Secretaries shall encourage local units of government to adopt zoning ordinances which are consistent with the purposes of this act and where such valid zoning ordinances are in effect and where there is no need for further Federal acquisition that the appropriate Secretary will suspend acquisition of scenic easements and fee title."

The Forest Service and the State established the number of structures allowed on each tract and agreed to support each other's program. However, Oregon did not encourage the Service to rely on it to preserve the Rogue's scenic resource because the State did not

--have adequate funding to acquire tracts through condemnation if landowners persist in altering the lands or

--want to manage tracts of land which would be intermingled with federally owned and administered lands.

The Service believes that the Oregon scenic waterways program could not be relied upon to preserve the Rogue's scenic resources. The reason given was that the Forest Service has the funds to acquire the lands, while the State does

not. An official admitted that the Service had not explored with the State a joint agreement by which, if the lands had to be acquired through condemnation by the State, the Forest Service would come in and acquire with funds from the Land and Water Conservation Fund. Instead, it has continued to purchase State-zoned land.

However, a report by the Heritage Conservation and Recreation Service stated that the Oregon Scenic Waterways System has succeeded in protecting scenic rivers with minimal purchases of private land. As of October 1978, the State had purchased 19 properties, totaling 554 acres, for $596,000 and had acquired 1 scenic easement on 106 acres for $16,200. The State sold eight small parcels with development restrictions in the deeds and plans to sell a 300-acre tract with similar restrictions. Thus, using zoning, Oregon has protected about 80,000 acres of privately owned land adjacent to its rivers while purchasing only a small percentage.

We believe the Service should use the State program as a first line of protection and acquire only where the zoning controls are violated and the land is identified as needed to protect the resource.

AGENCY COMMENTS
AND OUR EVALUATION

(See p. 136 in app. III.)

SAN FRANCISCO BAY

NATIONAL WILDLIFE REFUGE

In 1972, the Congress authorized the San Francisco Bay National Wildlife Refuge comprising about 23,000 acres of marshes, mudflats, open waters, and saltponds. A ceiling of $9 million was set for the acquisition of lands and interests therein.

PROTECTION STRATEGY

So far, the Fish and Wildlife Service's major acquisition action has been a declaration of taking filed for over 15,000 acres of saltponds owned by the Leslie Salt Company. The Service deposited $3.5 million for this land and plans to grant Leslie Salt the right to continue using the ponds for commercial purposes. However, the court has ruled that the conditions in the use agreement are tantamount to a fee taking, and a settlement figure of $7.6 million has been accepted. Service officials told us the land was taken because negotiations to determine purchase price failed. Of the 15,000 acres, only some 200 are dry upland; the rest are either saltponds or marshes.

Purchases of an additional 7,000 acres, with an estimated value of $1.7 million, are being negotiated. Five acres were purchased outside the initially authorized boundaries.

NEEDLESS PURCHASES

Many of the purchases made and proposed do not appear necessary to meet project objectives. According to a June 29, 1977, Fish and Wildlife Service environmental impact statement:

> "There are a number of overlapping and regulatory authorities which influence present land use of the area proposed for acquisition. Although each jurisdiction has a different purpose and authority under which it functions, their net effect maintains open space on a theme of clean air and water."

The statement identified three major controls on development:

--Local authorities were zoning the refuge for light or no development.

--The San Francisco Bay Conservation and Development Commission had plans and power to preserve the refuge in its near-natural state.

--The Army Corps of Engineers could deny permission for landfills, dams, dikes, or other obstructions.

In summary, the Service's statement read: "Acquisition would underwrite existing regulations which preclude many activities adverse to environmental protection." Also, "The site already is zoned against incompatible development and the refuge would support existing restrictions."

Since the area was already protected, we believe many of the acquisitions are superfluous. For example, the Service has purchased 5 acres outside the initial refuge boundaries to build a visitors center. Tenants of the site were using it as a boat works; thus, the Service has had to pay to relocate them and their possessions, including some half-built boats. Costs for this purchase are estimated as follows:

Category	Cost
Land acquisition (actual)	$ 345,000
Relocation (est.)	573,000
Development (1975 est.)	528,000
Total	$1,446,000

In retrospect, Service officials admitted they did not know what they were getting into and that relocation costs were not fully measured. The cost of moving the boats was originally estimated at $25 to $200 each. In some cases, however, subsequent commercial moving bids were as high as $75,000. Thus, direct relocation costs, which were originally estimated at $132,000, are now estimated at $573,000. Moreover, we do not believe the land was needed because alternate sites for the visitors center were available. For example, there was a county marina next to the boat works the Service could have agreed to share and a planned environmental education center on land donated by the city of San Jose. This latter site is only about a mile from the one purchased. According to an agency official, these alternatives were never considered.

AGENCY COMMENTS
AND OUR EVALUATION

(See p. 158 in app. IV.)

SAWTOOTH NATIONAL RECREATION AREA

The Sawtooth National Recreation Area encompasses 754,000 acres in central Idaho. Its establishment in 1972 culminated nearly 60 years of efforts to preserve the area's scenic mountain peaks, valleys, and streams. The Forest Service was authorized $19.8 million for this purpose.

A WELL-MANAGED PROJECT

The Forest Service has effectively combined land use controls and acquisition methods in the Sawtooth National Recreation Area. By extensively employing land use certificates and scenic easements, it has protected lands while minimizing the impact on landowners and the local tax rolls. Titles have been acquired only to prevent nonconforming land uses.

The Service worked with private landowners, conservation groups, State and local governments, and other Federal agencies to develop a comprehensive land use and management plan. It considered four alternatives, ranging from making moderate use of resources while tripling recreational development to maintaining current resource and recreational use while preserving the area's wilderness characteristics. It adopted a plan which included

--increasing camping and picnicking units by 180 percent,

--constructing 10 miles of new trails and 6 miles of new roads,

--improving wildlife habitats and aquatic environments,

--studying 250,000 acres for inclusion in the national wilderness system,

--maintaining water and air quality,

--restricting use of private lands,

--harvesting 900,000 board-feet of timber annually,

--mining valid claims without disrupting scenery, and

--allowing cattle and sheep to continue grazing on public lands.

The Forest Service issued regulations covering the use, subdivision, development, and acquisition of 25,000 acres of private lands. Again four alternatives were considered,

from letting local governments and landowners control uses and development of all private lands to complete Federal control.

Under the alternative adopted, private lands were placed in five land use categories--agricultural, community, residential, commercial, and mineral. Standards were established for use and development of each category. Landowners may apply to the Service for certification that they are using their land in conformance with the standards.

Once it certifies the land's use, the Forest Service cannot condemn it. As of October 1978, landowners have requested 176 certificates for current or proposed land uses. The Service has approved 132. Most of the other 44 were denied because the landowners wanted to subdivide their lands for recreation homesites or to construct summer homes on agricultural land.

The Service purchases titles or easements whenever an owner threatens to develop land in violation of the certificate. When the land use regulations were adopted, there were 8 subdivisions containing about 950 agricultural lots. The Service has concentrated its acquisition program on these eight subdivisions and on other agricultural lands threatened with subdivision. As of July 28, 1978, the Forest Service had acquired 80 percent of the subdivided lots.

Scenic easements are to be acquired on most of the other lands whenever the landowners threaten to subdivide them. As of July 28, 1978, scenic easements had been acquired on over 6,800 acres, or 30 percent of the area.

In the future, scenic easements will be used more extensively. Fee acquisitions will be used only if a scenic easement would take all the landowner's rights. Agency officials note they may not have to acquire all of the proposed scenic easements. A summary of proposed acquisitions follows.

APPENDIX I

	Tracts	Projected costs (millions)	Acres	Cost per acre
Fee	31	$ 1.7	365	$4,730
Scenic easement	65	19.1	15,000	$1,271
Scenic easement or fee acquisition of patented mining properties	16	2.1	1,040	$2,000
Combined	112	$22.9	16,405	$1,396

These estimates are based on the assumption that all of the landowners will eventually want to change their land's use. The estimates also took into account that about 1,050 acres of privately owned lands within the area will not be acquired because either (1) the communities will control development or (2) the land's uses will conform to the regulations. Agency personnel are working with three communities and two counties to establish control over lands in communities and residential areas.

SPRUCE KNOB-SENECA ROCKS

NATIONAL RECREATION AREA

This project encompasses 100,000 acres within the Monongahela National Forest in West Virginia. It was established in 1965 to provide recreation and conserve scenic, scientific, historic, and other values for public enjoyment. No cost ceiling was specified for land acquisition.

PROTECTION STRATEGY

The Forest Service already owned 39,700 acres in the area. Based on its analyses, the agency determined that an additional 19,000 acres should be purchased to provide recreation sites and public access and to protect the natural environment and water quality. In addition, scenic easements were to be acquired on 6,800 acres. Some 31,000 acres were identified as compatible and not essential to the recreation area's development.

PRIORITIES DISREGARDED

Actual land acquisitions, however, have not followed plans. As of August 31, 1978, the Service had spent about $3.7 million to purchase 13,000 acres. Nearly half of these acres were among those considered unessential. No easements had been purchased.

When the Forest Service first proceeded to acquire the highest priority lands by condemnation, it encountered much local resistance. As a result, the use of funds for condemnation to those properties privately sold or offered for sale after September 18, 1969, was restricted. Had it not been for this restriction, agency officials said all high-priority purchases would have been completed within 10 years, many by condemnation. Now, however, the Service believes it will take generations to acquire priority lands.

Since the condemnation restrictions were imposed, lands acquired by the Forest Service are both those determined essential and unessential. Since the Forest Service will purchase lands on a willing-seller basis, future purchases will probably include more unessential lands. Forest Service officials state that while the 31,000 acres of lower priority lands are not essential for development of the NRA, National Forest ownership can materially contribute in providing substantial long-term public benefits. We believe unessential, compatibly used lands should not be purchased. Lower priority

lands, especially, should not be acquired simply because the opportunity exists and funds are available.

AGENCY COMMENTS
AND OUR EVALUATION

(See p. 135 in app. III.)

VOYAGEURS NATIONAL PARK

This park, designated in 1971, stretches along the northern U.S. border east of International Falls, Minnesota. Its purpose is to preserve part of the route of the voyageurs, a group of guides who were employed by fur traders and "who contributed significantly to the opening of the northwestern United States." The park encompasses about 220,000 acres, of which about 80,000 are water and 140,000 are land. In 1971, the land ownership was as follows:

	Acres	Percent
State and Federal	61,000	44
Paper companies	53,000	38
Individuals	26,000	18
Total	140,000	100

PROTECTION STRATEGY

The acquisition program established by the National Park Service called for purchasing all lands within the project's boundaries. No alternative acquisition methods were considered and a master plan for the designated park was not prepared. The Congress authorized a $26 million ceiling for acquisition. As of July 31, 1978, about 64,000 acres of private land had been acquired for $22 million, as shown below.

Sellers	Acres	Cost (millions)
Paper company	51,500	$11
Individuals	12,200	11
Total	63,700	$22

About 14,000 acres of private land are yet to be acquired. These will cost at least $10 million but could run as high as $23 million depending on condemnation awards. Acquisition costs will thus total between $32 and $45 million.

The land acquisition priority system established for this project was not followed. Three priority classifications were

used early in the project--priority 1, all lands which were developed or considered to have a high development potential; priority 2, all isolated land (wilderness, etc.); and priority 3, all other lands within the boundaries. However, when acquisition of private lands began, the independent market appraisals were not received by the Park Service in order of priority. Rather than let lower priority acquisition cases sit idle while waiting for appraisals on higher priorities, the Service purchased lands as values were determined. As a result, the priority system fell by the wayside.

One of the major objectives of this project, as stated in the 1978 draft master plan, is to "increase public understanding and appreciation of the natural environment and the human past." To accomplish this, park development will be scattered and minimal. Only 130 acres, less than 1 percent of the park's area, have been classified as development zones to be used intensively, and much of the land will remain accessible only by foot, watercraft, or snowmobile.

UNNEEDED PURCHASES

There is no justification for acquiring all lands within the Voyageurs National Park. Preservation of the status quo could be achieved through many means other than purchase of all private holdings.

The Park Service could have controlled about 90 percent of the project area just by acquiring the land owned by the paper companies. According to a Park Service official, this would have been more than adequate to meet the objectives and would have avoided the costly condemnations.

The Park Service should analyze the alternatives before acquiring any land in a project. The use and development of the park area should be planned in advance. Purchases should be only a last resort, restricted to areas needed for public access or to avert an imminent danger to the resource.

