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REPORT BY THE

Comptroller General

OF THE UNITED STATES

RELEASED

Lands In The Lake Chelan National Recreation Area Should Be Returned To Private Ownership

Lake Chelan National Recreation Area was established in the State of Washington in October 1968. The Congress intended that land acquisition costs be minimal, the private community of Stehekin in the recreation area continue to exist, existing commercial development not be eliminated, and additional compatible development be permitted to accommodate increased visitor use.

During the intervening 12 years, the National Park Service has spent about $2.4 million to acquire over half of the 1,730 acres of privately owned land in the recreation area. Many of these acquisitions are contrary to what the Congress intended and to the Service's land acquisition policies. Moreover, the Service plans to acquire most of the remaining privately owned land in the recreation area.

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

CED-81-10
JANUARY 22, 1981

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

B-199379

The Honorable Ted Stevens
United States Senate

Dear Senator Stevens:

Your November 14, 1979, letter requested us to examine the land acquisition and management practices of the National Park Service, Department of the Interior. Specifically, you asked that a comparative study of the laws governing specific areas, the regulations promulgated by the agency, the management practices of the area managers, and the Congress' intent be included in our study. Our review of these matters should be completed soon.

Your May 23, 1980, letter requested a status report on our study and a report on any specific areas where we had completed our review. On June 25, 1980, we briefed your office on the status of our review. Today we are forwarding this report on the Lake Chelan National Recreation Area in Washington, one of the National Park Service areas we selected for review.

We believe that many of the Service's land acquisitions at Lake Chelan are contrary with what the Congress intended and have resulted in unnecessary increased land acquisition costs to the Federal Government. Further, continued acquisition could eliminate a small private community recognized by the Congress as adding a key dimension to the atmosphere and character of the recreation area.

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

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

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

D I G E S T

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

RECOMMENDATIONS TO THE SECRETARY OF THE INTERIOR

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

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

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

RECOMMENDATION TO THE SENATE AND HOUSE LEGISLATIVE COMMITTEES

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

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

RECOMMENDATIONS TO THE CONGRESS

GAO recommends that the Congress:

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

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

APPRAISAL OF AGENCY COMMENTS

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

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CHAPTER 1

INTRODUCTION

Public Law 90-544, enacted October 2, 1968, established in the State of Washington the North Cascades National Park and the Ross Lake and Lake Chelan National Recreation Areas. The complex, administered by the Department of the Interior's National Park Service, comprises about 674,000 acres of spectacular pinnacles; high, jagged peaks; and ridges flanked by glaciers, icefalls, and snowfields which feed waterfalls, lakes, and streams in alpine meadows and virgin forests below. The Lake Chelan National Recreation Area encompasses about 62,000 acres, adjoining the southern unit of the North Cascades National Park.

Nestled within the recreation area is the small community of Stehekin with less than 100 year-round residents. Although the atmosphere of the community has changed since it was first homesteaded by a handful of pioneer families around 1900, Stehekin is still removed from the mainstream of American life. Inaccessible by car; devoid of modern conveniences such as televisions, telephones, and grocery services; and without medical care and facilities, life in Stehekin is still physically demanding.

Senator Ted Stevens asked us to examine the Service's land acquisition and management practices. Specifically, he asked that a comparative study of the laws governing specific areas, the regulations promulgated by the agency, the management practices of the area managers, and the Congress' intent be included in our study. This interim report addresses land acquisition and management practices at the Lake Chelan National Recreation Area, one of the Service areas we selected for review.

LEGISLATIVE HISTORY

Under S. 1321 as originally proposed, the lower Stehekin River Valley and the upper Lake Chelan area would have been part of the North Cascades National Park. The Senate Committee on Interior and Insular Affairs amended the bill to designate these areas instead as the Lake Chelan National Recreation Area. The committee, in S. Rept. 700, 90th Congress, October 31, 1967, explained its change as follows:

> "* * * Many of the yearlong residents of the Stehekin Valley are descendants of the original homesteaders. Some 1,700 acres, mostly on the valley floor, are in private ownership, and in the

> past several decades a number of summer homes have been built. The only access to the community is by foot, horseback, boat, or plane, even though there is in existence a road of some 25 miles extending from the village up the valley. The lake, likened by most to the spectacular fjords of Norway, will serve as the primary access for park and recreation area visitors approaching from the southeast. The village and the lower valley, therefore, will have considerable use, and development to accommodate these visitors will be necessary. The Stehekin Valley, the Rainbow Creek Valley, and Rainbow Ridge traditionally have been used by high country big game hunters. The Washington State Department of Game, in cooperation with the Chelan Public Utility District, plans to engage in spawning channel improvement on Stehekin River and Company Creek in order to improve the fishing in 1,500-foot deep Lake Chelan. All these factors were important in the committee's decision to create a 62,000-acre recreation area here, instead of giving the area national park status." (Emphasis added.)

The House Committee on Interior and Insular Affairs agreed (H. Rept. 1870, 90th Cong., Sept. 9, 1968). Thus, the law as enacted converted the southernmost portion of the originally proposed national park into a national recreation area.

The enabling legislation and S. Rept. 700 provide specific guidelines for land acquisition in and management of the recreation areas. The act states that the Secretary of the Interior may not acquire any interests within the recreation areas without the owner's consent as long as the lands are devoted to uses compatible with public outdoor recreation and the conservation of the scenic, scientific, historic, and other values contributing to public enjoyment. In commenting on the amendment that incorporated the above, the Senate report stated that:

> "This amendment gives statutory character to the announced policy of the National Park Service that it will not seek to acquire the inholdings in the Stehekin Valley and other portions of the national recreation areas established by this act so long as the existing compatible uses of the private lands are not altered to the detriment of the purposes for which the areas are established."

The report continues that at a May 29, 1967, hearing before the Subcommittee on Parks and Recreation, Senate Committee on Interior and Insular Affairs, the Service Director stated that the Service

> "* * * will not seek to acquire private holdings within the Stehekin Valley * * * without the consent of the owner, so long as the lands continue to be devoted to present compatible uses now being made of them-such as for modest homesites, ranches, limited eating establishments, lodges, etc. This applies to the present owners and to any future owners of the property. The present owners are at liberty to dispose of their property just as a private landowner anywhere else can do. Subsequent owners may be assured that the National Park Service will take no action with regard to acquiring the property without their consent so long as the properties continue to be used for these same compatible purposes as at the time of the authorization of the park." (Emphasis added.)

At July 26, 1968, hearings before the Subcommittee on National Parks and Recreation, House Committee on Interior and Insular Affairs, the Director agreed that the Service would not acquire private land within the recreation area "simply because the owner wishes to sell." (See p. 26.) The Service would acquire land only when a property was to be used for an incompatible purpose or when the cost of a scenic easement would be prohibitive. The Director stated that "our proposal would be to rely on the existing commercial establishment at Stehekin to take care of the users in Stehekin."

The act also requires the Secretary of the Interior to administer the national recreation areas in a manner which will best provide for

> "***the continuation of such existing uses and developments as will promote or are compatible with, or do not significantly impair, public recreation and conservation of the scenic, scientific, historic, or other values contributing to public enjoyment."

Thus, the land acquisition plan for the Stehekin Valley and uses compatible with the act are clearly identified in the legislative history.

FUNDING

H. Rept. 1870 states that when the North Cascades complex was established, more than 99 percent of the land was already publicly owned and that "land acquisition costs should be minimal." Only about 1,730 acres or less than 3 percent of the 62,000 acres within the Lake Chelan National Recreation Area were in private ownership.

Public Law 90-544 authorized the appropriation of not more than $3.5 million for the acquisition of privately owned lands, including existing mineral patents. By 1974, the Service had expended all of the $3.5 million, including about $2.4 million to acquire about 987 acres of privately owned land in the Lake Chelan National Recreation Area.

Public Law 94-578, enacted October 21, 1976, raised the statutory authorization ceiling by $1 million, which was subsequently appropriated. Of this amount, about $800,000 had been spent for final acquisitions involving patented mining claims within the North Cascades National Park. The remaining $200,000 was outstanding at the end of fiscal year 1980.

In May 1980, the Service's Acting Pacific Northwest Regional Director requested that the statutory ceiling be raised by another $3 million in omnibus legislation. The funds are to be used to acquire additional tracts of land within the Lake Chelan National Recreation Area. He stated that although the Service had drastically reduced the scale of the "prospective building boom of recreational homesites" by selectively acquiring larger tracts of land that had been offered for sale, the Service does not have sufficient funds to acquire the major areas in the recreation area still subject to subdivision.

NATIONAL PARK SERVICE LAND ACQUISITION POLICIES

In February 1968, the National Park Service established a nationwide land acquisition policy for national recreation areas. The policy states that, except as otherwise provided in the enabling legislation, the Service in preparing master plans will establish three zones in each national recreation area--a public use and development zone, a preservation zone, and a private use and development zone. The policy limits land acquisitions in the public use and development zone to fee simple 1/ while permitting alternative land protection and management strategies in the other two zones.