Four examples illustrate the Service's wasteful purchases from individual owners:

--The owner of a rundown hotel on 10 acres with no road access received nearly $200,000 and will continue to operate it as a concession.

--A 19-acre property with a lodge and 12 cabins was bought for $280,000 and will also continue operation as a concession.

--The Park Service paid $118,000 for a 23-acre island. The seller declined a concession on the island's lodge, cabins, and dock, so the Service will demolish them.

--A fourth resort was appraised at $185,000, but in a condemnation a jury awarded $650,000, at which point the Park Service decided it did not really need the property. Nevertheless, it reached an out-of-court settlement with the owner for $500,000 and a life estate.

The benefit to taxpayers for over $1 million spent on those four tracts is hard to see. In three cases the properties' former use will continue; in the other a resort will be torn down. The Park Service commented that it is following the intent of the Congress in acquiring all lands in this project. We believe the Secretary had the flexibility to stop purchasing or change boundaries when it was determined enough land was owned to provide a viable unit.

AGENCY COMMENTS

"In Chapter 2, GAO has the following comments about Voyageurs National Park.

'At this project, it took the Park Service 7 years to issue a draft master plan which emphasizes preservation of the status quo and classifies only 130 acres as development zones for intense public use. During this period, however, the agency purchased 64,000 acres for $22 million, adding to the 141,000 it already controlled. Plans are to acquire the remaining 14,000 acres for $10 to $23 million through condemnation.

'We found no justification for acquiring all lands within this project. The agency could have controlled about 90 percent of the project area by just acquiring the land, or interest therein, owned by one paper company. According to an agency official, this would have been more than adequate to meet project objectives and would have avoided costly and time consuming condemnations. Also, some 65 percent of the area was protected before any acquisition.'

"The General Accounting Office chooses to ignore that in 1968, the Government Printing Office published a booklet written by the National Park Service entitled "A Master Plan for the Proposed Voyageurs National Park." That master plan contained essentially the same area that was authorized in 1971, except it did not include the "Crane Lake Area" which was added late in the legislative process. Although the draft report indicates that needless lodges have been purchased, the preliminary master plan contains the following statements:

> 'The boundaries of the park were carefully drawn to exclude as much timber land as possible. Out of some 52 resorts in the immediate vicinity, only six lie within the proposed boundaries. ...Ultimately, the six resorts within the park would be acquired at fair market value.'

"The appendix of the revised draft includes other statements about Voyageurs National Park, including the following:

> 'Four examples illustrate the Service's wasteful purchases from individual owners:
>
> --The owner of a rundown hotel on 10 acres with no road access received nearly $200,000 and will continue to operate it as a concession.
>
> --A 19-acre property with a lodge and 12 cabins was bought for $280,000 and will also continue operation as a concession.
>
> --The Park Service paid $118,000 for a 23-acre island. The seller declined a concession on the island's lodge, cabins, and dock, so the Service will demolish them.
>
> --A fourth resort was appraised at $185,000, but in a condemnation a jury awarded $650,000, at which point the Park Service decided it did not really need the property. Nevertheless, it reached an out-of-court settlement with the owner for $500,000 and a life estate.'

"The two resorts which were purchased by the National Park Service and leased back to their former owners under concession contracts clearly followed legislative intent. The legislative history makes clear that this is the proper intent

of the bill which states in Section 203 *** the Secretary is authorized to negotiate and enter into concession contracts with former owners of commercial, recreational, resort, or similar properties stated within the park boundaries ***." Conversely, the former owners are not required to operate the facilities.

"It should be of interest to know why the fourth resort property was the first case brought to trial at Voyageurs National Park. Our appraisal of this 200-acre property was $185,000 and the jury award was $650,000. By considering dismissal, the settlement was reduced to $500,000 plus a partial retained estate. The owners had filed an inverse condemnation suit in the U.S. Court of Claims. The owners contended that the authorizing act and the overall National Park Service presence in the area constituted a "taking" of the property. In order to get the case dismissed from the Court of Claims, the U.S. Attorney agreed to push for an early trial, using regular condemnation proceedings in the U.S. District Court. When the jury award was made, the verdict was considered outrageous from the Park Service's point of view. Yet the final settlement was reluctantly agreed to partly because if we had decided not to acquire the property we would have had to pay the landowner several thousand dollars for legal expenses he had incurred.

"Incidentally, one of the reasons that the landowners were so successful was that they contended that their 200 acres could be developed more intensively. One witness for them presented three development plans, one being a condominium project. Would such a development meet project objectives?"

OUR EVALUATION

Concerning the lack of a master plan, we have modified our statement on page 110. It should be noted, however, that alternatives were not considered and it did take the Park Service some 7 years to develop a draft master plan for the designated park.

Regarding the purchase of lodges, we are not questioning the legality of the purchases, only the necessity. The Secretary was authorized, not required, to enter into concession contracts, just as he was authorized, not required, to purchase all the lands within the boundaries. The Park Service had not identified these, or any other properties, as critical or essential to achieving the project's objectives.

APPENDIX I

Regarding the possibility of a condominium project at the fourth resort highlighted in our examples, we consider this highly unlikely because

--the property was inaccessible by land,

--the area is sparsely populated, and

--the area experiences some of the harshest weather conditions in the country.

WHISKEYTOWN-SHASTA-TRINITY

NATIONAL RECREATION AREA

This project, located in northern California, was established in 1965. We reviewed the Shasta and Trinity units administered by the Forest Service.

The noncontiguous units of Shasta and Trinity consist essentially of reservoirs and surrounding lands. The boundaries were designated in cooperation with county governments to include the minimum lands needed to meet legislative objectives. Basically, the boundaries were drawn to include all lands seen from the lakes and were extended to follow the ownership pattern of individual tracts. When established, the Shasta-Trinity National Forest already encompassed 70 percent of the lands inside the boundaries.

PROTECTION STRATEGY

Legislation required that the counties enact zoning approved by the Secretary of Agriculture. The Secretary's zoning standards, issued in 1967, detailed

--allowable residential, industrial, or commercial uses and

--provisions to protect natural scenic qualities along roadsides and lakefronts.

Both Trinity and Shasta Counties enacted approved ordinances in 1968. While the zoning ordinances were being established and approved, the Forest Service purchased 2,400 acres for $406,000. No acquisition priorities were established; land was purchased if it was needed for public recreation, was in violation of zoning standards, or was offered by the owners.

Despite the approved zoning ordinances, large amounts of additional lands were scheduled for acquisition. The plan for fiscal years 1970-74 outlined the acquisition of 6,400 acres for an estimated $2.4 million.

The master coordination plan, developed and approved by the Park Service (Whiskeytown unit) and the Forest Service in August 1971, noted that zoning ordinances were in effect for all private lands. Any zoning amendments or variances had to be approved by the Forest Service. The plan's acquisition objectives were to

--develop public recreation facilities and rights-of-way,

--provide public access to the lakes,

--protect scenic values along roads and lakes,

--forestall noncompatible land uses and developments, and

--adjust land ownership.

As of October 1978, the Forest Service had purchased more than 19,000 acres costing $5.4 million. An additional 2,300 acres are to be purchased. Easements have been purchased on 5 acres and are planned for another 50.

ZONING DISREGARDED

The Forest Service, in commenting on this project, recognized the apparent inconsistency in its actions, but was concerned that the report did not discuss the basis for the anomaly. According to the Service, the zoning controls were developed 10 years ago when the social and political climate did not favor the stricter controls that might be required today. As a result, the approved zoning provides controls but does not prevent development. Thus, the justification for purchases has been the prevention of possible residential development.

However, zoning ordinances were established pursuant to Federal standards which could have been amended by the Secretary, if deemed necessary. In addition, variances to the ordinances were subject to approval by the Secretary. Although private lands were protected from undesirable uses by these ordinances, the agency has purchased or will purchase 21,000 acres costing an estimated $8.4 million.

The Service also commented that it does rely on State and local regulations to protect the area's resources. It cites as an example reliance on State timber regulations to control logging operations on land owned by a rail company.

In this regard, we believe the Service could have relied on the zoning protection afforded by the affected counties to a much greater extent. Instead, the Service has purchased lands based primarily on the availability of sellers and funds.

YOSEMITE NATIONAL PARK

Yosemite National Park, in California's Sierra Nevada Mountains, encompasses about 761,000 acres. In 1890, the Congress set aside a parcel of land that eventually became the Yosemite National Park. As of July 1978, the Government owned 759,000 acres, or 99.8 percent of the parklands. As of July 1978, only 217 acres were privately owned, mostly in the town of Wawona, several miles inside the southern boundary of the park.

PROTECTION STRATEGY

The National Park Service is purchasing title to all privately owned lands as quickly as sellers offer them. It is also condemning these lands to prevent uses that are incompatible with the park's purpose. It has no acquisition priorities and has not used alternative control strategies.

During the 5 years ending September 30, 1977, 269 acres were purchased for almost $5.4 million, or $20,000 per acre. The agency did not immediately take over many of the parcels because the sellers elected a life estate or reserved occupancy for a specified period. The Park Service estimates that the remaining 172 privately owned acres in Wawona will cost more than $12 million, or $70,000 per acre.

Agency officials say the acquisition program, while painful to the owners, was designed to eliminate a class of "special privilege" persons who have homes inside a national park. This approach has invited much antagonism from local officials and landowners.

LOCAL OPPOSITION

Local officials and landowners are strongly opposed to further purchases by the Park Service as illustrated below:

--According to a survey by the staff of the House Appropriations Committee, nearly 80 percent of the landowners are not interested in selling their property.

--The executive director of the National Park Inholders Association said that if Wawona were a

> "* * *jumble of apartments and fast-food joints, then I could see [the Park Service's] point. But this town has been here longer than the park and it's hurting no one."

--Residents note that since National Park Service officials often complain of budgets so low that basic maintenance operations are curtailed, spending $12 million to buy additional land would be foolish. However, the Park Service cannot legally spend acquisition funds on maintenance.

--The Mariposa County board of supervisors noted these lands represent 5 percent of their tax base.

The county urges the National Park Service to

--stop pressuring landowners to sell or face condemnation and

--cooperate with the county to assure planning and zoning compatible with the park's uses while recognizing private property rights.

In return, the county pledges to give great weight to Park Service officials' opinions.

Considering the high costs and strong local opposition, the National Park Service should reverse its decision to purchase all privately owned lands. Instead, it should acquire only lands where disruptive uses are planned.

Under a new park policy, an acquisition plan will now be prepared which, according to Park Service officials, will carefully consider the various estates to be acquired to meet the requirements of preserving or developing park values after considering various alternatives. They further state that landowners will be contacted for their comments in the acquisition planning process.

AGENCY COMMENTS

"The proposed report focuses upon the purchase of inholding tracts in the town of Wawona. This town is located just off one of the main access roads and occupies a relative level area. While the acreage is insignificant, it is so situated that it can interfere with visitor use and enjoyment.

"The proposed report is accurate when it states as follows:

'Under a new park policy an acquisition plan will now be prepared which, according to Park Service

officials, will carefully consider the various estates to be acquired to meet the requirements of preserving or developing park values after considering various alternatives. They further state that landowners will be contacted for their comments in the acquisition planning process.'"

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According to newpaper articles, the Park Service in late November 1979 indicated that the landowners would be permitted to buy and sell property in a conventional manner.

APPENDIX II

ADVANTAGES AND DISADVANTAGES OF SELECTED LAND PROTECTION TECHNIQUES

There are less-than-fee techniques available which may be of value for preserving and protecting land. In theory, the owner of property in fee-simple holds all property rights. Property owners, therefore, are free to use their property in any manner they wish as long as it does not conflict with existing governmental rights and laws.

When property is acquired in fee-simple, all rights associated with the property are transferred to the new owner. The main advantage of this method is total control over land uses. The main disadvantages are the very high initial costs and the ongoing costs of administering and maintaining the land.

Less-than-fee acquisition, on the other hand, involves the transfer of a limited right or set of rights. The rights transferred are always less than the total bundle of rights possessed by the property owner. As a result, the property owner continues to hold the title to the land and is free to use the land in any manner which is consistent with the rights transferred to the acquiring party.

There is growing interest in the potential application of less-than-fee techniques for such purposes as the preservation of sensitive, unique, and scenic areas; the provision of public access; and the control of development. Easements and zoning were discussed in chapter 3. Other less-than-fee techniques which appear to have potential for serving these purposes are discussed below.

PURCHASE SELLBACK

Purchase sellback begins when a parcel of land is purchased outright. The buyer, often a public agency, then determines how the land should be managed and places restrictions on the deed in accordance with established land management goals. The property is then resold, complete with deed restrictions, to another buyer. In this manner, the property is protected and usually with the new owner's support since the purchase is made with full knowledge of the restrictions.

Purchase sellback is a flexible land management technique, but there are a number of problems which have been

identified. Both the advantages and problems are listed below.

Purchase Sellback Characteristics

Advantages	Problems
Resale of excess property should result in lowest net cost of interests which the agency wishes to control.	Public disapproval likely if governmental agency becomes a "real estate broker" and regulates interests for private use.
Promotes stability of land use, as future uses are guaranteed.	Definition of deed restrictions which are meaningful and enforceable is difficult.
Revolving fund can be used to finance acquisition program so that a self-supporting program develops.	Agencies likely to meet with considerable opposition from landowners if condemnation is used to gain control of desired interests.
Land, after final sale is made, rests in private hands; government agency not responsible for maintenance.	Difficult to initiate a comprehensive land management program when forced to wait for desired properties to go on sale.
Appraisal problem minimized as market determines value of restricted property.	

One of the few programs which has used purchase sellback as a primary means of land management is Montana's Highway Commission. The commission was interested in obtaining adequate control over parcels of land for scenic purposes but was uncertain what restrictions would be necessary to achieve its goals. As a result, the parcels were purchased outright and managed for a period of time. At the end of a trial period, the parcels were sold subject to the types of restrictions the commission felt necessary to achieve its land management goals.

APPENDIX II

PURCHASE LEASEBACK

Purchase leaseback is similar to purchase sellback in that it initially involves fee-simple acquisition. However, it differs in that once the restrictions are attached to the deed, the property is leased rather than sold to an interested party. For example, a community may want to preserve nearby farmland for recreational purposes rather than allow it to succumb to acute development pressures. One way to achieve this goal would be to purchase the property outright and then lease it back to the original owner under the conditions that it will remain in agricultural use. The property is allowed to exist as before until the community decides to use it for other open space purposes.

As with purchase sellback, purchase leaseback has a number of advantages and problems, as shown below.

Purchase Leaseback Characteristics

Advantages	Problems
Acquisition costs can be defrayed by revenues from lease arrangement.	Initial capital outlay may be extensive.
Can serve as holding strategy until funds become available for desired use.	Anticipated growth pressures on property may not occur.
Some maintenance costs transfer to lessee.	Lessor remains responsible for some maintenance and management responsibilities.
Rent payments for lessee can be deducted as business expenses.	If government assumes ownership, it must maintain local tax base by payments or by having lessee make payments.

A program in Canada has used the purchase leaseback technique successfully. The government purchased large quantities of open space around metropolitan Ottawa. Much of the land, in line with existing land management goals, was then leased back to the previous owners so that farming could continue. In this way, the area's open space has been preserved.

TAXATION

The power to levy taxes is one of government's oldest and best known powers. Taxation can be used to influence property rights as a land use control. Taxation can be used to influence land use by fostering more intensive land use, promoting conservation goals, and discouraging certain types of land use. Two modifications of property taxation relate to open space programs: preferential taxes and tax deferral.

The types of taxes that either directly or indirectly affect land use are: (1) property tax, (2) special assessment tax, (3) capital gains tax, (4) severance tax, and (5) others such as sales and business taxes. Of these, the property tax or some variation of it is the most widely used. State and local levels of government are in the best position to influence land use with this tax.

Preferential taxes

Preferential taxation is a technique where the government attempts to encourage the status quo land use by removing the incentive to change its use. The basis for the preferential tax argument is in the determination of fair market value for each parcel of land. The fair market value is usually defined as the value of the land under its highest and best use. Open-space lands located on the rural/urban fringe are often taxed with the subdivision value of the land being considered as the best use. Landowners may then be forced to change the use of their land to a more productive use. This new use is often in the form of residential development or industrial expansion. In order to avoid a change in land use and to provide for greater tax equity, many groups have pushed for tax concession laws.

Preferential assessment consists of outright forgiveness for part of the real property tax which would have been levied on a parcel of land if the assessed value were based on fair market value and not use value. Some land use planners have argued that if open-space land, when taxed at a higher than use value, will eventually have the use changed to non-open-space, then the open character can be maintained by taxing at a less than fair market value. Several States have enacted preferential tax programs, but they have generally not withstood court action. Preferential taxation also goes by the name of tax incentives. These methods run into problems with constitutional provisions that one person's land must be taxed the same as everyone else's--on the basis of fair market

value; in other words, the tax must be uniformly applied.

Tax deferral

Another property tax system to encourage open-space reservation is tax deferral. The basic rationale is the same as that for preferential taxation.

Under the tax deferral system, the tax assessor values the open-space land parcel both in terms of its use value (farm) and its highest and best use value (nonfarm). The landowner is then given the option of paying the tax on either basis. If he elects to be taxed on the farm basis and later converts to nonfarm use, he is charged with back taxes. Unlike preferential assessment, the taxes are not forgiven, but rather they are deferred until the land is actually converted to the higher use; the interest on the tax may also be deferred. A form of this tax modification has been applied to a severance tax on timber where the tax falls due when the timber is harvested.

This procedure has the advantage over preferential taxes of being acceptable on the equity of taxation principle, but it also has some drawbacks. An obvious problem is the administrative difficulty of maintaining two sets of assessed value accounts for each parcel of land. The deferral system must also be based on an overall land use plan. It also encourages development because as some landowners adopt the tax break, the land value of nonadopters increases and becomes better for development. A final criticism is that when use is changed, this procedure may result in higher than normal tax bills. This difference might be considered a penalty for changing land use.

Other tax methods

The preferential and deferred tax programs are the main property tax modifications for open-space purposes. If taxes are really a significant factor in land use decisions, the government could give direct grants to cover the increased taxes. This grant would equal the difference in the tax bill and could be viewed as rental payment, by the public, to keep the land in its current use. Also, total exemption of taxes may be used; this has been applied to low-income housing, rental housing, and industrial development. In at least 11 States, growing trees have been totally exempted from property taxes with a bare land tax remaining.

PREEMPTION

The right of preemption addresses the question of when interests in land are to be acquired. Conservation and scenic values are generally realized when land is kept in rural uses, regardless of whether it is owned by the public or by private interests. Thus, there is no need for the public to acquire a parcel of land for conservation purposes unless it is in danger of changing to a nonconforming use. Using the right of preemption, agencies can wait for such a moment. Whenever a parcel of a specific type in a designated location comes on the market, the government may preempt whoever has made an offer for the land. Then the government may purchase and keep, resell, or lease the land with restrictions.

In some land markets, this approach would have great advantages since the government would purchase only some of the properties which come on the market in a designated area over a long period of time. However, in an area which had strong development pressures with accompanying substantial land value appreciation, the real cost to government could be greater than if all properties in the designated area were acquired at the beginning of the project.

Although this approach is not used by Federal agencies, the power of preemption is used extensively in France. The concept is similar to the right of first refusal used in the private market. Use by Federal agencies would require enabling legislation.

APPENDIX III

DEPARTMENTS OF AGRICULTURE AND THE INTERIOR COMMENTS

The following appendixes contain the Departments of Agriculture and the Interior comments to our draft report. The agencies stated that our report was inaccurate and strongly disagreed with some of our conlusions.

We have addressed the comments by providing our position in brackets immediately under the paragraph or set of paragraphs in which a point is raised. In those instances where the agencies' contentions were germane, appropriate changes were made in the report.

APPENDIX III

DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20250

SEP 13 1979

Mr. Henry Eschwege, Director
Community and Economic Development Division
United States General Accounting Office
411 G Street N.W.
Washington, DC 20548

Dear Mr. Eschwege:

This letter contains our comments on the draft GAO report entitled Federal Land Acquisition - A Controversial Issue Needing Attention. This report is a revised version of an earlier draft reviewed by the Forest Service in their June 29, 1979, response to your previous request for comments.

The first recommendation is that the Secretaries of the Department of Agriculture and the Interior jointly establish a policy for Federal protection and acquisition of land.

I have no objection to the development of general policies guiding Federal protection and acquisition of land. However, the recommendation should be more specific. The draft report places almost all the emphasis on protection and preservation objectives, Land and Water Conservation Fund (L&WCF) appropriations, and the agencies acquiring lands with these monies. However, the recommendation is phrased in broad terms that extend beyond the joint responsibilities of the two Departments. If the intention is to develop guidelines for acquisitions with L&WCF monies, the Land and Water Conservation Fund Planning Group is in the process of developing these policy statements. If the intention is to develop policies for all Federal acquisitions, then several other Departments must be involved.

[GAO COMMENT: A careful reading would show that our recommendation is aimed at providing guidance to the three land managing agencies we reviewed concerning 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. These areas, with few exceptions, are managed by the three agencies reviewed. Thus, we believe the recommendation is adequately specific.]

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This recommendation was expanded on page 36 to include a determination as to how much land the Federal Government should protect and acquire. The question of how much land is needed can best be resolved by an interdisciplinary and area specific land management planning process that considers the public needs, benefits and adverse effects through environmental analyses with public involvement. This recommendation should be revised to identify the need for agencies to emphasize the development of landownership planning guidelines and the incorporation of landownership considerations in the appropriate land management plans.

[GAO COMMENT: This recommendation after further analysis was deleted.]

The second recommendation is that the Secretaries critically evaluate the need to purchase additional lands in existing projects. As mentioned in the Forest Service's June 29, 1979 response, the land management planning process mandated by the National Forest Management Act of 1976 (90 Stat. 2949) will assure that the plans for all aspects of National Forest System activities will be periodically reviewed. Plans developed under the Section 6 guidelines of this 1976 law will be in effect by September 30, 1985. This nationwide planning effort provides the opportunity for a critical review of landownership needs and plans.

Any planning and analysis effort should not interrupt on-going projects proceeding under previously approved plans. The National Forest Management Act provided that National Forest System areas should be managed under existing land and resource management plans until the new plans were developed.

[GAO COMMENT: We do not believe the existing land and resource management plans implement our recommendation to critically evaluate the need to purchase land at existing projects to achieve project objectives. This is especially true at national recreation areas and wild and scenic rivers.]

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The third recommendation is 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 Federal, State, and local governments;
- evidence 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 adverse impacts.

This recommendation is being implemented on all new projects through the Forest Service's land management planning process. As previously mentioned, these are two minor concerns with the present wording. The first indented item should not be interpreted as requiring a tract by tract listing in the land management plan. The lands or interests therein should be identified by resource needs and appropriate natural boundaries. Individual ownerships will be identified in the action or implementation plans.

[GAO COMMENT: We disagree. We believe that during the land management planning process, specific private lands should be identified that are needed to achieve project purposes and objectives. This would facilitate identifying those essential lands that must be acquired. Also, a review of the Forest Service's proposed guidelines for land and resource management planning in the national forest system does not specifically address the issue of land acquisition and alternative strategies. About the only reference we found was in section 219.10, as follows: "Some management concerns that should be considered in regional and forest planning are the needs to * * * (7) adjust landownership as needed to support resource management goals * * *." We do not believe this will satisfy our recommendation unless it is further expounded upon by the Forest Service.]

We also believe the fourth indented item should be revised to recommend "appropriate" rather than "maximum" reliance on existing land use controls. The term "maximum" could be interpreted as ruling out acquisition alternatives when it is in the public interest to acquire a scenic easement or other property rights.

[GAO COMMENT: "Maximum reliance" means that if an area is protected by State or local zoning or other land use controls, the Federal agencies should rely on it until it is changed. If it is changed, then there may be a need to consider purchasing easements or other property rights.]

Before commenting on the project reviews, I would like to discuss some general concerns. Much of this report addresses protection alternatives to Federal acquisition. Adverse effects of Federal acquisition seemed to be viewed from the incomplete perspective that the sole function of Federal acquisition is protection and preservation. Forest Service multiple use management objectives appear to be given little weight. The public benefits of multiple use management seem to be ignored. Therefore, I want to emphasize that while many of the points in the report may be appropriate where the objective is to preserve visual resources, they should not be applied to acquisitions within National Forests and several National Recreation Areas that serve a broader purpose. These lands qualify for acquisition with L&WCF monies because of their location and/or special attributes. However, this does not preclude their management for other purposes that do not detract from their recreational or aesthetic qualities. One of the strengths of the National Forest System is the synergistic effect of multiple use management. Tracts acquired with L&WCF monies are an integral part of the multiple use administration of the particular unit. Acquisition of a tract of land in fee may prevent undesirable impacts from subdivision development. It may also provide public benefits by providing land needed for dispersed recreation activities, wildlife habitat management, timber production and watershed protection while increasing administrative effectiveness. The eastern National Forests are examples of the benefits of multiple use management. The majority of the land in these National Forest System units was acquired in the 1930's. The land consisted of cutover, burned, farmed out and eroding watershed areas. Today these lands are increasingly productive and provide a variety of forest related benefits. World War II interrupted these earlier acquisition programs. The present reduced level of acquisitions is not intended to implement the landownership objectives of the 1930's. However, the Forest Service must acquire those lands needed to meet critical resource management objectives and correct resource management problems resulting from existing landownership patterns.