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

On April 26, 1979, the Service published a land acquisition policy which states that it will acquire land and water in fee simple or less-than-fee interest, consistent with the enabling legislation, to protect resources and provide for visitor use. Each park area with an active land acquisition program must have a land acquisition plan which establishes acquisition priorities; defines compatible and incompatible uses; clarifies the criteria for condemnation; and identifies the reasons for fee simple acquisition versus alternative land protection and management strategies, such as easements, zoning, cooperative planning and management, access limitations, and rights-of-way.

The purpose of a park area land acquisition plan is to inform the park staff, land acquisition personnel, affected landowners, and the public of the Service's land acquisition program for the area. The plan, developed by the park area superintendent or manager and approved by the appropriate regional director, should be clearly understandable and developed with public participation. The plans were to be completed by April 26, 1980.

OBJECTIVES, SCOPE, AND METHODOLOGY

This report presents the results of our examination of the National Park Service's land acquisition and management policies and practices at the Lake Chelan National Recreation Area in the State of Washington. As part of our examination, we reviewed the enabling legislation; legislative history; and area plans, priorities, funding, and objectives. We determined if land acquisitions and management appeared consistent with what the Congress intended and/or with legislative directives and evaluated their impact on Federal land acquisition costs as well as on private landowners and the Stehekin community.

We began our examination in January 1980 and corresponded with the Service's Pacific Northwest Regional Director from February through April. We visited the Lake Chelan National Recreation Area in May and held a public meeting in Stehekin to explain the scope and nature of our work. We then met with all existing and former landowners and residents who expressed an interest in discussing the chronology of and their involvement in the Service's land acquisition actions. We also met with area, regional, and headquarters Service officials; the Chelan County Board of Commissioners; and conservationists and environmentalists, including members of the Cascades Chapter of the Sierra Club and the North Cascades Conservation Council. We have discussed our work with the Program Audit Manager for Fish, Wildlife, and Parks in Interior's Office of Inspector General.

HANDLING OF AGENCY COMMENTS

On September 16, 1980, a copy of our draft report was presented to Interior for comment. In response, Interior provided a 3-page cover letter, dated October 17, with eight enclosures addressing various subtopics dicusssed in the draft report.

Interior's comments, together with our evaluation, are included as appendix III. (See p. 31.) Also, Interior's comments have been inserted in the text of the report when appropriate.

PRIOR GAO REPORT

On December 14, 1979, we issued a report entitled "The Federal Drive To Acquire Private Lands Should Be Reassessed" (CED-80-14). The report discussed 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 report stated that the three agencies 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. We recommended that the Secretaries of Agriculture and the Interior

- --jointly establish a policy on when lands should be purchased or when other alternatives, such as easements, zoning, and Federal controls, should be used;
- --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.

We also recommended that the Congress oversee implementing these recommendations.

The Departments of Agriculture and the Interior took several actions on our recommendations. Land managing agencies' policies and guidelines concerning acquisition and alternative protection strategies are now reviewed by an interagency policy group. Also, a proposed joint policy statement to consider a full range of alternatives to fee simple acquisition for new areas and for major additions to existing areas was published in the Federal Register in December 1979.

CHAPTER 2

ACQUISITIONS OF PRIVATE LANDS ARE CONTRARY TO WHAT THE CONGRESS INTENDED

The intent of the Congress, as reflected in the Senate and House reports and the enabling legislation, was that land acquisition costs be minimal, the private community of Stehekin continue to exist, existing commercial development not be eliminated, and additional compatible development be permitted to accommodate increased visitor use. However, by 1974, the Service had spent about $2.4 million to acquire in fee simple about 987 acres or 57 percent of the 1,730 acres of privately owned land in the Lake Chelan National Recreation Area. Moreover, the Service plans to acquire most of the remaining 648 privately owned acres in the valley. 1/

As with other Service areas, interpreting the enabling legislation has become the point of contention and a basis for arguments for and against Service land acquisitions. Usually either the landowners or national environmental and conservation organizations express concern over whether the Service's land acquisition practices at a particular park area are consistent with what the Congress intended. At the Lake Chelan National Recreation Area, however, the Service had not clearly defined its land acquisition plan. This had alienated both landowners and environmentalists from the Service and had prevented the Service from presenting a justifiable stand on the consistency of its land acquisition practices with the enabling legislation.

A major part of the problem is that the Service has not clearly defined "compatibility." Service officials believe that the statutory guidelines are so broad as to prohibit the Service from clearly defining uses considered incompatible with the recreation area. In the interim, the Service has taken actions which we believe to be contrary with what the Congress intended.

By not developing a land acquisition plan which defines actions compatible with the recreation area, the Service has not considered the optimum mix of fee simple acquisitions with alternative land protection and management strategies to best meet the enabling legislation's purposes. This

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1/The Chelan County Public Utility District No. 1 owns 95 acres.

could further increase Federal land acquisition costs by $3 million and eventually eliminate the small private community of Stehekin, which the Congress recognized as adding a key dimension to the atmosphere and character of the recreation area.

THE SERVICE HAS MISCONSTRUED CONGRESSIONAL INTENT AND OUR INTERPRETATION

Interior's interpretation of the enabling legislation and legislative history is that eventually all privately owned land in the recreation area is to be acquired in fee simple by means of an opportunity (willing buyer--willing seller) purchase program. (See p. 35.) The Service's November 1970 North Cascades Master Plan for the recreation area stated that land acquisition outside the about 65 acre private use and development zone should "proceed as rapidly as possible because of the rapid escalation of land prices."

We found Interior's interpretation of congressional intent to be seriously flawed and indefensible. (See p. 40.) Further, while we believe that the Congress intended that the private community of Stehekin continue to exist, existing commercial development not be eliminated, and additional compatible development be permitted to accommodate increased visitor use, we do not believe that high density subdivision and intensive development are compatible with the recreation area. (See p. 43.) However, the extent to which additional development would be permitted was delegated to the Service which has not defined what is or is not compatible with the recreation area.

We recognize that some land must be acquired when it has been determined that acquiring such land is essential to achieving area objectives. However, we believe that Interior's plan to acquire all but about 65 acres of privately owned land in the recreation area is clearly contrary to congressional intent. Further, we believe that the Congress intended that alternative land protection and management strategies, including scenic easements, were to be used in lieu of fee simple acquisition to protect the purposes for which the recreation area was established.

SERVICE ACTIONS MAY HAVE ENCOURAGED SALES

According to Service officials, all acquisitions within the recreation area have been from willing sellers. However, the Service may have encouraged sales by (1) continuing to project the potential of condemnation for any

development action taken by a private landowner, (2) apparently suggesting to owners of commercial facilities that they could be deprived of a reasonable return on investment, and (3) not informing private landowners concerning the Service's recreational development plans for the area.

Potential for condemnation persists

In 1979, the Chelan County Planning Department drafted a comprehensive plan for the Stehekin Valley. The plan stated that Federal acquisition of private land is not necessarily the only way to conserve the values that make Stehekin unique. A goal of the plan was to fulfill the expressed intentions of the original legislation establishing the recreation area. The plan strove to achieve a balance between public use and enjoyment and valid existing rights associated with private property in the area. The plan's purpose was to identify with Service approval private land uses and developments regarded as compatible with the enabling legislation and therefore not subject to condemnation by the Service now or in the future.

In an October 6, 1979, statement before the Chelan County Planning Commission, the Service's current Director rejected this plan, stating that it did not provide adequate zoning and land use controls. He said that the Service opposes any further subdivision in the valley as well as development on the remaining undeveloped tracts. However, the Service's April 25, 1980, draft land acquisition plan for the recreation area, developed to comply with the Service's April 26, 1979, revised land acquisition policy, did not identify either private developments regarded as incompatible or the Service's intention to oppose any further subdivision in the valley. The plan stated only that (1) potential subdivisions and development of the subdivided tracts along with development of all existing tracts would result in an unacceptable imbalance between demand for and protection of the area and (2) compatibility and incompatibility had not been established pending a joint Service and county planning effort pertaining to zoning and private land use. (See p. 30.)

By rejecting the county's interpretation of the enabling legislation and by not identifying incompatible uses in its draft land acquisition plan, the Service continues to project the potential of condemnation for any development action taken by a private landowner. Former landowners we interviewed said that the potential for condemnation and the uncertainty of not knowing what uses the Service would

consider incompatible were primary reasons for selling their land. We believe that defining incompatibility based on the legislative history, thereby clarifying the criteria for condemnation, is a necessary first step in enacting zoning ordinances and in developing a justifiable land acquisition plan for the recreation area.

Coercion asserted by former owners

In his May 29, 1967, Senate testimony, the Service Director said that existing limited eating establishments and lodges were compatible with the act. In his July 26, 1968, House testimony, he said that the Service would "rely on the existing commercial establishment at Stehekin to take care of the users in Stehekin." By May 1971, the Service had spent about $357,000 to acquire the three private lodges at the boat landing and the only restaurant in Stehekin.

In a March 24, 1980 letter, the Service's current Director informed us that he had no idea why the three lodge owners desired to sell, but noted that two of the owners took advantage of the use and occupancy provisions to operate their lodges for several years. Conversely, a signed statement by one of the former lodge owners sets forth a chronology which shows that he believes the Service coerced him into selling. The Service publicized plans to build a new lodge with overnight facilities, including cabins, shelters, and campsites, across the lake from the existing landing and have the passenger boat dock there. The lodge owner was led to believe that he would be deprived of a reasonable return on investment due to the competition created by the proposed lodge. He offered his 1970 income tax return, which shows an adjustment to reflect a forced sale to the Service, as proof that he was coerced into selling. His statement was supported by several other landowners.