[GAO COMMENT: We recognize that the Forest Service, in national forests, has a mandate to manage lands for multiple uses and this is reflected in our project examples. We are not proposing that the Forest Service not purchase any land but that it determine before purchasing what lands are needed to effectively manage and maximize use of resources under its multiple-use mandate. At most of the projects we reviewed, this was not being done.]

Another concern is that the report gives little recognition to Composite plans. These plans incorporate many of the concerns expressed in the report. They have helped limit acquisition outside congressionally designated areas to the highest priority public outdoor recreation needs in the National Forest System. These plans are frequently the most current and effective landownership plans for many National Forest System units. This planning and approval process is providing public benefits that will become increasingly evident now and in the years to come.

[GAO COMMENT: We did review composite plans and found that they do not set priorities or make a distinction between lands essential and lands that would be nice to own for administrative efficiency. They do designate areas within forests in which the Heritage Conservation and Recreation Service has given them the authority to acquire lands with Land and Water Conservation Funds monies for recreation purposes. However, the plans do not reflect alternatives to acquiring land.]

The following comments address specific topics in the sequence in which they were discussed in the report.

The last paragraph on page iv indicates that Government acquisition of private lands is costly and usually prevents the land from being used for resource development. The report does not recognize that Forest Service multiple use management frequently results in increased productivity from the acquired lands.

[GAO COMMENT: We are primarily discussing land acquired for protection, preservation, and recreation purposes. (See p. 131.)]

The third paragraph on page v inacurrately states that the agencies have assumed a mandate to buy as much land as possible within project boundaries. I know of no National Forest where all the privately owned land is identified for acquisition.

[GAO COMMENT: We agree that the Forest Service does not intend to purchase all lands, such as towns and large timber company holdings. But under the willing-seller concept, all other lands are fair game for purchase. As noted in the Nicolet National Forest project example, the Forest Service already owns 653,000 acres and has identified another 171,000 acres as suitable for acquisition for a total of 824,000 out of 973,000 acres within the boundaries. The Forest Service has not identified the 171,000 acres as critical, urgently needed, or essential. (See p. 98 of the report.) Should the Forest Service make a determination on which lands must be purchased to achieve the objectives of the Forest Service, we would have no objection to this acquisition.]

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The fourth paragraph on page v indicates that when the objectives of a project concerns preservation, conservation, or aesthetic values, the Government could rely on zoning or easements. However, conservation is most frequently and properly defined as wise land use. If the objective is public land use, then easements and zoning would generally be inappropriate.

The draft Forest Service policy discussed in the third paragraph of page 5 has now been incorporated in the Forest Service Directives System. The second sentence in this paragraph was apparently implied from the context of the policy statement. It could be better stated that alternatives to fee acquisition may be suitable for other management objectives.

[GAO COMMENT: We agree that when land is set aside or purchased for public use, such as camping, then easements and zoning would not be appropriate. Page 30 of the report reflects our position.]

The first full paragraph on page 11 presents the author's views on the impact of Federal acquisitions on local revenues. As mentioned in the Forest Service's June 29, 1979 response, I encourage you to review the July 1978 report prepared by the Advisory Commission on Intergovernmental Relations that addresses this subject. The analysis in this 1978 report did not support the conclusion that Federal landownership has severe adverse effects on local governments.

[GAO COMMENT: Our statement is based upon local officials' comments. We are aware that there are other studies which indicate that tax revenue losses are more than offset by payments in lieu of taxes, but local officials still believe this is a problem.]

The first sentence of the last paragraph on page 15 states that the Forest Service purchases lands on the Nicolet National Forest based primarily on the availability of funds and willing sellers. I do not agree with this statement. The Forest Service's previous response addressed this concern, but I want to reemphasize that tracts are acquired in response to needs identified in approved plans. The report cites two lakefront purchases as recent examples where willing sellers and the availability of funds were the primary criteria for the acquisition. The report failed to recognize that these tracts had been identified as meeting public outdoor recreation needs in the Big Lakes Composite approved by the Regional Forester on February 11, 1975, and the Bureau of Outdoor Recreation (now the Heritage and Conservation and Recreation Service) on April 4, 1975. These properties were purchased as the result of an analysis process that identified less than 10 percent of the privately owned land

within all National Forest System boundaries for acquisition. This composite was developed in conjunction with the Nicolet National Forest Recreation Management Plan approved by the Forest Supervisor on April 16, 1975. Both acquisitions are supported by the coordinated wildlife habitat program for the Wisconsin National Forests, developed by the Wisconsin Department of Natural Resources, Wisconsin Wildlife Federation and Forest Service. The acquisitions also helped protect the habitat of a threatened (and now classified as endangered) species, the Northern Bald Eagle. These acquisitions met public outdoor recreation needs and prevented development that would have adversely affected the habitat of a threatened species.

The report also states that an "official" said that any developments allowed by existing zoning ordinances would not have harmed the lake's scenic or natural environment. However, County zoning governing the development of the two acquired properties will allow development of 100-200 homesites on each tract. Experience in the local market indicates that this development would have occurred if the properties had been sold to private investors. This development would have adversely affected the natural environment in this area.

[GAO COMMENT: We addressed the inadequacy of composite plans for critical land acquisition analysis in an earlier comment. (See p. 132.) Regarding species protection, the justification for purchase was based upon prevention of possible future development. Further, the statements concerning protection of the bald eagles are not valid. The Fish and Wildlife Service has determined that adequate biological support for recognition of subspecies of bald eagles does not exist; therefore, there is no such subspecies as a "Northern Bald Eagle." The bald eagle is, however, listed as threatened in Wisconsin and as such is protected on private land by section 9 of the Endangered Species Act, as amended, and by the provisions of the Bald Eagle Protection Act. Also, although the bald eagle has been listed, no critical habitat has been designated. Therefore, the lands acquired cannot be justified as being "critical" to the survival of this species. Regarding the potential for future development, this is a matter of conjecture because development was not imminent or planned. Nicolet is located in a remote area of Wisconsin which has a small population base, and it is highly doubtful the 200 to 400 homes would have been constructed on the sites. However, we did note the Forest Service's position in the project case example. (See p. 16.)]

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The discussion about the Spruce Knob-Seneca Rocks NRA on pages 16 and 17 seems to indicate that lands needed for construction and development are the only ones that should be acquired. Multiple use objectives are not seen as warranting Federal acquisition. I cannot agree with this assessment. Section 5 of the act establishing this NRA provided for continued multiple use management. The lands being acquired were also identified for acquisition, but on a willing seller basis. These lands will materially contribute to the objectives of the NRA. They provide needed land for dispersed public outdoor recreation, help maintain and improve the quality of water related resources in the NRA, assure proper land management practices on rough timberlands in the NRA, and increase resource management effectiveness and administrative efficiency.

[GAO COMMENT: The Forest Service made the determination that 31,000 acres were not essential to development of the Spruce Knob--Seneca Rocks National Recreation Area. It appeared to us that because Forest Service was prohibited from condemning essential lands, it had excess funds and was buying anything within the boundaries from willing sellers, even lands designated as unessential. Further, the Congress has not given the Forest Service a mandate to acquire lands to gain multiple-use resources. Its mandate under the Forest and Rangeland, Renewable Resources Planning Act of 1974 and the National Forest Management Act of 1976 is to manage existing Forest Service land for multiple uses. We do not believe it appropriate for the Forest Service to try to justify land acquisition with land and water conservation funds under the broad umbrella of multiple use when the funds are intended to be used for recreation.]

The last paragraph on page 19 includes statements indicating the Forest's land adjustment plan for the Eleven Point Wild and Scenic River was not consistent with Forest Service policy. However, a review of the plans on the Forest indicated that the quotes cited on pages 19 and 20 of your report could only be found in a draft plan that was never approved by the Regional Forester. Acquisitions along this W&SR are based on the Eleven Point National Scenic River Unit Plan approved by Regional Forester Jay Cravens on May 23, 1973. This plan conforms to the Forest Service policy discussed in the June letter.

[GAO COMMENT: We agree that the plan was prepared by the forest supervisor and not approved by the regional forester. However, we included the quote to show that, at the project level, the attitude is to buy as much land as possible. Page 19 has been clarified.]

Page 31 discusses Forest Service acquistion in the Whiskeytown-Shasta-Trinity NRA and states that Department of Agriculture-approved zoning ordinances were ignored. Although pages 100 and 101 in the Appendix of the report mention the Forest Service's comments, they were not reflected here. I am concerned that this statement in the body of the report does not reflect the fact that these zoning ordinances, in combination with other State regulations, are being relied on for appropriate land use controls in several portions of the NRA. In some areas, acquisition was necessary as zoning alone could not accomplish the management objectives.

For example, the physical and economic characteristics of some of the area (particularly around Shasta Lake) were not well suited for significant down zoning actions. The land is not suitable for timber management, agriculture or similar visually acceptable uses. Zoning away residential development would take all value and be tantamount to inverse condemnation.

[GAO COMMENT: Forest Service comments added. (See p. 117.)]

The discussion on pages 31 and 32 about acquisitions along the Rogue W&SR should be corrected to indicate that the majority of the interests acquired under the Wild and Scenic River authority were scenic easements and not fee title. As of March 31, 1979, 1,029 acres of scenic easements and 872 acres of fee title lands had been acquired under the Act of October 2, 1968 (82 Stat. 906, as amended). The acquisition cost was $2,873,473 and not $33,000,000. Present plans call for the acquisition of an additional 664 acres of scenic easements, resulting in about a 2:1 ratio of easement to fee acquisitions.

[GAO COMMENT: Page 31 has been clarified. Also, 33,000,000 should have been about $3 million (typo).]

Pages 59-61 discuss Forest Service acquisitions on the Chattahoochee National Forest. I am concerned about the statements in the last paragraph on page 59 indicating that the Forest is purchasing some lands whenever tracts and funds become available rather than as needed to satisfy specific program objectives, improve landownership patterns, maximize opportunities for forest use and enjoyment or permit management efficiency. I agree that these factors should be the basis for many landownership decisions. However, I believe that an examination of Composite Plans will show that many of these items have been covered.

[GAO COMMENT: We have previously discussed the inadequacies of composite plans. (See p. 132.) Further, in this forest, with 855,000 privately owned acres, we believe it is necessary to set specific priorities, needs, and acquisition goals rather than using the broad multiple-use justification for willing-seller acquisition. (See p. 34.)]

APPENDIX III

The Forest Service had previously commented on acquistions along the Chattooga W&SR. The 828-acre tract cited on page 63 of the report was identified as a desirable acquisition before the Chattooga was added to the Wild and Scenic River System. It is still a needed addition to the Nantahala National Forest. The quote on page 64 is an excerpt from a letter sent to several owners in this area of the headwaters of the Chattooga. It was written to clarify our acquisition intentions with respect to the Wild and Scenic River only. The wording should have reflected the fact that the property was still identified as a desirable acquisition for purposes other than the Wild and Scenc River as the Forest was negotiating with the landowner at the time.

[GAO COMMENT: A careful reading of the case example (See pp. 71 to 73) will show we have included Forest Service comments related to the desirability of this tract.]

The last paragraph on page 69 repeats the quotes from the draft land adjustment plan that was never approved.

[GAO COMMENT: We have clarified this issue on page 78.]

I would suggest that the reference to the anticipated condemnation award at the bottom of page 70 as a published statement can become a self-fulfilling prophecy when used by opposing attorneys.

[GAO COMMENT: We agree and have deleted the statement.]

The statement on page 77 that the Forest Service should acquire only the highest priority properties seems to be a recommendation for the increased use of condemnation. This policy on the Spruce Knob-Seneca Rocks NRA resulted in enough controversy to delay acquisition efforts for several years.

[GAO COMMENT: We believe that if condemnation is necessary to quickly acquire critical lands, then it should be used. Reliance on the willing-seller concept gives no assurance that the highest priority or critically needed lands will be purchased. Federal funds are limited and should be spent for those lands which give the greatest public benefits.]