The Service's Master Plan Team for the recreation area recommended two alternative locations for a visitors' center and related capital improvements away from the existing boat landing, if "sufficient land" could not be acquired. (See p. 49.) If the Service had built a new lodge at either of the two alternative locations, the existing private lodge owners could have been deprived of a reasonable return on investment.

The impact of the alternative locations recommended by the Master Plan Team is reflected in statements by the former owners of another lodge. In April 1970, one of the owners was quoted as saying:

> "Six years ago, we bought this place and it seemed like a dream to spend the rest of our lives here, but it looks like we can't."

In an April 30, 1980, letter to us his widow stated that they sold to the Service after being

> "* * *told by Park personnel that the NPS was purchasing adjacent property for the purpose of eventually relocating accommodations to another site."

According to Interior, the Service denies that any coercion was made in getting private landowners to sell. Service officials said that the lodges and the restaurant as well as other tracts of land at the boat landing had to be acquired because "public use" in the valley would be concentrated there. They believe that the Service was fully justified in acquiring the private property for public use and enjoyment and effective administration.

We believe that Service acquisition of the commercial facilities together with the costs and responsibilities associated with operating and maintaining them was not necessary since the private lodges and the restaurant were serving the recreational purposes for which the area was established and had been determined by the Service Director to be compatible with the act. The question of coercion by the Service may never have arisen if the commercial facilities in Stehekin had remained in private ownership.

Private landowners uninformed

Other former landowners appeared uninformed concerning the Service's recreational development plans for the area. For example, family members of a deceased man who sold a 110-acre tract to the Service informed us that he did so only after the Service's regional land acquisition officer stated that, if possible, the Service would complete the final four fairways of a golf course he had been developing. Instead, the Service has used three of the nearly completed fairways for four trailers to house seasonal employees; two bunkhouses and a utility building for Young Adult Conservation Corps workers; a large building to house a garbage compactor, a maintenance shop, a storage yard for building materials and gasoline; and a topsoil pit.

According to Service officials, the regional land acquisition officer informed the owner that "there was no chance that the Service would complete the rest of the

fairways." (See p. 52.) However, several residents of the area at that time who have no vested interest in the transaction informed us that they are willing to attest that the regional land acquisition officer assured the former landowner that, if possible, the Service would complete the golf course.

In a 1970 newspaper article, the regional land acquisition officer stated that:

> "The park service also is in the final stages of a possible purchase contract with Arthur Peterson for about 111 acres, including a proposed golf course that Peterson has been developing near Stehekin." (Emphasis added.)

This statement could be read either that the Service was proposing to complete the golf course or that the Service was merely acquiring the land that comprised the nearly completed fairways.

Since this tract of land was sold to the Service in September 1970, before the Service's Master Plan for the area was approved in November 1970, the former owner was precluded from knowing the Service's development plans. Further, at the May 29, 1967, hearing, Senator Henry M. Jackson had specifically identified the golf course as a business compatible with the recreation area which could continue in perpetuity. Therefore, we believe it imperative that Service land acquisition and master plans address the Service's development plans for an area and be approved before any land is acquired.

SMALL TRACTS OF LAND ACQUIRED SIMPLY BECAUSE THE OWNERS WISHED TO SELL

In his July 26, 1968, House testimony, the Service Director said that the Service would not acquire private land within the recreation area simply because the owner wished to sell. (See p. 26.) By 1974, the Service had spent over $506,000 to acquire 42 tracts of land, each less than 2 acres. Seven of the tracts were already improved with modest homes--small, single-family dwellings--which the Director had identified in his May 29, 1967, Senate testimony as compatible with the act.

The general use zoning ordinance in existence since the recreation area was established requires either a 1-acre minimum tract with septic tank, sewage disposal, and water supply or a 12,500-square-foot minimum tract if a community water supply and septic system is available. Using these

limitations, few of the 42 tracts acquired could have been subdivided, and many of the smaller undeveloped tracts could not have been improved. Interior informed us that these tracts were acquired simply because the owners wished to sell.

Service officials stated that the Service has always been committed to the "willing seller--willing buyer" concept. However, congressional intent was that the private community of Stehekin continue to exist and that the Service explore alternatives to acquiring private lands from willing sellers. Further, the statutory ceiling may not have to be raised if modest homes acquired by the Service, as well as undeveloped tracts not subject to subdivision, are returned to private ownership.

SCENIC EASEMENTS NEVER CONSIDERED A VIABLE LAND PROTECTION STRATEGY

In his July 26, 1968, House testimony the Service Director stated that:

> "If we have a compatible, private development that is there and we have enough control through scenic easement to see that it continues, we are through with land acquisition." (See p. 27.)

All lands acquired to date, including tracts with modest homes as well as the lands to be acquired if the statutory ceiling is raised by $3 million, have been or are to be in fee simple.

Former landowners we interviewed said that fee simple acquisition was the only alternative Service officials presented. The option of owning their land in perpetuity with a scenic easement was never identified or discussed.

Interior states that neither easements nor zoning are very practical in preventing extensive development. The Service's regional land acquisition officer said that he is against using partial interests, such as scenic easements, without including in the restrictions that the Federal Government has the right to go on the property to enforce the deeds' provisions. He further stated that this provision may cost more, but without it, subsequent owners can violate the terms of the restrictions and the damage is done before legal action can be taken or an injunction secured.

We have found that obstacles to using alternative land protection and management strategies are primarily perceived

rather than demonstrated. When pressed for examples, Service officials said that they knew of few specific instances where problems had occurred.

While the price of these alternatives could be high--sometimes approaching that of fee simple--and enforcement may be difficult, substantial benefits could result and resistance to Federal acquisition should be reduced. The land will remain in private ownership and on the tax rolls, although perhaps at lower assessed values. Since residents will retain their homes, relocation costs are not incurred. Finally, the Federal Government could be saved the cost of administering an area such as the commercial facilities at the boat landing in Stehekin.

The Service's April 26, 1979, revised land acquisition policy states that each park area land acquisition plan must identify the reasons for fee simple acquisition versus alternative land protection and management strategies. The Service's April 25, 1980, draft land acquisition plan for the recreation area did not even address scenic easements, much less explain why they had not been used. (See p. 28.) Moreover, the Service's Acting Pacific Northwest Regional Director's request to raise the statutory ceiling by $3 million is based on fee simple acquisition of 11 tracts of land of which 6 have modest homes. For Interior to unilaterally reject easements and zoning as not very practical reflects an intent to continue to acquire land in fee simple while paying lip service to alternative land protection and management strategies.

We believe that the Service should return to private ownership all lands compatible with the recreation area. The Service could attach scenic or developmental restrictions to the deeds before the properties are resold to assure that their use will be consistent with the enabling legislation.

COMMERCIAL SERVICES IN THE RECREATION AREA HAVE DECREASED

After spending about $357,000 to acquire the three lodges and the restaurant at the boat landing, the Service converted the largest lodge to a visitor center rather than bring it up to fire and health safety standards. This decreased lodging accommodations in Stehekin by about 50 percent even though the Congress had stated that additional development was necessary to accommodate increased visitor use.

Interior contends that existing accommodations are adequate and points to an average occupancy rate for August 1979 of only 75 percent. (See p. 50.) We disagree. The results of a Service questionnaire distributed to recreational visitors during the summer of 1978 showed that while most were making their first trip to Stehekin and were visiting for the day only, "an overwhelming majority indicated a desire to stay overnight on their next visit." They mentioned cabins with kitchens as the preferred type of accommodation--one not now offered by the Service. In fact the only rental cabins at the boat landing have been torn down by the Service which has no plans to replace them.

In its 1979 draft comprehensive plan for the Stehekin Valley, the Chelan County Planning Department noted that there appeared to be a need for additional reasonable and necessary commercial services in the Stehekin Valley. They included improved cafe and grocery services for both residents and visitors and an alternative to camping and motel units as a means of accommodating overnight guests. The Department recommended hostels, dormitories, and cabins as possible alternatives.

During our May 1980 visit to Stehekin we were informed that the only grocery store had been closed by the Service in 1976 to discourage further development. This had presented problems for some of the residents, especially the elderly. We also noted that there were no eating facilities for visitors and guests other than that offered by the Service concessioner. Yet the Service does not plan to return lodging accommodations to their pre-act level or to provide improved cafe and grocery services. In his October 6, 1979, statement before the Chelan County Planning Commission, the Service's current Director said that the Service does not plan to construct, or allow others to initiate, any major new developments which would increase visitor use, believing them to be incompatible with what the Congress envisioned for the area.

A former Stehekin resident has proposed to replace the lodge closed by the Service with a private recreational development tentatively called Stehekin Village. As proposed, the village does not appear to us to be incompatible with either the act or its legislative history. The village could provide needed restaurant and grocery services for residents and visitors alike. Rental cabins are also included in the proposal to fill the void created when the Service tore down the cabins at the boat landing.

The proposed village is located in the proximity of the boat landing where new sewer, water, and solid waste facilities have been constructed. The village appears to be

economically viable in light of an almost 500 percent increase in overnight guests between 1969 and 1979 and the lack of comparable services in the recreation area. (See p. 53.)

In his May 1980 request that the statutory ceiling be raised by $3 million in omnibus legislation, the Service's Acting Pacific Northwest Regional Director stated that this private recreational development would be an unacceptable visual intrusion on the lake's scenic integrity and that facilities of this magnitude would have to be considered incompatible. We believe that this statement is not in accord with the Congress' intent that additional development be permitted to accommodate increased visitor use. It is also contrary to congressional and Service assurances that existing commercial development in the valley would not be eliminated. Further, the new facility may not be needed if the existing lodges and restaurant are returned to private ownership and the accommodation, restaurant, and grocery services improved and expanded. This could significantly lessen any potential visual impact on the area.

THE SERVICE PLANS TO ACQUIRE MOST OF THE REMAINING PRIVATELY OWNED LAND

Interior contends that it was the intent of the Congress that eventually all privately owned land in the recreation area was to be brought into Federal ownership by means of an opportunity purchase program. The Service's land acquisition policy requires that each park area land acquisition plan inform all concerned parties of the Service's land acquisition program for the area. However, the April 25, 1980, draft plan for the Lake Chelan National Recreation Area does not reflect the Service's plans to acquire most of the privately owned lands in the Stehekin Valley. (See p. 28.)

In his October 6, 1979, statement before the Chelan County Planning Commission, the Service's current Director said that the recent trend of expedited sales and development was incompatible with what the Congress envisioned for the area. He concluded that the Service was opposed to any further subdivision in the valley and will continue to acquire privately owned land in the recreation area, including a 157-acre tract which extends on both sides of the river in the lower valley. Similarly, the Service's Acting Pacific Northwest Regional Director's May 1980 request to raise the statutory ceiling by $3 million stated that additional funds were needed to acquire the major tracts in the recreation area still subject to subdivision.

We found that private construction in the recreation area had mostly replaced residences acquired by the Service and that only about 15 new tracts had been created by subdivision since the recreation area was established. The statistics used by Interior to show the impact of uncontrolled subdivision and development are not compatible with the data included in the Service's April 25, 1980, draft land acquisition plan for the recreation area or with information obtained from Chelan County. (See p. 70.)

Interior states that an increase in the statutory ceiling is needed primarily to acquire several of the larger tracts lying along the lake that are ripe for subdivision. We disagree. Of the remaining 648 acres of privately owned land in the recreation area, only 14 tracts exceed 10 acres in size. The Service's Acting Pacific Northwest Regional Director's May 1980 request to raise the statutory ceiling by $3 million identified 11 tracts totaling about 369 acres to be acquired, including 8 tracts of 10 acres or more. Six of the 11 tracts have modest homes which we believe could be adequately protected by scenic easements or zoning and still be compatible under the act. Another tract is less than an acre and cannot be developed under the existing zoning ordinance, while the owner of another is planning to build a home. The owners of the two largest tracts (157 and 40 acres) are considering building lodging accommodations. The owner of the remaining tract had no development plans. Therefore, we see no plausible reason for the Service to acquire these lands at this time, even if the owners are willing to sell.

We believe that the statutory ceiling for land acquisitions in the Lake Chelan National Recreation Area should not be raised another $3 million. The Land and Water Conservation Fund Act of 1965, as amended, provides that:

> "With respect to any property acquired by the Secretary of the Interior within a unit of the national park system or miscellaneous area, except property within national parks, or within national monuments of scientific significance, the Secretary may convey a freehold or leasehold interest therein, subject to such terms and conditions as will assure the use of the property in a manner which is, in the judgment of the Secretary, consistent with the purpose for which the area was authorized by the Congress. In any case in which the Secretary exercises his discretion to convey such interest, he shall do so to the highest bidder, in accordance with such regulations as the Secretary may prescribe, but such conveyance shall

be at not less than the fair market value of the interest, as determined by the Secretary; except that if any such conveyance is proposed within two years after the property to be conveyed is acquired by the Secretary, he shall allow the last owner or owners of record of such property thirty days following the date on which they are notified by the Secretary in writing that such property is to be conveyed within which to acquire such interest. Upon receiving such timely request, the Secretary shall convey such interest to such person or persons, in accordance with such regulations as the Secretary may prescribe, upon payment or agreement to pay an amount equal to the highest bid price." [16 U.S.C. 460l-22(a)]

* * * * *

"The proceeds received from any conveyance under this section shall be credited to the land and water conservation fund in the Treasury of the United States." [16 U.S.C. 460l-22(c)]

If the Service defines compatible and incompatible uses based on the legislative history, those lands previously acquired that are compatible with the recreation area could be sold back to the highest bidder, including the previous owners or other private individuals. This would include the modest homes, the lodges, and the restaurant. The Service could attach scenic or developmental restrictions to the deeds before the properties are resold to assure that their use will be consistent with the enabling legislation. The proceeds would be credited to the Land and Water Conservation Fund in the U.S. Treasury. Funds obtained in this manner would then be available for future acquisitions if an incompatible use is identified, subject to the $4.5 million appropriation ceiling on total acquisitions under Public Law 90-544. In other words, if the small tracts of land and the commercial facilities were sold back, the funds obtained would be available for future acquisitions without first having to increase the statutory land acquisition appropriation ceiling above the the $4.5 million already approved.

If the Service sells back lands, the last owner(s) should be given first chance to reacquire the property. The Land and Water Conservation Fund Act of 1965, as amended, limits this right of first refusal to 2 years after the Service has acquired the property to be conveyed. Since the lands in the recreation area were acquired between 1969

and 1974, we believe that the Congress should exempt land acquired pursuant to Public Law 90-544 from the 2-year limitation to assure that those private landowners adversely affected by Service acquisitions will have first chance to reacquire the property.

SERVICE POLICIES MAY HAVE ENCOURAGED SUBDIVISION AND DEVELOPMENT

Interior and Service officials constantly raise the specter of density subdivision and intense development to justify both past land acquisitions and the need for increased land acquisition funding authority. While we question the validity of the data on which these statements were made (see p. 70), we also found that Service policies, or the lack thereof, may have contributed to the subdivision and development which had occurred. The Service had (1) not defined compatibility, resulting in periods of increased private development, (2) concentrated private development at the head of the lake where construction has continued unabated, creating a potential visual intrusion to the scenic value which makes Stehekin unique, and (3) acquired existing homes to house Service employees and concession workers, generating pressure for new home construction.

The Service should define compatibility

The Service's land acquisition policy requires each park area with an active land acquisition program to identify uses incompatible with the enabling legislation. The legislative history of the recreation area shows that the Congress had no intention of eliminating uses that existed at the time the legislation was enacted. However, the extent to which additional compatible development would be permitted to accommodate increased visitor use was left to the Service. In the 12 years since the act, the Service has yet to identify what is compatible with the recreation area. Almost without exception existing land owners and residents as well as environmentalists and conservationists we met with criticized the Service for not defining compatibility and were upset by the confusion that had resulted.

Interior contends that defining compatibility "has not as yet become critical as all acquisitions to date have been with the consent of the owner." (See p. 37.) However, we found that the Service's failure to define compatibility may have resulted in periods of increased private development. For example, the Chelan County Assessor's records show that 32 dwellings had been built in the recreation area from

1920 to 1968. However, 26 residential building permits were issued from 1968 thru 1971. A 1979 study by the University of California, Santa Cruz, found that:

> "***the establishment of the park complex precipitated this construction activity because property owners were afraid that building and development would be curtailed by the National Park Service. When this fear proved unfounded the building activity slackened but did not cease entirely."

Residential construction accelerated again in 1978 when it became increasing clear that the Service was intent on acquiring most of the privately owned land in the recreation area. Again residents point to the fear that the Service would either acquire all the remaining private land or define compatibility in such a way as to prohibit all future subdivision and development as reasons for the building surge.

The Service is mandated to define the extent to which additional compatible development will be permitted. We believe the failure to do so may have served to encourage subdivision and development in the recreation area.

The Service's land acquisition policy for national recreation areas has not been correctly implemented

Interior relies heavily on the Service's February 1968 land acquisition policy for national recreation areas to justify fee simple land acquisitions in the Lake Chelan National Recreation Area. (See p. 36.) We found, however, that this policy had not been correctly implemented and that the Service had concentrated private development at the highly visible head of the lake. We also found that the failure of the Service to correctly implement this policy was known by Service officials before commenting on our draft report. (See p. 42.)

The Service's November 1970 Master Plan for the recreation area arbitrarily placed all but about 65 acres of privately owned land at the head of the lake in a public use and development zone. The remaining 65 acres were placed in a private use and development zone where development has continued unabated. By concentrating private development at the head of the lake instead of dispersing the homes throughout the recreation area and developing site orientation and visual impact standards, the Service is creating a potential visual intrusion to the scenic value which makes Stehekin unique.

Interior states that development in other than the private use and development zone would be counterproductive to the intent of the legislation. (See p. 60.) We disagree. The Service, not the act, set aside the about 65 acres as a private use and development zone. The act and legislative history, on the other hand, call only for additional compatible development to accommodate increased visitor use. Concentrating private development at the head of the lake does not, in our opinion, implement this objective.