It is important to realize that there are many properties that should be added to the National Forest System as soon as possible although they are not needed for immediate development and the

current use does not cause irreparable damage to other Federal resources. Acquisition will help meet identified resource management needs, increase administrative effectiveness, reduce local government expenditures, and increase management alternatives. These benefits are real and can be provided by many tracts available on a willing seller basis. The Forest Service would be guilty of irresponsible management if it did not follow through on opportunities to enhance the effectiveness and efficiency of the National Forest System units by such prudent capital investments.

[GAO COMMENT: We believe that emphasis should be placed on acquiring the many critical, urgently needed lands within the Forest Service projects.

According to Forest Service officials, they can justify the purchase of any piece of land under the broad, nonspecific, multiple-use purposes. They also stated that the existing national forest lands (specifically Nicolet) can be managed without further acquisition. Further, many willing-seller acquisitions are justified as consolidating ownership. As we point out on page 9, the widely scattered ownership, which justifies consolidation, is caused in part by reliance on the willing-seller approach.]

In the Tahoe Basin the current policy is providing significant public benefits while providing additional negotiation time for any of the highest priority tracts not currently available. Experience has shown that there may be enough changes in a year or two's time to significantly reduce the condemnation potential in an area.

The Forest Service's response to the initial draft report explained the basis for the two lakefront purchases discussed on page 83.

I would have appreciated the opportunity to review the circumstances regarding the purchase described on the third paragraph on page 83. However, there was not enough information presented to identify the acquisition.

[GAO COMMENT: As we note on page 86 of the report, the Forest Service was using a numerical ranking system at Lake Tahoe which considered costs, benefits, and needs. This system could be a valuable tool in land acquisition decisionmaking. However, with 33,000 acres identified as suitable for purchase, continuation of the willing-seller policy, and continued funding, this system loses much of its potential value. Depending on who is willing to sell, the Forest Service is likely to purchase the lowest priority parcel rather than the highest if the funds are available.]

4. On page 13 of Chapter 2, the following statement is made.

> "...which results in the acquisition of lands which are not essential to meet project objectives..."

It is pointed out that this is a matter of opinion rather than a fact, as presented.

> [GAO COMMENT: We believe our project examples clearly support our position.]

5. On page 18 of Chapter 2, the following paragraph is found.

> In another area, the Park Service decided it did not want to purchase some holdings and attempted to get the boundaries of the park changed to exclude them. When this failed, the agency followed its policy of acquiring all lands within the project boundaries.

We do not know to which area the GAO is referring. However, if the National Park Service failed to get the boundaries changed to exclude certain properties, it must have been because Congress, representing the people of the Nation, did not want the boundaries changed. Therefore if we had not attempted to acquire the properties, it does not seem likely that we would have been following the intent of Congress.

> [GAO COMMENT: This is the Big Cypress Preserve which is discussed next and in more detail in the project case example. (See p. 53.)]

6. In Chapter 2 concerning the Big Cypress Preserve, the following statement is made.

> "...the Park Service overlooked alternative protection methods, such as easements and other Federal controls, which would have involved minimal costs."

The statement quoted above is not true. On May 14, 1973, the Assistant Secretary of Interior supplied to the appropriate Congressional Committee Chairmen a summary of seven (7) alternatives which had been considered with respect to the proposed Big Cypress Preserve. The alternatives which were listed and discussed were (1), no action (2), fee acquisition (3), control by state and county authorities through land use planning and zoning (4), joint local-federal control (5), control by trusteeship (6), federal control through the application of land use restriction and (7), control by public corporation. Rogers C. B. Morton, the Secretary of the Interior, testified in May 1973 before the House Subcommittee on National Parks and Recreation in part as follows:

APPENDIX IV

[GAO COMMENT: The 977,000-acre figure represents land acquired by the National Park Service with land and water conservation funds. The 1,359,000 figure represents all lands obtained by the Service including lands donated, etc.

2. Under the heading "Impacts of Federal Land Acquisition" of Chapter 2 the following statement is made:

"Also, Federal ownership prevents developments..."

In order to preserve, protect or enhance certain values found important to the Nation, we are often asked to acquire lands for the very reason of preventing developments. Thus, the above statement is considered inappropriate.

[GAO COMMENT: We agree that the Park Service does acquire land to prevent development. We are not saying this is wrong; we are merely stating that Federal acquisition does prevent private landowners from developing lands which otherwise would result in much higher revenues to local governments if developed.]

3. On page vi of the digest the possibility of less than fee ownership is discussed. The following statement is made:

"Resistance to Federal acquisition should be reduced, since the land will remain on the tax rolls."

The National Park Service has not found easements any easier to buy than fee tracts.

[GAO COMMENT: Until April 1979, the National Park Service's policy and practice was to acquire all lands within project boundaries unless otherwise restricted by legislation. Resistance to this practice has been widespread and it will probably take the Park Service some time to convince private landowners of the advantages of easements. We noticed that the Forest Service was successful in doing this at the Sawtooth National Recreation Area. (See p. 105.)]

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The fifth paragraph on page 85 indicates that 1,800 acres of land had been acquired as of December 1978. As previously mentioned, the actual acreage of fee lands acquired under the Wild and Scenic Rivers authority as of March 31, 1979 is 872 acres. Current plans indicate that the final acreage of easement and fee acquisitions will be 1,693 acres and 872 acres, respectively.

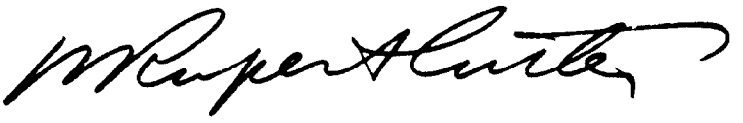
[GAO COMMENT: We have clarified the acreage figures.]

Page 87 proposes backing up State zoning with Federal funds. There appears to be some disadvantages to this approach. Funds would have to be available to cover the necessary filings. Costs would continue to escalate as land values increased. A few court awards would soon make it evident that forcing the issue to condemnation would result in significant real estate profits. The end result could be that most properties would be acquired, but at a much greater cost, and with greater controversy, over a longer period of time.

[GAO COMMENT: We agree there could be some problems, but unless and until an attempt is made to use alternatives, the problems are conjecture. We noted on page 30 that the Oregon scenic waterways program has succeeded in controlling some 80,000 acres and has had to purchase only 554 acres.]

I have appreciated this opportunity to review and comment on the draft report and suggest necessary corrections. As mentioned previously, I am concerned about the protection role of Federal acquisition, the fact that the Composite planning process is not recognized as a valid process to identify needed lands, and that the benefits of multiple use management are not given more consideration. I believe the report should emphasize the need to address landownership questions during the Forest Service's land management planning process. Your review has identified some areas that need additional emphasis. I hope this letter and the Forest Service's earlier response have been useful in more accurately defining the current situation in respect to this controversial issue.

Sincerely,



[illegible] MILLER
Assistant Secretary for
Natural Resources and Environment

APPENDIX IV

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

SEP 21 1979

Mr. Henry Eschwege, Director
Community and Economic Development Division
U.S. General Accounting Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Eschwege:

This letter transmits the comments of the National Park Service, the Fish and Wildlife Service, the Heritage Conservation and Recreation Service, and those of the Solicitor's office, concerning the revised GAO draft report entitled: Federal Land Acquisition Policies Should be Changed.

As the detailed comments from the Services and the Solicitor's office indicate, the revised draft report continue to be inaccurate with its specific statements, misleading with its general comments, and far too narrow and prejudicially selective in focus to provide a valid overview of Federal land acquisition policies.

The specific comments attached identify our concerns. I recommend them to your attention.

We appreciate your agreeing to accept our written comments and include them as a part of your final report. If we can be of additional help in revising this second draft report so that it can be made into a document useful in this endeavor, please let us know.

Sincerely,

Assistant Secretary for
Fish and Wildlife and Parks

Attachment

APPENDIX IV

United States Department of the Interior

NATIONAL PARK SERVICE
WASHINGTON, D.C. 20240

IN REPLY REFER TO:

L1425(640)

SEP 12 1979

Memorandum

To: Assistant Secretary for Fish and Wildlife and Parks

From: Director, National Park Service

Subject: Comments upon GAO Revised Draft of a Proposed Report entitled, "Federal Land Acquisition - A Controversial Issue Needing Attention"

The second revision, dated August, 1979, of GAO's draft of a proposed report on Federal Land Acquisition shows some improvement over previous drafts.

The proposed report still presents opinions as fact in some statements and paragraph headings. For example, on page 12, a paragraph is entitled as follows, "Practices Resulted in Purchases of Unessential Lands". At the very least, such statements should contain the word "May". The National Park Service's land acquisition program has always been based upon following, to the best of its understanding and ability, the intent of Congress and the advice received from professional planners and park managers. In some cases, the proposed report contains statements which seem to contradict Congress itself. As an example, the report appears critical, on page 19 of Chapter 2, of the Senate Committee on Energy and Natural Resources for approving a Declaration of Taking on which the National Park Service clearly outlined other alternatives in its letter of August 16, 1978, to the Committee Chairman. By citing this as an example of "an unessential purchase", the report contradicts the Committee who considered the alternate factors and made a decision to purchase. Therefore, for the report to be more accurate and less misleading, opinions should be presented as such, rather than statements of fact.

[GAO COMMENT: We are not critical of the Senate Committee on Energy and Natural Resources. We are presenting the facts that the Park Service wanted to and could have under section 1(c) of Public Law 93-440 excluded this tract of land from the Big Cypress boundary but instead it chose to go to the Senate Committee for declaration of taking authority, thereby increasing project costs. Additional agency comments on Big Cypress and our evaluations are discussed further. (See p. 54.)]

The proposed report contains a discussion of various projects which are used in an attempt to prove GAO's allegations and eventually to form a basis of its recommendations. Since the recommendations are the most important part of the GAO Report, they will be discussed first. Project situations and other statements within the proposed report will be commented upon in more detail in an attachment.

- GAO'S DIGEST RECOMMENDATIONS -

A. POLICY ESTABLISHMENT AND IMPACT OF PROTECTION MEASURES

GAO's recommendation statements 1 and 2 seem to be overlapping recommendations which are repeated as follows:

> 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.
>
> During its review, GAO Noted that there was no overall policy on how much land should eventually be protected and owned by the Federal Government in the United States. Instead, specific laws have been enacted setting aside certain areas of the country for Federal protection and land acquisition. GAO Is therefore, recommending that the Secretaries also address this issue. Alternative scenarios should be developed on how much land the Federal Government should protect and acquire in terms of benefits versus costs and impacts such as:
>
> --the effect the cost of acquiring land or interest in land will have on the budget, inflation, and the economy;
>
> --the impact of protection and acquisition on State and local government;
>
> --the cost to the Government for payments to local governments in lieu of taxes and the cost to relocate private owners;

--the trade-off of acquiring land or interest in land in relation to energy, community, and economic development;

--the impact on agricultural production;

--the cost to develop, operate, maintain, and manage protected and acquired land; and

--the impact and effect on private land owners.

NPS COMMENTS TO ABOVE RECOMMENDATIONS:

On an individual project, the National Park Service normally covers the items listed in the form of planning documents, cost estimates, legislative briefing statements, and oral testimony. Although we participate in the Land Policy Group, the National Park Service has not worked on a study to determine how many acres that the National Park Service or the Federal Government should own. This is a matter of national policy that has been addressed numerous times by the Congress and Executive Branch. Each proposed park stands on its own merits in terms of significance or need. We doubt that any finite number can be agreed upon as to how many acres should be in public or private ownership.

[GAO COMMENT: The second recommendation after further analysis was deleted.]

The National Park Service would favor broadly written standarized procedures to be used in the study process for proposed new areas. In fact, we believe that our "New Area Study Program" does cover most of the planning points raised in the GAO draft report. If each plan is properly prepared, both the Executive and Legislative Branch, should be able to adequately weigh the requirements for public ownership, private ownership, or a mixture of both.

As a matter of information, plans currently prepared by the National Park Service include, but are not limited to the following:

Study of Alternatives for Preservation in Proposed Areas

Reconnaissance Surveys of new areas

Legislative Data, including -
Land Cost Estimates
Payment in lieu of taxes estimate
Estimate of operating costs
Comments upon items proposed for protection

Statement for Management (for authorized areas)

Environmental Impact Statement or Assessment

General Management Plan

Land Acquisition Plan

Relocation Plan (Plan for relocating residents, if necessary)

Most of the above plans are prepared with public participation.

B. CRITICAL EVALUATION IN EXISTING AREAS

GAO also recommends that the Secretaries critically 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.