Compatible homes acquired to house Service employees

By 1974, the Service had acquired 31 homes in the recreation area which the Service Director had identified in his May 29, 1967, Senate testimony as compatible with the act. Interior rationalizes that, had the 31 homes not been acquired, it would have been necessary for the Service to construct additional residences to house its employees, thus altering the community. (See p. 46.) Conversely, we believe that acquisition by the Service of these homes may have altered forever the character of Stehekin. (See p. 47.)

Prior to being designated a national recreation area, Stehekin was managed by the Forest Service, Department of Agriculture, which carried out its mandate responsibilities without acquiring the private enterprises which comprise the economic base of the community. The Service, on the other hand, has acquired the private lodges and the restaurant at the boat landing and with them the costs and responsibilities associated with operating and maintaining the facilities. Thus, the one permanent employee stationed at Stehekin under Forest Service management has ballooned to eight permanent employees under the National Park Service. Combined with the homes acquired by the Service to house the 26 seasonal staff employed in 1980 as well as concession workers, the Service has become an impetus for further subdivision and development in the valley. (See pp. 47 and 70.)

Our analysis of Chelan County Assessor's records and the Service's April 25, 1980, draft land acquisition plan for the recreation area shows that private construction in the recreation area has mostly replaced those residences acquired by the Service. (See p. 70.) Our analysis is supported by the Chelan County Board of Commissioners. In an April 9, 1980, letter to the Service commenting on a March 1980 draft of the Service's land acquisition plan for the recreation area, the Board concludes that it may be that

much of the pressure for new home construction in the recreation area has been generated by the Service acquiring existing homes.

The Service raises the threat of uncontrolled further subdivision and development as justification for continuing to acquire privately owned land in the recreation area. However, we believe that the acquisition of existing homes by the Service to house employees and concession workers required to operate and maintain previously privately owned commercial facilities has been a major factor contributing to futher development of the area.

CONCLUSIONS

Many National Park Service land acquisitions in the Lake Chelan National Recreation Area are contrary to the Congress' intent to preserve the private community of Stehekin and to permit additional compatible development to accommodate increased visitor use. Further, by acquiring the lands in fee simple the Service has unnecessarily increased Federal land acquisition costs. It appears that the Service has chosen to supplant the foresight of the Congress in 1968 with antiquated land acquisition practices which by Interior's own admission are "generally associated with the opportunity purchase program in effect in the older (pre-1959) areas of the National Park System." (See p. 32.)

While we are strongly opposed to high density subdivision and intense development in the recreation area, we believe much of the land already acquired by the Service was compatible with the recreation area and did not have to be acquired. We also believe that the public interest could have been adequately protected by alternative land acquisition strategies, including scenic easements or zoning. Therefore, compatible lands should be returned to private ownership and the proceeds from the sales credited to the Land and Water Conservation Fund in the U.S. Treasury. Funds obtained in this manner would then be available for future acquisitions if an incompatible use is identified, subject to the $4.5 million appropriation ceiling on total acquisitions. Further, the appropriation ceiling should not be increased until the Service has defined compatible and incompatible development, prepared a land acquisition plan justifying the need to acquire land from private owners, and spent the funds obtained from selling all compatible land back to private individuals.

RECOMMENDATIONS TO THE SECRETARY OF THE INTERIOR

We recommend that the Secretary require the Director, National Park Service, to:

--Develop a land acquisition plan for the Lake Chelan National Recreation Area consistent with the Service's April 26, 1979, land acquisition policy. The plan should define compatible and incompatible uses based on the legislative history; clarify the criteria for condemnation; identify the reasons for fee simple acquisition verses alternative land protection and management strategies, such as scenic easements and zoning; address recreational development plans for the area; and establish acquisition priorities. The plan should apply to both private and Service actions.

--Sell back to the highest bidder, including previous owners or other private individuals, all lands compatible with the recreation area. This would include the modest homes, the lodges, and the restaurant. The Service could attach scenic or developmental restrictions to the deeds before the properties are resold to assure that their use will be consistent with the enabling legislation. The proceeds would be credited to the Land and Water Conservation Fund in the U.S. Treasury. Funds obtained in this manner would then be available for future acquisitions if an incompatible use is identified, subject to the $4.5 million appropriation ceiling on total acquisitions under Public Law 90-544.

RECOMMENDATION TO THE SENATE AND HOUSE LEGISLATIVE COMMITTEES

We recommend that the Senate Committee on Energy and Natural Resources and the House Committee on Interior and Insular Affairs hold oversight hearings to determine why the National Park Service has not carried out the Congress' intent at the Lake Chelan National Recreation Area.

RECOMMENDATIONS TO THE CONGRESS

We recommend that the Congress:

--Not increase the statutory land acquisition appropriation ceiling for the North Cascades National Park and the Ross Lake and Lake Chelan National Recreation

Areas above the $4.5 million already approved until the Service has defined compatible and incompatible development, prepared a land acquisition plan justifying the need to acquire land from private owners, and spent the funds obtained from selling all compatible land back to private individuals.

--Exempt land acquired pursuant to Public Law 90-544 from the 2-year limitation in 16 U.S.C. 460l-22(a). This would give the last owner(s) the right to match the highest bid price and reacquire property sold to the National Park Service.

EXCERPTS FROM THE JULY 26, 1968, HEARINGS BEFORE THE SUBCOMMITTEE ON NATIONAL PARKS AND RECREATION, HOUSE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Congressman James A. McClure: "Mr. Hartzog, I appreciate the information you provided me in regard to the evolution of the national recreation area and the scenic easements that are being acquired. This is a matter which you and I have discussed and on which we share concern as to the direction which may eventually evolve.

You made a statement a moment ago, however, which startled me a little with respect to the acquisition of inholdings. If I recall your statement correctly, it was along the order that within the recreation areas there would be no plan to acquire in-holdings until the owners wish to sell."

Mr. George Hartzog, Director, National Park Service: "As long as their use was compatible with the overall recreational environment of the area."

Mr. McClure: "It hadn't been my understanding that within national recreation areas it was the intention of the National Government to acquire fee to any of the land, necessarily."

Mr. Hartzog: "Well, we do have to have the fee for the areas that we are going to develop, the areas that we are going to make available for public use."

Mr. McClure: "Surely."

Mr. Hartzog: "Then if an owner insists on developing an area that is not needed for one of these two categories, adversely [sic] the recreational environment, sometimes we simply have to acquire the fee in order to prevent it, and the Congress, recognizing this in the amendments to the Land and Water Conservation Fund Act, gave the Secretary authority in the circumstances to buy the land in fee and then either lease back or sell back a compatible development right." (Emphasis added.)

Mr. McClure: "That is an alternative, if you want to acquire a scenic easement but it is overpriced."

Mr. Hartzog: "That is correct."

Mr. McClure: "But only in that event."

Mr. Hartzog: "That is right."

Mr. McClure: "And not simply because the owner wishes to sell." (Emphasis added.)

Mr. Hartzog: "No; that is right, but if he wishes to devote it to an adverse use. You see, this is where you come into the conflict. Assume he is running there now a dude ranch and the property becomes valuable for subdivision purposes, this is its highest and best use, in his judgement, and this is what he wants to make of it. You can't resolve the thing any other way than to pay him 90 percent or more of the fee, and in some cases this is what has been done. Our view is that the Federal Government should go ahead and buy the fee and then lease it back for operation as a dude ranch. (Emphasis added.)

I would be very pleased to furnish you as part of the record the land acquisition policies that we do follow in national parks and in national recreation areas."

Mr. McClure: "I am not sure that there is any disagreement between us but I want to make sure for the record what that policy is."

Mr. Hartzog: "Right."

Mr. McClure: "Assume that you have acquired a scenic easement which is satisfactory, then there is no continuing problems as far as adverse use is concerned and there would then be no further acquisition of fee to that particular piece of property even though the owner might be willing to sell?"

Mr. Hartzog: "That is correct, sir."

Mr. McClure: "I think this is important not only for our purposes but for the understanding of the people in the local governments that are affected, that it is not the purpose of the Federal Government to acquire title except

in the limited case that you are speaking of, of a developmental site or in the case where it is cheaper, more effecient to buy it rather than to buy the scenic easement?"

Mr. Hartzog: "That is right."

Mr. McClure: "I think your statement could have been construed the other way, that even though you have a scenic easement, even though there is no incompatible use, that there might be a further acquisition of fee by the Federal Government, which I think a good many people that I represent would find incompatible with their understanding of the policies of the Department."

Mr. Hartzog: "I deeply appreciate the clarification of it because I certainly don't want any confusion on that point. If we have a compatible, private development that is there and we have enough control through scenic easement to see that it continues, we are through with land acquisition." (Emphasis added.)

Mr. McClure: "Thank you very much."

THE NATIONAL PARK SERVICE'S APRIL 25, 1980, DRAFT LAND ACQUISITION PLAN FOR THE LAKE CHELAN NATIONAL RECREATION AREA

"The land acquisition program for newly authorized areas, established since July 1959, is carried out in accordance with the policies prescribed by Congress in the authorizing legislation. The legislative history contained in Senate Report No. 700 of the 90th Congress, First Session, states in part:

> 'The important consideration in the land acquisition program for national recreation areas is that adequate lands be acquired by the Federal Government for public use and enjoyment and effective administration, accompanied by adequate control of the remaining lands to insure that the natural endowment of the areas are preserved and that private uses are not maintained or developed in a manner that would impair the primary purposes of the area to provide a continuing resource for quality outdoor recreation.'

"The Committee Report further states under the amendment section contained on page 3 of the above referenced report as follows:

> 'This amendment gives statutory character to the announced policy of the National Park Service that it will not seek to acquire the inholdings in Stehekin Valley and other portions of the national recreation areas established by this Act so long as the existing compatible uses of the private lands are not altered to the detriment of the purposes for which the areas are established.'

"At the hearing conducted in Wenatchee, Washington, on May 29, 1967, the announced policy of the National Park Service was described by Director Hartzog as follows:

> 'The National Park Service will not seek to acquire private holdings within the Stehekin Valley * * * without the consent of the owners,

> so long as the lands continue to be devoted to present compatible uses now being made of them--such as: For modest homesites, ranches, limited eating establishments, lodges, etc. This applies to the present owners and to any future owners of the property. The present owners are at liberty to dispose of their property just as any private landowner anywhere else can do. Subsequent owners may be assured that the National Park Service will take no action with regard to acquiring the property without their consent so long as the properties continue to be used for the same compatible purposes as at the time of the authorization of the park.'

"Under Title IV--Administrative Provisions-Congress gave the Secretary of the Interior authority to 'acquire lands and waters and interests therein, by donation, purchase with donated or appropriated funds, or exchange except that we may not acquire any such interest within the recreation area without the consent of the owner, so long as the lands are devoted to uses compatible with the purposes of this Act.'

"The legislative record shows that there was no intent to eliminate uses that existed when the legislation passed. In existence were modest homesites, ranches, limited food services and lodges. There also were parcels with no development.

"It appears that Congress intended that the community that existed at the time of legislation would continue to exist, but that conservation of the scenic, scientific, historic and other values of the area must be provided for.

"The land records reflect that, at the time of enactment of the North Cascades National Park Complex, the Lake Chelan National Recreation Area contained 1841.34 acres of private lands. Since enactment of the legislation, the Service has acquired 980.79 acres of this total. Of the remaining 761.52 acres in private ownership, the County Assessor's records indicate there are 205 individual lots. There are currently 127 residences in the National Recreation Area--31 of these residences are in government ownership.

The former owners of 12 of these dwellings have retained the right of use and occupancy. Fifteen new tracts have been created by subdivision and 40 new residences have been constructed since the area was established. (Emphasis added.)

"The present Chelan County zoning regulations is General Use- one acre minimum with septic tank, sewage disposal and water supply or 12,500 square foot lot with community water supply, and septic system.

"Potential subdivisions and development of these subdivided tracts, along with development of all existing tracts, would result in an unacceptable imbalance between demand for and protection of the resource. This could also result in visual intrusion from high vantage points and along the main valley road, which is the principal visitor experience corridor in the valley.

"Compatibility and incompatibility use provisions have not been finally established in this interim plan because Chelan County, in cooperation with the National Park Service, is engaged in a joint planning effort pertaining to zoning and private land use. Negotiations are continuing in an effort to find a mutually agreeable plan that will adequately control subdivision, development, and visual impact. Upon approval of an acceptable plan, the County will develop implementing ordinances.

"Before compatibility and incompatibility use provisions are further defined, public participation will occur."

GAO Note: Neither the 1,841.34 acres of private land in the recreation area when the enabling legislation was enacted, the 980.79 acres acquired by the Service, the 761.52 acres remaining in private ownership, nor the 205 remaining privately owned lots coincide with data we developed during our review or with statistics included in Interior's comments on our draft report.

APPENDIX III

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

OCT 17 1980

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:

Thank you for the opportunity to respond to the GAO draft of a proposed report, "Private Lands Acquired in the Lake Chelan National Recreation Area Should Be Returned to Private Ownership." For convenience we have broken our discussion down into the various subtopics discussed in the draft report as enclosures to this letter.

However, before commencing the specific responses, we wish to make two overall comments on matters of special concern to us. The first is the lack of confidentiality by GAO in dealing with the preliminary findings of the examiners. The second is the misinterpretation of the Act of Congress establishing Lake Chelan National Recreation Area.

During the examination period, an examiner met with National Park Service regional personnel as indicated in the report on page 5. During at least one of those meetings the examiner stated that neither he nor any other GAO employee would release the findings until NPS received the report.

We enclose a copy of a newsletter issued by a landowner and former concessioner in the area. This notice was posted in the local Stehekin post office and widely disseminated in the park area. It must be noted that the newsletter stated that one of the GAO investigators said--and this had to be prior to May 30, 1980, the date of the newsletter--that the report would recommend that all previously owned property be sold back to previous or other owners; that the community that existed prior to the national recreation area continue to exist as then; and that the burden is on the National Park Service to prove what is not compatible in the Stehekin Valley.

This newsletter ends with a postscript that Mr. Charles Cushman of the National Park Inholders Association would be in Stehekin subsequently for a public meeting, and, among other things, would relate how his organization could help in the process of getting Stehekin property

GAO note: Page references in this appendix have been changed to correspond to the page numbers in the final report.

APPENDIX III

returned to private ownership again. Thus, it is obvious beyond doubt that Mr. Cushman was aware of the plan of GAO months before the National Park Service was given the opportunity to review the draft report and learn officially of the views of GAO's investigators. You may recall that, in the case of the earlier report (CED 80-14), we objected to the premature release to Mr. Cushman. Though GAO denied premature release at that time, there can be no doubt of premature release in the case of the current draft report.

Further, on Tuesday, June 17, more than one NPS employee heard a Chelan radio interview with the same GAO investigator. During that lengthy interview, the GAO investigator stated that, though he was not at liberty to give the exact specifics of the report, the audience could be assured that the report would find the NPS at serious fault and that strong remedial action would be taken.

The radio statements and the above-mentioned news release have had a serious adverse effect on the Service's concessioner and concession employees. Further, as this response is being written, NPS is about to participate in a final Chelan County Planning Commission hearing concerning zoning in Stehekin. The hearing is a result of many months of close NPS/Chelan County coordinated efforts which might well be adversely affected by the premature dissemination of the allegations within the report.

It is noted that on the cover sheet of the draft report it is stated that recipients of the draft must not show or release its contents for other than official review under any circumstances and that it must be safeguarded to prevent improper disclosure of the information contained therein. The National Park Service has complied with those directions.

The second of the overall comments we wish to make related to GAO's misinterpretation of the legislative history of Lake Chelan NRA, which consists primarily of statements or comments scattered throughout 2,000 pages of reported hearings before the Senate and House Committees on Interior and Insular Affairs. Therefore, because of the importance of the legislative history to the subsequent NPS actions, we will discuss what we believe to be the pertinent aspects of that history, as well as the relevant portions of the Act, per se.

The provisions of the Act, insofar as they related to land acquisition for the area, are simple and straightforward. Section 202 of the Act authorizes the area to be established on designated lands and waters for public outdoor recreation and for the preservation of scenic and other values contributing to public enjoyment. Section 301 authorizes the acquisition of lands, waters, and interests but provides that none such may be acquired without the consent of the owner so long as the lands are devoted to uses compatible with the purpose of the Act. This language is quite familiar and is that generally

associated with the opportunity purchase program in effect in the older (pre-1959) areas of the National Park System. Under this concept, lands are not acquired without the consent of the owner unless the owner devotes them to a use, generally a new use, incompatible with the park in which they are located. As will be seen, GAO has seen fit, on the basis of its interpretation of the legislative history, to construe the Act to mean that lands will not be acquired at all unless put to a use incompatible with the area. The National Park Service believes that the clear provisions of the Act not only allow but, in fact, contemplate acquisition of land deemed necessary for the area. The issue of incompatible use is irrelevant to these circumstances.

Having made these comments on the fundamental issues, we will now proceed to discuss the major points by means of several enclosures. The first enclosure headed Legislative History and consisting of five pages is a more detailed analysis of the history of the Act establishing Lake Chelan NRA. Other enclosures are Acquisition of Improved Property (one page), Acquisition of Commercial Facilities (four pages), Purported Business Restrictions (two pages), Compatability (two pages), Sellback (one page), Need for New Land Acquisition Funding Authority (one page) and Summary and Conclusions (one page). Our response concludes with two appendices, the first being the aforementioned newsletter dated May 30 and the second being a survey of recreation impact and management recommendations.

Sincerely yours,

Larry E. Pelcrotto
Assistant Secretary for
Policy, Budget and Administration

Enclosures

[GAO COMMENT: Interior's cover letter addresses two overall matters of special concern. The first involves our lack of confidentiality in dealing with the preliminary findings. Interior officials conclude that "there can be no doubt of premature release in the case of the current draft report." (Emphasis added.) To support this conclusion, they point to a May 30, 1980, Newsletter (see p. 76) and to a June 17, 1980, radio interview. (See p. 79.)

We began our review in January 1980 and visited the Lake Chelan National Recreation Area and the Service's Pacific Northwest Regional Office during the week of May 5-9, 1980. Fieldwork at the Service's Washington, D.C., headquarters and organization and analysis of the voluminous information obtained continued through May. Initial drafting of the report and formulation of our findings, conclusions, and recommendations did not begin until June.