NPS COMMENTS:

On April 26, 1979, there was published in the Federal Register a Revised Land Acquisition Policy of the National Park Service. This policy provides guidelines to the field level for consideration in developing a land acquisition plan for each authorized area. The guidelines direct each area to consider the legislative history for the park and public response. Comment and coordination with the local agencies are encouraged. All areas of the National Park System having non-Federal land within their boundaries are scheduled to have completed Land Acquisition Plans by April 26, 1980. The National Park Service considers itself in compliance with this recommendation of the GAO revised draft of the proposed report.

C. PLANS FOR NEW PROJECTS

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 Federal, State, and local governments;

--evidence 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 adverse impacts.

NPS COMMENTS:

Land Acquisition Plans will be prepared for all newly authorized areas. In some cases the Environmental Impact Statement or Assessment, the General Management Plan, and the Land Acquisition Plan may be prepared concurrently, and included in one document. The Land Acquisition Policy as published in the Federal Register requires alternatives to fee acquisition to be considered as indicated by the following statement.

Alternatives to Fee Acquisition

Full consideration will be given to all types of land protection methods such as fee acquisition, scenic easements, zoning, cooperative management, rights-of-way acquisition, or other alternatives. The land protection methods used will be discussed in the individual land acquisition plan.

Scenic easements or other less-than-fee interests shall be described in terms of the degree of protection required to meet the resource management and visitor use needs of the park area. The terms of the scenic or other easement estate to be acquired should be included in the plan to the degree possible.

Property owners within park area boundaries are responsible for complying with whatever local zoning or development controls are in effect.

The park manager should encourage property owners to discuss proposed changes in ownership or structural improvements to the property with him/her.

The National Park Service already has procedures which accomplish the objectives of this recommendation.

[GAO COMMENT: These comments are included in the agency comment chapter. (See p. 37.)]

NPS ASSESSMENT OF FACTUAL BASE

Regretfully, we continue to fault the report for its factual inaccuracies, for its reliance on vague assertions of opinion by unidentified officials, and for an evident bias against the programs and objectives of the National Park Service and other Federal land management agencies. The authors of the draft report, for example, seem greatly concerned that the Federal Government owns one third of the land in the country. That the Government owns over one third of the land in the nation scarcely seems relevant to a consideration of whether or not certain land areas designated by Congress for specific conservation or recreation purposes need be acquired for the intended purpose.

[GAO COMMENT: We disagree that it is irrelevant that the Federal Government owns over one-third of the land in the Nation in view of the fact that many more millions of acres of private land are planned for acquisition.]

In some cases, the GAO seems to criticize agencies for carrying out the will of Congress. In other instances opinions are presented as facts. Either through inadequate research or through a will to ignore fundamental points, inaccurate and misleading statements are presented. To wit:

1. On page 4 of the Introduction a table is presented which shows that the National Park Service has acquired 977,000 acres from 1965 to Sept. 30, 1977. On page 5, a table shows that the National Park Service had acquired 1,359,000 acres during a shorter period from 1973 to 1977. The figures do not seem to agree. Our figures support the 977,000 acres.

"You may also ask whether Big Cypress can be protected in some manner other than by outright purchase. I don't know any other way. We have studied the alternatives, and all fail to do the job, or end up with full fee acquisition.

We looked at zoning and at every conceivable combination of federal-state-county arrangement, taken one, two, and three at a time. We looked for innovative legislation.

We considered new organizational units, such as trusteeships, and a public corporation. We tried easements but ended up needing a substantial part of the fee and the job of policeman. We considered federal compensatory regulations but again saw the possibility of ending up with the fee. We considered a system of parkways and easements. We tried permutations of all these ideas. It came out the same each time."

After much deliberation on this issue, Congress passed the Big Cypress legislation in 1974. During the process, Congress specifically considered "Compensable Land Use Regulations", but rejected the idea. Congress was quite specific in the interests that were free from fee acquisition and those exemptions have been followed.

[GAO COMMENT: We agree that the National Park Service did consider some alternatives but did not pursue them beyond the discussion stage. Further, the Service overlooked the Corps of Engineers dredge and file permit program established by section 404 of the Federal Water Pollution Control Act Amendments of 1972. We believe this program could have provided much of the protection sought for the Big Cypress Preserve. Additional agency comments and our evaluation are discussed in more detail in the project case example. (See p. 53.)]

7. Concerning the Blue Ridge Parkway the GAO proposed report, in the appendix section, criticizes the Service for purchasing more land than is needed. One category of "unneeded purchases" is landlocked parcels. Where a remaining property would be totally or substantially landlocked, creating high severance damages, fee acquisition of the remainder is a sensible course of action. Simply landlocking an owner and letting him sit would be unfair to an owner and could lead to suits for inverse condemnation. Such action would be a violation of public law 91-646.

[GAO COMMENT: To avoid misunderstanding, the word "unneeded" was changed to "excess." (See p. 63.)]

8. In relation to the Golden Gate National Recreation Area the proposed GAO report quotes from a NPS interim plan proposed in 1973 which stated that some properties may be excluded from acquisition and less-than-fee interest acquired in some areas. The GAO then goes on to say, "The Park Service apparently forgot this resolve, since it followed a policy of full acquisition without analyzing the need."

The Golden Gate National Recreation Area was established on October 27, 1972. The boundary as established in 1972 was revised by an Act of December 26, 1974. The old boundary map was deleted from the original act and a new boundary map established. Quite obviously, any changes proposed in 1973 could have been included in the 1974 revision. The acquisition of land at Golden Gate has followed plans and maps as presented to Congress.

> [GAO COMMENT: We agree that the boundaries of the park were revised. However, our point is that the Park Service still followed a policy of buying all lands, except two parcels, within the boundaries without critically evaluating the need or the interest required in the land to achieve project objectives. (See p. 80.)]

9. In reference to four Wild and Scenic Rivers, the following statement is made in Chapter 2.

> "Cost ceilings placed on acquisitions were not viewed as limits, and alternative means of effectively managing and administering the project within original cost estimates were not seriously explored."

We cannot speak for wild and scenic rivers managed by the other agencies, but, as far as the Lower St. Croix River is concerned, the sentence is not true. The cost ceiling was viewed seriously. A plan was prepared, and presented to Congress, on the basis of a $7.275 million acquisition program. Even though the Dept. of Interior and the Administration did not ask for legislation to increase the authorization to $19,000,000.00, Congress authorized the additional amount to complete the project as originally contemplated. The difference in cost estimates was due to a slight difference in time (land had increased in value in the area) And a more complete study by the National Park Service Both estimates were prepared on the same plan. The Park Service strongly believes that it is acquiring what the Congress and state leaders intended.

[GAO COMMENT: A careful reading of the report would show that we bring out the fact that the land-managing agencies have assumed a mandate of acquiring as much land as the law will allow within project boundaries and only use alternatives when mandated by the Congress. This is in consonance with the Heritage Conservation and Recreation Service's comments on the intial draft. (See p. 44.)]

The report continues to mention only two specific alternative techniques which are well established, zoning and easements. As previously stated in our comments, zoning is only one type of land use control and there are many different types of zoning regulations. Easements vary in the type of ownership. Other approaches outlined in Appendix II should also be discussed in the body of the report. We also wish to reiterate our previous comments that the alternative protection mechanisms in lieu of acquisition have not been adequately discussed. The GAO references to the mechanisms used in protecting the resources in the Adirondacks and Oregon are not sufficient to document the wide range of alternatives that are available and working. We believe the Department's experiences in the Wild and Scenic Rivers program should be stressed.

[GAO COMMENT: Zoning and easements were stressed in the body of the report because they are the only two alternative land protection strategies being widely used in the United States. We agree there are other strategies, as discussed in appendix II, which should be tried, at least on a test basis.]

As related in our comments, the Action Plan of the Nationwide Plan calls for the Secretary of the Interior, in cooperation with the Secretary of Agriculture, to develop a policy for the Federal protection and acquisition of land for conservation of natural, cultural, and recreational resources. HCRS will be coordinating the efforts to document the alternatives to fee-simple acquisition can be used effectively to protect resource values.

The recent Land Policy Group Leadership Meeting (the Directors of the NPS, F&WS, BLM, and HCRS and the Chief of the Forest Service) focused on policy development for land acquisition and alternative methods of protection, planning process, funding, and the allocation of the LWCF funds between the agencies. As a result, several task forces were established to develop policy, rate of funding, priority criteria, future funding needs, and sources. HCRS will continue to be examining the desirability and relative merits of additional tools to maximize the effective use of available funds.

We appreciate having the opportunity to comment on the revised draft report. We hope the final report will be revised to reflect the policy which have been adopted and the efforts underway to improve their implementation.

Mary Maguire
for Chris Therral Delaporte

APPENDIX IV

United States Department of the Interior

HERITAGE CONSERVATION AND RECREATION SERVICE
WASHINGTON, D.C. 20240

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ASSISTANT SECRETARY
FISH AND WILDLIFE
AND PARKS

Memorandum

To: Assistant Secretary for Fish and Wildlife and Parks

From: Director, Heritage Conservation and Recreation Service

Subject: Comments on Revised GAO Report Entitled, "Federal Land Acquisition -- A Controversial Issue Needing Attention"

We have reviewed the revised GAO Report and as stated in our previously submitted comments, the report does not adequately address this complex problem.

The revised GAO Report incorporates many of the Heritage Conservation and Recreation Service recommendations identified in the comments submitted on the original draft of the report. Unfortunately, the report has not been substantially changed and still does not positively contribute to the improvement of the Federal land acquisition activities.

The revised report now recognizes that there are policies for acquisition by each of the agencies. The report also recognizes the activities of the Land Policy Group. As stated in our original comments, the Federal land acquisition policy and procedures is a complex problem. Decisions on land acquisition and the Federal role in protecting natural, cultural, and recreational resources are made within the lengthy processing involving Congress as well as the Departments of Interior and Agriculture. We wish to reiterate that this process also involves other Federal agencies interest groups, budgetary constraints, political pressures, and practical compromises.

The GAO Report overlooks reasons why alternative protection techniques have not been used as extensively as may appear to be possible. We appreciate the incorporation of HCRS comments as to the work that has been done; however, we also note that GAO fails to offer constructive suggestions. Throughout the revised report, GAO again places most of the responsibility for what GAO calls "indiscriminate purchases" on the land managing agencies and the administration. It fails to recognize that the policy implementation is a result of legislative mandates or congressional action.

[GAO COMMENT: We believe this statement is true for the Lower St. Croix River. The original 1973 scenic river study which formed the basis for the $7.275 million land acquisition program was based on buying 2,700 acres in fee. The 1976 final plan increased the number of acres to be acquired in fee to 5,310 acres, about a 100 percent increase in the number of acres to be acquired in fee. We suggest that the biggest reason for the cost increase was the increase in the number of acres to be acquired rather than "a slight difference in time." Additional agency comments and our evaluation are included in the project case example. (See p. 88.)]

10. Concerning Voyageurs National Park, the Park Service is criticized by GAO for not having an approved master plan. Yet, no mention is made of a document entitled "A Master Plan for the Proposed Voyageurs National Park", which was published by the Government Printing Office in 1968. The proposed report further criticizes the Service for purchasing certain resort properties. The 1968 Master Plan (which did not include the Crane Lake area) contains the following statement. "Out of some 52 resorts in the immediate vicinity, only six lie within the proposed boundaries...Ultimately, the six resorts within the park would be acquired at fair market value." The resorts which were purchased by the National Park Service and leased back to their former owners under concessions contracts clearly followed legislative intent. The legislative history makes it clear that this is the proper intent of the bill, which states in Section 203..."the Secretary is authorized to negotiate and enter into concession contracts with former owners of commercial, recreational, resort or similar properties located within park boundaries..." Conversely, former owners are not required to operate the facilities.

[GAO COMMENT: Granted a master plan for the proposed Voyageurs National Park was prepared, but a master plan for the established park had not yet been completed in late 1978. Our point is that the acquisition plan was to buy everything in the boundaries of the park without considering need and alternatives. Regarding the resorts, we are merely pointing out expensive purchases which were not identified as critical to achieving project objectives. Although the Secretary was authorized to enter into concession contracts with former owners, he had the discretion not to do so. Additional agency comments and our evaluation are included in the project case examples. (See p. 110.)]

11. In addition to the contents of the draft report, there is a matter of some concern to this Service. We note from the contents of both the first and of the amended draft that the Executive Director of the National Park Inholders Association (NPIA) was one of those from whom the GAO Derived input. This in itself does not bother us, though we see no evidence that conservation or other public interest organizations had any role in the study comparable to that of the NPIA. What does concern us is that an NPIA Newsletter evidenced a knowledge of the conclusions of the GAO Draft report before its release to the public. We believe the GAO should be concerned also.

> [GAO COMMENT: Our understanding is that the National Park Service's comments on our initial draft report were made available to the National Park Inholders Association, not our draft report. We are always concerned about premature release of our reports.]

Individual areas are discussed in more detail in the addenda of the report.

NPS SUMMARY COMMENTS ON RECOMMENDATIONS:

GAO States in their Digest the following, "All three agencies have recently adopted new policies which emphasize planning and consideration of alternatives to full fee acquisition. However, in practice, these policies generally had not been implemented at the projects GAO Reviewed unless specifically mandated by the Congress".

The National Park Service has implemented these policies. We are now in the process of doing those things required in the policies. If the other agencies are in similar situations in carrying out their new policies, events appear to have overtaken at least the last two recommendations that GAO has made. Therefore, we suggest that the last two recommendations be dropped. Much of the first recommendation is beyond our scope, but we feel that as an individual agency we are doing most of the things contained in the first recommendation that are within the authority of our agency to do.

Enclosures

APPENDIX IV

A-D-D-E-N-D-A

NATIONAL PARK SERVICE RESPONSE

TO

GAO's PROJECT CASE STUDIES

[GAO NOTE: These responses and our evaluations are included in the project case examples in appendix I.]

APPENDIX IV

ADDRESS ONLY THE DIRECTOR
FISH AND WILDLIFE SERVICE

United States Department of the Interior

FISH AND WILDLIFE SERVICE
WASHINGTON, D.C. 20240

SEP 1 1 1979

Memorandum

To : Assistant Secretary for Fish and Wildlife and Parks
Attn. : David Sherman

From : Director, Fish and Wildlife Service

Subject: Revised GAO Draft Report: Federal Land Acquisition . . . A Controversial Issue Needing Attention - August 1979

The net effect of the draft report, revised from the draft released in May with benefit of lengthy commentary by the agencies, can be summarized by quoting from page 47.

> "As can be seen, the agencies commenting on our draft report generally agree or say they are in compliance with our recommendations. However, this is not what we found at the project level where we made our detailed review."

The GAO draft now has been restructured, corrected as to certain factual matters and incorporates excerpts of agency comments but largely rejects the agencies' points of view except where it matches that of GAO, i.e., no minds were changed. The report is now smoother but basically contains the same criticisms and recommendations.

Therefore, our comments of June 25, 1979, (copy attached) still apply. We do have some additional comments to make and/or ones supportive of our earlier reactions.

The primary GAO recommendations are directed at departmental level policy but cover individual project level steps as well. In brief, these deal with:

New projects - Preparation of plans to:
- relate objectives to specific land needs
- consider alternative land protection strategies
- weigh the land need against impacts on owners and all levels of government
- evidence coordination with state and local government and reliance on their land use controls
- determine minor boundary changes

Existing projects - Evaluation of further needs and consideration of alternatives.

As expressed in our June comments, our planning procedures adopted over the past several years encompass all these items. The planning process will be published in handbook form to make it readily understood and easily available to all involved in the land acquisition activity. While existence of the policy does not guarantee compliance, it should be understood that our concerns in these matters are genuine, of internal origin and of high importance. We take pride in our accomplishments. As the reports states, land acquisition is an emotional issue and it is our desire to carryout our responsibilities with maximum regard for both cost and impacts on others.

[GAO COMMENT: We agree that the Fish and Wildlife Service in recent years adopted a policy of not acquiring full-fee title to land except as a last resort and is in the process of implementing this policy. However, at the two projects we reviewed in this report and our report entitled "Endangered Species--A Controversial Issue Needing Resolution (CED-79-65, July 2, 1979)," implementation of this policy was not fully evident.]

Perhaps it is in the nature of audits, but we find the tone of the report overwhelmingly negative; little heed is taken of the positive accomplishments of the programs addressed. The preamble of the report dwells on the existing size of the federal estate without regard to its makeup, implying Federal lands already serve the purpose of present day land acquisition.

The Congress itself has underlined the validity of the public lands' existence by making it difficult to dispose of, which should add to, not subtract from, the notion that further land acquisition has and still can contribute to the public good.

[GAO COMMENT: We are not purporting that Federal agencies should not acquire any private lands. However, we believe that alternatives to private land acquisition should be used if possible and that only lands essential to achieving project objectives should be purchased.]

We must again take strong exception to the allegation that the FWS has not seriously entertained alternative approaches to fee acquisition, namely easements. While our WPA easement program has been given greater recognition than previously, our point that it served as a valuable spring board for making easement judgments in other situations seems to have been lost. (See pages 4-7 of our earlier comments). The administrative/enforcement burden of easements is still underemphasized. The statement on page vi that " . . . there have been a few violations among the 18,000 easements, 340 in fiscal year 1976, ..." does not give enough recognition to the resources necessary to detect and handle these cases or to carryout an effort that keeps the number that low. We do know how much investment it takes and, therefore, how much it is likely to take in other cases. The cost may be worth it, as we recognized ourselves long ago, but it cannot be taken lightly.

The report still does not directly acknowledge that no easement authority existed under the Migratory Bird Conservation Act until 1976. It does, however, use the Solicitor's opinion we provided to establish this oversight in the earlier draft, but uses it to advantage to shore up an entirely differenc allegation.

We also tried to establish that the very nature of FWS preservation efforts had changed in recent years to projects where easements would have much greater utility than allowed by the intense development/ management needs of former projects. Appended is a statement (prepared for other purposes) listing nineteen recent projects involving easement consideration. Several of these were referred to in our June comments.

We also find it ironic that GAO says the agencies do not seriously consider easements because they believe such an approach is ineffective or costly. GAO, on the other hand, has found that "easements have been used for nearly 50 years by public agencies to serve a variety of purposes". GAO thus infers and other places states that it has been with great success. Of the eight examples listed, six belong to the agencies they quote as finding easements ineffective, suggesting a certain presumptiveness in GAO.

[GAO COMMENT: We have recognized that the Fish and Wildlife Service has used easements primarily to protect a large number of small, seasonal wetlands in the upper midwest. (See p. 25.) We do not ignore the fact that enforcement of easements may be difficult. (See p. 23.) However, easements have been used very successfully by the Fish and Wildlife Service, as indicated, and by the Forest Service in the Sawtooth National Recreation Area. (See p. 105.) On the other hand, we noted at the project level there is a very strong reluctance to use less than full-fee acquisition of private lands. We agree that Federal agencies have successfully used easements on a small scale and believe they could be used on a much broader scale. The predominate acquisition method has been purchase of full title, accounting for 88 percent of the acreage and 95 percent of the cost for lands acquired during fiscal years 1973-77. (See p. 5.)]

Local or State zoning is stressed by GAO as another alternative to fee acquisition. Local zoning can be an alternative to fee acquisition but we suggest GAO is not realistic in its expectations. GAO's discussion on page 11 of the report about local resistance to federal acquisitions lays the groundwork for why this is so. Oftentimes--perhaps usually with the FWS--the federal project holds no great promise of benefits to the local community, thereby creating no motivation for local action. If the project will actually prevent development of economic local benefit, motivation is destroyed entirely, at least without the spectre of an alternative federal project. The federal side itself has no zoning power without legislation--a touchy subject. De facto zoning by threatening condemnation if the owners make the wrong moves can also bring a deluge of protest.

[GAO COMMENT: We are not suggesting that relying on zoning can be used in all cases, but that it ought to be explored with officials of local communities. This is especially true in those cases where the private landowners have no desire to develop their properties and are supportive of the Federal project. In this situation, full-fee acquisition creates local opposition not because of the loss of possible economic gain but because of the indiscriminate acquisition of private lands. The real opposition comes because the owners lose their private property; in some cases families are forced to relocate, the owners cannot pass on the property to their heirs, and the Federal acquisition does not seem fair to them in view of the fact that their lands will remain compatible with the Federal project.]

Our objections to use of the two FWS projects must be reiterated. We do not agree that Conboy Lake is an example of unessential lands being acquired or that San Francisco Bay NWR is a needless purchase. Our previous specific comments on these projects are attached to our June 27 commentary, but to sum up:

Conboy Lake - the project is criticized for having only 144 acres of marsh and water; ignored is the explanation that this is a restoration project to recreate the wetland conditions existing before a drainage project eliminated them. The policy favoring acquisition of currently productive habitat came a decade after acquisition began. Less than fee approaches here are not really desirable (actually unauthorized until 1976) but are now being accepted in some degree to minimize local disruption. Lands were acquired in the pattern they were because of both need and availability; not merely to spend money. The protracted acquisition period is due in great measure to the eight years of litigation; it would have been foolhardy to proceed in the face of the court challenge. Conboy Lake did not originate without a plan as GAO contends. Unsophisticated by today's statements, the plan nevertheless was a conscious effort to proceed in an efficient manner (copy attached).

[GAO COMMENT: A careful reading of the project case example shows that we did review the November 1966 management plan, but that no acquisition plan or priorities were established. This is a situation where the Fish and Wildlife Service decided to acquire land in the mid-1960s for, at best, a marginal wildlife refuge. When the policy changed from acquiring lands for restoration to acquiring lands with productive habitat, the Fish and Wildlife Service did not change its approach on acquiring Conboy Lake and still planned to purchase it at the time of our field work in early 1979. We are of the opinion that the Fish and Wildlife Service ought to consider the alternatives discussed on pages 76 and 77, especially in view of the fact that the House Appropriations bill specifically excluded operation funds for Conboy Lake in fiscal year 1980.]

San Francisco Bay - Unfortunately, the court does not agree with GAO's assessment that the owner "will retain full rights to continue his present commerical land uses." If it did, the purchase price would not be nearly so high, but be more in line with our own opinions.

We do not contest that projected relocation costs for the "boat people" were unrealistically low--it was an unprecedented situation.

GAO clings to the statement of one agency official that alternative sites for the visitor site were not considered. GAO ignores documentation to the contrary. In our opinion, GAO's alternate site suggestions are clearly unsuitable and GAO's position is without substance.

[GAO COMMENT: We agree that Leslie Salt does not retain full rights, and we modified the statement. However, it is our understanding that the Fish and Wildlife Service will allow Leslie Salt to continue its commercial operations. (See p. 103.) Our understanding is that the Fish and Wildlife Service, in justifying the acquisition of the Alviso site which was available for purchase, did consider alternate locations for the visitor site but did not consider the two sites we mentioned. In view of the costs, about $300,000 per acre for the site selected, we believe all alternatives should have been vigorously explored and exhausted.]

The revised report picks up two additional FWS acquisitions as examples of projects inconsistent with Service policies and/or program criteria (page 7).

Kealia Pond - Purchase price incorrectly given as $6.4M (the amount of the original appropriation). Requirements are now (and have been)

estimated at $2.4M. The difference has already been partially reprogramed to other projects. This project has been a bone of contention with GAO and we dispute its protection under the alternatives alluded to by GAO.

[GAO COMMENT: Apparently the Fish and Wildlife Service has been overtaken by events. We were informed that the Service has deferred acquisition of Kealia Pond because the State is actively developing a long-term protection plan for the area. Further, State protection is also being considered as an alternative to Federal acquisition of Opaeula Pond on the Island of Hawaii. We were informed by a Service official in Hawaii that as a result of our efforts, a new era of State/Federal cooperation to protect Hawaii's endangered water birds has been established. We applaud this action on the part of the Fish and Wildlife Service and the State of Hawaii. The $6.4 million "appropriated" is correct. The excess of $3 million ($6.4 less $3.4 million) was requested because the Service assumed that condemnation would be necessary. Barring condemnation, the $3 million was to be used to acquire as much water bird habitat as possible. The reprogramming referred to in the comments is now for species other than water birds. The remaining $3.4 million should be reprogrammed once the decision not to acquire Kealia Pond is finalized.]

Sugar Loaf Key - It is true that this Key was not listed in the Key Deer recovery plan. This was more of an oversight than evidence that the habitat does not qualify. However, it is well suited for acquisition under other Service programs so will not be purchased strictly as an endangered species area. Management will still reflect its substantial value for Key Deer.

The opportunity to comment is appreciated. In summary, we are disappointed by the report for the lack of credit for program accomplishments, for not recognizing the changing character of present FWS land acquisition and the corresponding changes in planning and acquisition methods already effected within FWS, for not really crediting the FWS experience with other than fee approaches as a practical base for decision making and for the poor analysis of specific FWS acquisition projects.

However, we agree that the land acquisition climate is changing and that as a result, the most cost effective and innovative methods are necessary if program responsibilities are to be met. The GAO report is viewed as a means to help continually modernize our business procedures and, despite the foregoing disappointments with the report, we will constructively consider all of its recommendations.