The inholder who issued the Newsletter has been intimately involved in the development of the recreation area and has been questioning Service land acquisitions for years. He apparently arrived at his conclusions based on his knowledge of the issues and the inholders' response to our May 1980 visit. Upon being apprised of the Newsletter, our senior evaluator requested that the inholder retract the statement, which he subsequently informed us he did. The visit by Mr. Charles Cushman of the National Park Inholders Association was apparently timed to capitalize on our visit to the recreation area and not on the premature release of any findings or recommendations.

The interview aired on June 17, 1980, together with a May 5, 1980, interview are included as appendixes IV and V, respectively. (See p. 79.) Nowhere did our senior evaluator state "the audience could be assured that the report would find the NPS at serious fault and that strong remedial action would be taken." He did agree that the report would be critical of some Service land acquisition policies and would make recommendations to remedy past actions, but emphasized that he was not at liberty to say what conclusions and recommendations had been reached.

Interior's second matter of special concern addresses our interpretation of the act and legislative history establishing the Lake Chelan National Recreation Area. Our comment follows their enclosure headed "Legislative History." (See p. 40.)]

APPENDIX III

LEGISLATIVE HISTORY

The first great movement in the legislative history is former Director Hartzog's proposal that the land acquisition policy to be followed in the area be similar to that then being followed at Grand Teton National Park. This policy is stated at pages 417-418 of the Senate hearings and on pages 630-632 of the House hearings. This policy was the opportunity purchase program or willing seller program with condemnation confined to instances when it was necessary to prevent incompatible use. This policy followed at Grand Teton contained the assurance that such traditional uses in the area as modest homesites, ranches, limited eating establishments, and lodges were compatible. Mr. Hartzog thought this same policy eminently suitable for the conditions in the Stehekin Valley. The acceptance of modest homesites as compatible; however, should not be construed as intended toleration of extensive subdivision development; other portions of the legislative history are quite definite on this.

GAO is quite mistaken if it believes that the Grand Teton policy, however liberally interpreted, meant no acquisition except upon incompatible use. It was definitely the intent of the policy at Grand Teton that property would be acquired when the owner was willing to sell and that eventually all property was to be brought into federal ownership by means of the opportunity purchase program. This was well known both to the Director and to everyone on the Committees before whom he testified. There is no reason to believe that the intention for the Stehekin Valley at that time was any different.

On page 630 of the Senate hearings, Senator Jackson affirms the right of existing business operators to continue as long as they wished. On page 697 of the Senate hearings, Mr. Hartzog says that it will not be necessary to condemn land for facilities. This point is also made on page 955 of the House hearings. The context here is acquisition against the wishes of the owner and does not mean that the Service would not purchase land from willing sellers for necessary developments or for the use of the visiting public.

On page 954 of the House hearings, Mr. Hartzog reconfirms the right of owners to keep their lands until they want to sell so long as use is compatible.

On page 686 of the Senate hearings there is a most important interchange between Senator Jackson, Director Hartzog, and Mr. Newkirk of the Washington State Grange. This part of the hearing record is extremely important to any understanding as to what the Congress and the Service intended in authorizing the area as a part of the National Park System. Relevant portions will be quoted, as follows:

Mr. Hartzog. I have no difference with Mr. Newkirk on that. I welcome his suggestions as to what he might consider incompatible uses in Stehekin, and a number have been suggested to me, such as high density subdivisions, logging, and---

Senator Jackson. And high rise?

Mr. Hartzog. High rise, and this kind of thing, if we can foresee that far down the future, but principally this matter of small lot subdivisions, which would completely change the character of that little valley.

Senator Jackson. *** I think the gist of this whole business is that, other than logging operations up there, and mining, that basically what is going on now is not incompatible. *** I don't think that what we saw is incompatible with what is intended in the legislation here. ***

If we attempt to summarize the policies expressed during the hearings and discussed to this point in these comments, we believe they would be as follows:

1. No taking of land against the wishes of the owner for park developments or for any other purpose except to prevent incompatible developments.

2. Toleration of existing uses.

3. Prevention of major changes in the character of the region, especially with regard to extensive subdividing.

One further, very significant, development took place before the process of enacting the legislation was completed. This was that a new land acquisition policy for national recreation areas was developed by the Service nationwide. This plan, often called the 3-P Plan, provided for three zones in each national recreation area, as follows:

1. Public use and development zone.

2. Preservation zone.

3. Private use and development zone.

In the public use and development zone, land would be acquired in fee simple. In the preservation zone, lands could be acquired in fee or in less-than-fee interests if such would achieve management objectives at reasonable cost. For the private use and development zone, it was stated in the policy that acquisition might not be necessary if zoning, scenic easements, or the like, were adequate to achieve the long-range purposes of the national recreation area.

This new policy was reprinted in the Senate report on the legislation, where the statement is made that this new policy had been announced since the hearings to be applied across the country. Incidentally, this exchange of July 26, 1968, betweer Representative McClure and Director Hartzog is related to the new policy and not to the purposes GAO assumes.

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Though conditions in the Stehekin Valley and the general intent of the legislation to preserve the existing community may not have made the 3-P Plan altogether suitable for this area, the 3-P Plan was in fact put into effect there. A private use and development zone of approximately 65 acres was set aside at the head of the lake. Here, individuals are free to build modest homes without danger of interference by the Service. In fact, the Service has declined to purchase properties here that the owners have pressed the Service to buy. A preservation zone generally separating the privately-owned lands and the mountainous areas on each side of the valley was established. The remainder of the area was classified as the public use and development zone.

Next, we would like to discuss certain applications of the legislative history by GAO.

As we view the draft report, GAO maintains three essential theses. The first such thesis is that Congress intended the Stehekin community to be a viable one. We are not sure from the draft report whether GAO is talking about the entire Stehekin Valley or only the developed portion around the boat landing. In either event, we have no quarrel with GAO on this. In fact, we think this correlates with our view of the intent to preserve the entire area as it existed in 1968. However, for reasons that will be covered elsewhere in these comments, commercial and other facilities in the Stehekin landing area were taken over by the Service.

The second thesis is that the Service has not defined what incompatible use is for this area. This is of particular importance to GAO in view of its assertion that acquisition can be made only upon incompatible use. Though important to the Service, it has not as yet become critical as all acquisitions to date have been with the consent of the owner. A definition of incompatible use will be made in conjunction with the county when the planning and zoning process by the county is further along. There is no question in our minds; however, that small-lot subdivisions are incompatible. The colloquy above quoted between Senator Jackson and Director Hartzog is certainly proof of that.

GAO's third thesis, and the one that gives us the most concern, is that the Service has bought land unnecessarily. In fact, GAO seems to be saying that the Service should not have bought any land at all, but should have relied on county zoning, on scenic easements, and on leaseback arrangements. To support this view, GAO cites portions of the legislative history to support the idea that land was to be acquired only when threatened with incompatible use. As a matter of fact, much of the land was bought to forestall subdivision. Aside from that, however, the quotations used by GAO do not support its theory that land cannot be bought from a willing seller when there is no threat of adverse use.

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As an example, the statement of Mr. Hartzog quoted on page 3 of the draft report to support GAO's position specifically relates to acquisition without the consent of the owner and by implication, at least, assumes that acquisitions can and will be made with the consent of the owner when the Service wishes to buy and the owner wishes to sell.

At the top of page 4 of the draft report GAO cites the Committee reports to the effect that Congress intended land costs to be minimal. The statements in the Committee reports were made on the basis that most of the lands within the boundaries of the North Cascades complex were already in public ownership, not that such privately owned lands as existed were not to be acquired. It is significant to note in this connection that the monetary authorization in the Act is based upon the cost estimate to purchase all privately owned lands.

On page 12 of the draft report GAO cites portions of the July 26, 1968 dialogue between Representative McClure and Director Hartzog and interprets this discussion as indicating that the Service would not buy simply because the owner wished to sell, and expands that into an indication that the Service would not buy at all except for incompatible use. The dialogue was centered on what is commonly referred to as the "3-P" Plan. Director Hartzog stated: "Well, we do have to have the fee for the areas that we are going to develop, the areas that we are going to make available for public use." Mr. McClure: "Surely." Mr. Hartzog: "Then, if an owner insists on developing an area that is not needed for one of these two categories, adversely (sic) the recreational environment, sometimes we have to acquire in fee---." You will note the emphasis is on one of these two categories, meaning, 1. Private Use and Development Zone, and, 2. Preservation Zone. Then it becomes obvious they were discussing 3. Private Development Zone. The Service has been contacted continuously by owners within the private development zone asking the Service to purchase their lands and improvements. We have consistently refused and, to this date, have never acquired any property right in the private development zone. It should be clearly evident that they were discussing an existing land acquisition policy as inferred by Director Hartzog, offering to furnish as part of the record the land acquisition policies that we do follow in the national parks and in the national recreation areas.