Rolf F. Wallenstrom

Attachments

APPENDIX IV

FISH AND WILDLIFE SERVICE

ALTERNATIVES TO FEE ACQUISITION

The Fish and Wildlife Service's planning process requires the submission of a Decision Document before Director's approval and subsequent funding requests. An integral part of the Decision Document is the Environmental Assessment or an Environmental Impact Statement. Within the EA and/or EIS are a series of alternatives. Full consideration is given to all types of land protection methods including fee acquisition, easements, extended use reservations, zoning, cooperative management agreements, and exchanges. Alternatives to the proposed method of preservation are considered and the reasons for rejections stated.

Acquired or Planned Acquisitions Where Less Than Fee is Proposed

Land and Water Conservation Fund

California Condor	Fee and easement
Manatee	Fee and cooperative agreement
Moapa Dace	Fee and easement
Indiana Bat	Fee and cooperative agreement
Houston Toad	Cooperative agreement
Whooping Crane	Fee and easement
Lower Suwannee River	Fee and easement
Bear Valley	Fee and easement
Karl Mundt	Fee and easement
Willapa	Fee and exchanges
Fox River	Fee and easement
National Elk	Fee and easement
San Francisco Bay	Fee and use reservations
Hawaiian Waterbirds	Fee and easement
Aleutian Canada Goose	Fee and lease
Minnesota Valley	Fee and easement

Migratory Bird Conservation Fund

McFadddin	Fee and easement
California Grasslands	Easement
Waterfowl Production Areas	Fee and easement

The above only lists the current acquisitions proposed or acquired this fiscal year. Since the initiation of the Accelerated Wetlands Acquisition Program under MBCF, numerous alternatives such as leases, easements, cooperative agreements, exchanges and nearly every authorized alternative has been employed within this program.

SEP 21 1979

Memorandum

To: Assistant Secretary for Fish and Wildlife and Parks

From: Associate Solicitor, Conservation and Wildlife

Subject: GAO Draft Report -- "Federal Land Acquisition -- A Controversial Issue Needing Attention"

This is in response to your request for comments on the revised GAO draft report of August, 1979, concerning Federal Land Acquisition. These comments are enclosed. In addition, however, our earlier comments of June 29, 1979, are also attached. Where they remain applicable, no further comments have been developed. In this regard, we believe that the nature of the changes proposed by the authors, in some cases apparently as a result of our earlier comments, are important and that this proposed report can be more accurately understood from this perspective.

[GAO COMMENT: The Associate Solicitor's comments were incorporated in the report where appropriate.)

Cover Summary -- We note that the revised report has deleted the implication that the Federal Executive has acquired over 1/3 of all U.S. land. This change eliminates the obvious distortions of the earlier draft. Most of these lands presently controlled by the Federal Government were lands originally under federal domain that were not chosen for private or state or local government use under the many programs available to encourage settlement of the West. These lands have not been acquired from the private sector; rather, they are lands typically not wanted by the settlers of the West.

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[GAO COMMENT: We never implied that the Federal Government purchased one-third of all U.S. lands. To avoid any misunderstanding, we clarified the statement.]

As discussed below, we disagree that the Secretaries of Agriculture and Interior can successfully establish a uniform policy on when lands should be purchased or when other protection alternatives such as easements and zoning should be used. Interior and Agriculture have different statutory responsibilities. In addition, the various NPS statutes also have differing degrees of flexibility concerning reliance upon such concepts. As we have indicated earlier, in our opinion such concepts can only be used if specifically authorized by Congress or if they can be shown to "provide adequate long-term protection to recognized park values". In our judgment, a generic land acquisition policy applicable across-the-board could only be adopted by Congress.

[GAO COMMENT: The bulk of land acquisition for preservation, protection, and recreation development is being carried out by the Forest Service, Fish and Wildlife Service, and National Park Service. We therefore believe the Secretaries of Agriculture and the Interior should develop an overall land protection and acquisition policy. According to the agency comments, the Land Policy Group, which has both Agriculture and Interior representation, is addressing this issue. Should congressional authority be needed to implement a new land protection and acquisition policy, then the Secretaries could ask the Congress for such authority through legislation.]

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Similarly, we question whether new acquisition programs recently initiated by law can be deferred pending further study as GAO has proposed. In several cases Congress has specifically directed that acquisition occur promptly and in all cases land acquisition ceilings are based upon existing prices. Delay will be inconsistent with these responsibilities.

[GAO COMMENT: We have not proposed deferral of acquisition. We have recommended that the agencies (1) critically evaluate the need to purchase additional lands in existing projects and (2) prepare detailed project plans at every new project, before lands are acquired. The Solicitor seems to imply that all designated land must be purchased immediately without benefit of plans which assess need or possible alternatives. We do not agree with this position and believe the Secretaries of Agriculture and the Interior have the authority and responsibility to determine specifically which lands or interests therein should or should not be acquired within designated projects.]

Digest -- In this revised Digest, the authors present what appears to be a new idea with regard to federal land acquisition. On page (i) and the top of (ii), the authors appear to be suggesting that Interior and Agriculture address all future land acquisition priorities for the country at one time. This must mean for all areas not yet authorized to be acquired. Without further Congressional direction, we question whether this is an appropriate role for Interior. In our opinion, this recommendation should be directed to Congress, not the Executive Branch.

[GAO COMMENT: The recommendation referred to was deleted after further analysis.]

At the middle of page ii, the revised draft report "also recommends that the Secretaries critically evaluate the need to purchase additional lands in existing projects". As indicated above, our primary concern with this issue is that it will delay the completion of projects Congress has specifically directed should proceed and will increase their costs significantly. Further comments on this aspect of the Digest will be made at the appropriate point in the text of the proposed report.

[GAO COMMENT: This issue was addressed on page 165.]

Magnitude of Federal Land Ownership and Purchases p. iii -- It is interesting to note that the authors now acknowledge that of the 760 million acres presently controlled by the United States, only 60 million acres have been acquired. It would also be interesting to compute the original acreage controlled by the United States that has been placed in non-federal ownership and the amount of that land that has been repurchased for federal objectives.

Land Acquisition Practices p. iv -- As discussed with regard to the text of the proposed report, we feel that the authors are not sensitive to nor concerned with the objectives for which Congress has established the various areas of the National Park System. Their concern has not been with protection of natural values. This is particularly obvious in the example the authors choose to use for the Digest itself -- Big Cypress. Assuming they must have felt this was a "worst case" that should

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be emphasized, it is very enlightening. The statement in the Digest is that "at the Big Cypress National Preserve the NPS is purchasing full title to 570,000 acres of swampland for about $200 million without any land use or development plans". When carefully considered in light of the Big Cypress legislation itself, that statement is unsound. Congress directed the acquisition at Big Cypress for a very specific reason and in a very specific way. We believe that the Big Cypress legislation itself demonstrates that a land use or development plan was not necessary nor appropriate and that the variety of other steps also envisioned by the authors would not have been appropriate either. Indeed, Big Cypress is as good an example as any to show what is wrong with the authors' proposed GAO report.

A legal review of this Act demonstrates that Congress carefully established the reason for this acquisition; it also considered the role of the State of Florida in this project, the nature of the interests to be acquired; the need for a detailed acquisition plan geared to the protection of the resource and the submission of such a plan to Congress; the estate to be acquired; and, the timing of the acquisition. Each of these points -- which the authors would have had Interior study before commencing acquisition -- has been directly and specifically dealt with by Congress in the legislation itself.

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The purpose of the land acquisition at Big Cypress was "to assure the preservation, conservation, and protection of the natural, scenic, hydrologic, flora and fauna, and recreational values of the Big Cypress watershed in the State of Florida and to provide for the enhancement and public enjoyment thereof..." No land use or land development was intended. The area was designed to be preserved the way it was.

The relationship between Federal acquisition and the role of the State of Florida was detailed. The Act specifically provides that "no Federal funds shall be appropriated until the Governor of Florida executes an agreement on behalf of the State which..."

The Act focuses on the estate to be acquired. "No improved property ... nor oil and gas rights, shall be acquired unless ..."

The Act provided for a detailed plan to be submitted to certain Congressional Committees concerning "The lands and areas ... essential to the protection and public enjoyment of this preserve".

The Act also provided a clear timetable within which acquisition was to proceed. "The Secretary is directed to proceed as expeditiously as possible to acquire the lands and interests in lands necessary to achieve the purposes..." of this Act. "It is the express intent of Congress that the Secretary should substantially complete the land acquisition program contemplated by (this Act)... within six years after October 11, 1974."

We believe that this type of clear and specific legislative direction makes Big Cypress a good example of what is wrong with the authors' proposed report. In our view, there has been little attempt to reconcile what they feel should be the process for land acquisition with that which has actually been directed by Congress. Accordingly, their comments go more to changes in the legislative process than to changes in the implementation stage.

[GAO COMMENT: Our response to the National Park Service concerning Big Cypress addresses the Solicitor's concerns. (See p. 58.)]

Costs and Impacts Should be Considered in Land Purchases p. iv -- We believe that our previous comments concerning the use of less than fee interests in land and reliance on local zoning remain applicable to the revised report.

[GAO COMMENT: We believe the Solicitor's previous comments have been adequately addressed in the revised report. We added a discussion of the disadvantages in using easements and zoning and an appendix concerning other alternatives.]

New Land Protection Strategies and Overall Policies Should be Developed p. v — Once again, the authors fail to distinguish between local reliance upon zoning to protect local interests with Federal reliance upon local zoning to protect national interests. The authors point out that when such local zoning changes "Federal agencies could either protest the change or, if necessary, proceed to purchase lands through negotiation or condemnation". What they fail to point out is that such future acquisition will undoubtedly eliminate any costs savings initially gained by deferral of action.

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Our previous comments explained in detail the legal pitfalls to such an approach. This analysis has apparently been ignored. In addition, the authors have also chosen to ignore the Federal regulation options that were provided to them. It seems obvious that the authors' objection is not solely with more Federal acquisition but also with more Federal presence of any type.

[GAO COMMENT: In the projects we reviewed and used as examples of where zoning could have been or was used, the Federal and State land management agency had powers to enforce the protective standards. In most cases, the agency had the power of approval over the standards themselves and the power to veto or deny zoning variances which would have adversely affected the project. We have not assessed the legality or feasibility of Federal zoning regulations.]

Appraisal of Agency Comments -- Our previous comments are attached. They clearly do not support a conclusion that we generally agreed with the authors' initial recommendations.

[GAO COMMENT: Changed. (See p. 37.)]

Chapter 1 - Introduction -- No further comments.

Chapter 2 - Land Acquisition Practices

Costs Escalating -- As we indicated in our previous comments, the general escalation of land prices means that any alternative to present land acquisition must itself provide permanent park protection or it will undoubtedly not be cost effective. An acquisition delayed will be more expensive. The longer it is delayed, the greater the cost increase. All of the authors' recommendations must be reviewed from this perspective to be meaningful. The draft report supports this premise.

[GAO COMMENT: We recognize that land prices are escalating and that to delay full-fee acquisitions now could result in greater costs later. The other side of the coin is that:

--The Federal Government may be contributing to land escalation costs in view of the billions spent to date and the billions authorized to be spent.

--If land is not essential to achieve project objectives, it may not be necessary to acquire the land; thus, there would be no land cost increase.

--Alternatives could be used, such as zoning and easements, to provide for protection and preservation.

--Private landowners' rights to their land would not be protected if all lands are acquired within the boundaries of parks, recreation areas, wild and scenic rivers, etc.]

Local Resistance to Federal Acquisitions -- We would again emphasize that the authors' finding that "local interests... want to use the land in ways that maximize local benefits", destroys their argument that the NPS should seek out and relay upon local zoning. Our previous comments remain directly in point.

[GAO COMMENT: See page 147 for a discussion of this issue.]

Chapter 3 - New Land Protection Strategies and Overall Policies Should be Developed

State and Local Controls

We think it is interesting that despite our extensive comments concerning new Federal concepts that could serve to control private lands without acquisition, the authors have completely declined to even mention them. We once again concur that new land protection

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strategies are needed and urge the authors to also consider the Federal options that are available for this purpose. As we previously indicated, the state examples, such as Adirondack Park the Oregon Waterway protection program, are not directly applicable to the Federal system. The State of New York can use both zoning and acquisition in a controlled and coordinated way; the National Park Service can only rely on local zoning at its peril. Such examples do, however, support the Federal regulation and ANC options that we previously discussed both with the authors and with representatives of the GAO General Counsel Office. We are again concerned that neither these novel yet viable legal options nor the other primarily legal issues we raised at that time have been provided significant discussion in this revised draft.

James D. Webb

(140040)

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