We believe GAO has completely misunderstood the meaning of this dialogue, as it was never the intention of the Service--or of anyone else we know of--that the Service would not buy land needed for the area. Congress' only concern at that time was that owners not be required to give up their land against their wishes so long as their use was compatible. Though we think GAO's quote is taken out of context, we concede that the meaning of this dialogue is not easily discernible to a casual reader. This selection of the legislative history appears to be a part of an already started discussion of the newly formulated 3-P Plan. The statements so heavily relied on by GAO are quite evidently related only to very limited situations in the preservation zone or in the private use and development zone. To apply the cited statements to the entire Stehekin Valley flies in the face of the entire concept of the legislation.

The Service to date has acquired somewhat more than half of the 1,725 or so acres of privately owned land in the area. Though altogether acquired from willing sellers, much of the acquisition was actually done to forestall subdivision. In fact, some of the land was acquired in already active subdivisions. Though constituting a relatively small proportion of the total 62,000 acres in the area, the privately owned land covered the most strategic locations in the area. This land is situated in the valley along the lake and the streams and by the roads, and includes almost all of the land in the national recreation area that could be utilized by a park visitor who was not a hardy backcountry hiker. Even worse, subdivision of this land would scar up the entire valley and result in irreversible change to the entire area.

The land acquisition policy to be followed at the area was stated by Director Hartzog during the Senate Appropriations' Hearings on February 18, 1970, when the Service sought the first regular appropriation of funds for this project. This was covered in the communication to GAO of March 24, 1980, and will not be repeated in detail here. However, presentation to the Congress at this hearing included material on the Service's land acquisition policy and on the opportunity purchase program in particular. Included were the specific guidelines for the use of the undistributed funds, one of which states, in part, that the National Park Service "will welcome offers from the owners to sell private properties to the United States, and it is hoped that the owners will give the Service the first opportunity to purchase them."

We regret having to go to such depths in the legislative history but believe it necessary as the legislation and the legislative intent are the basis for all subsequent actions.

The remainder of the draft report covers main themes to be found in various places. We believe that we can be of much more assistance if we respond by category regardless of where the item lies within the report.

[GAO COMMENT: Noticeably missing from Interior's interpretation of the legislative history is the chronology leading to converting the southernmost portion of the originally proposed national park into the Lake Chelan National Recreation Area. This was accomplished in S. Rept. No. 700 dated October 31, 1967. (See p. 1.) This action negated the Service's plans to apply land acquisition and management practices applicable to a national park and placed in their stead those practices relating to a national recreation area. Thus the Service Director's May 27, 1967, proposal that the land acquisition policy to be followed in the area be similar to that then being followed at the Grand Teton National Park must be tempered to reflect Stehekin's status as a national recreation area not a park.

After imposing the Grand Teton "park policy" on the Stehekin Valley, Interior concluded that it was the Congress' intent that "eventually all property was to be brought into federal ownership by means of the opportunity purchase program." The legislative history does not support this interpretation. The Senate report states that the announced policy of the Service was

> "* * *that it will not seek to acquire the inholdings in the Stehekin Valley and other portions of the national recreation areas established by this act so long as the existing compatible uses of the private lands are not altered to the detriment of the purposes for which the areas are established."

Our interpretation is also supported in statements by the Service's current Director. For example, in a September 1, 1978, letter to a Stehekin landowner he stated that:

> "Stehekin is unique and general Park Service guidelines do not always fit such areas. * * * You will recall that the legislation for the establishment of North Cascades National Park did not provide for the creation of the Lake Chelan National Recreation Area. It was through a Senate amendment that Stehekin Valley became a separate recreation area. The original bill was also amended to specifically provide that the recreation areas were created for a different purpose than North Cascades National Park and called for administrative policies to accommodate the public use and development of the area.

> The Senate report very clearly emphasizes the difference between the administrative policies for recreation areas and park areas. The report also discusses at some length the extent of public use in the recreation areas as well as the permitted development on privately owned lands. It is apparent from the report and subsequent legislation that Congress intended that private development should continue in the recreation areas. Such intent is not only expressed in the language of the Senate report and amendments to the act but more emphatically through the device of restricting authority of the Secretary within the recreation areas." (Emphasis added.)

These statements parallel and support our conclusions. Interior's statement that the Congress intented that eventually all property was to be brought into Federal ownership appears to be a misinterpretation of the legislative history based on past Service land acquisitions.

Interior lifted excerpts from the May 29, 1967, Senate hearing to show that Senator Henry M. Jackson opposed high density subdivisions, highrises, logging, and mining in the recreation area. What Senator Jackson saw on his visit to Stehekin were privately owned "modest home-sites, ranches, limited eating establishments, lodges, etc." which he said were compatible with the recreation area's purposes. We believe that these properties should have remained in private ownership with the Service limiting additional development by defining compatible and incompatible uses based on the legislative history. (See p. 18.)

Interior's comments state that one further, very significant development took place before the process of enacting the legislation was completed. A new nationwide land acquisition policy for national recreation areas was developed by the Service in February 1968. The policy provides for three zones in each national recreation area--a public use and development zone, a preservation zone, and a private use and development zone. In the public use and development zone, acquisition is limited to fee simple while alternative land protection and management strategies are permitted in the other two zones. Interior notes that this policy was reprinted in S. Rept. 700.

According to Interior, this new policy was put into effect at the Lake Chelan National Recreation Area. What Interior fails to note is how the policy was implemented in the area.

By 1974, the Service had acquired about 987 acres of privately owned land in the recreation area. However, with the exception of about 65 acres at the head of the lake which was designated as a private use and development zone, the Service had, in a November 1970 Master Plan, arbitrarily placed all of the other private land in the valley in a public use and development zone. This gave the Service carte blanche to acquire these lands in fee simple.

Service officials are aware of their failure to correctly implement this policy before acquiring land in the recreation area. In his September 1, 1978, letter to a Stehekin landowner the Service's current Director stated that:

> "We intend to meet this challenge through the development of zones of use as described in the Senate report. * * * We are hopeful through the use of such zones that the Park Service will bring some order to land use development in the Stehekin Valley. Such zones should also enable the Park Service to meet its burden of defining an incompatible use. * * * it is presently planned to establish three zones of use. * * * It is apparent from my review of this matter that the only feasible alternative at this point in time, and at this level of management, is the action that we are taking to establish zones of use. * * *"

The Service's planning efforts were suspended in September 1978.

Finally, the Service's policy states that "except as otherwise provided in the legislation affecting a particular area, the Service, in preparing master plans for national recreation areas, establishes three land zones * * *." We believe that the 1970 master plan which arbitrarily placed all but about 65 acres of private land in a public use and development zone thereby permitting the Service to acquire

the lands in fee simple is not consistent with the intent of the Congress that the private community of Stehekin continue to exist. Further, the Senate report prefaces the new acquisition policy with the Service Director's May 29, 1967, statement on compatible uses and the liberty of private landowners to dispose of their property to other private individuals. (See p. 3.)

Applications of legislative history by GAO

Interior stated that we maintain three essential theses in the report. The first is that the Congress intended the Stehekin community to be a viable one. Interior officials state that they have no quarrel with us on this and that this correlates with their view of the intent to preserve the entire area as it existed in 1968. It is difficult for us to conceive of a "viable" community and the maintenance of status quo when it is the stated intent of the Service to eventually acquire most of the private land in the recreation area.

The second thesis presented by Interior addresses the failure of the Service to define incompatibility. Interior notes that this has not been necessary since all acquisitions to date have been with the owners' consent. As stated in our conclusions, we believe much of the land already acquired by the Service was compatible with the recreation area and did not have to be acquired and that the public interest could have been adequately protected by alternative land acquisition strategies. (See p. 22.) However, the onus is on the Service to define incompatible uses based on the legislative history.

We do not, however, imply that the Service should not have acquired any land in the recreation area as maintained by Interior in the third thesis. Nor do we assert that land cannot be bought from a willing seller when there is no threat of adverse use. We do show that land has been bought unnecessarily. For example, the Service has spent over $506,000 to acquire 42 tracts of land each less than 2 acres. Many of these tracts did not have to be acquired because they had modest homes identified by the Service Director as compatible with the enabling legislation and/or they were so small that they could not have been subdivided under the

existing zoning ordinance or developed in a way which would make them incompatible with the recreation area. (See p. 12.)

Finally, Interior identifies three examples to support its contention that we completely misunderstood the meaning of the respective dialogues in the legislative history. As discussed below, our analysis of the legislative history was quite thorough while Interior's interpretation is incomplete and misleading.

For example, the legislative history does not support Interior's contention that the May 29, 1967, statement by the Service Director quoted in the Senate report (see p. 3)

> "specifically related to acquisition without the consent of the owner and by implication, at least, assumes that acquisitions can and will be made with the consent of the owner when the Service wishes to buy and the owner wishes to sell".

At the July 26, 1968, House hearings the Service Director agreed that the Service would not acquire private land within the recreation area "simply because the owner wishes to sell." (See p. 26.)

Interior points out that the $3.5 million statutory authorization ceiling in the act was based on the cost estimate to acquire all privately owned lands as justification for eliminating the small community of Stehekin. What Interior fails to note is that the $3.5 million cost estimate was developed in April 1967 when Stehekin was still a part of the proposed national park. After hearings concluding on May 29, 1967, the Senate amended S.1321 to designate the lower Stehekin River Valley and the upper Lake Chelan area as a national recreation area. However, the statutory authorization ceiling was never revised to reflect this change. This is supported by the current Service Director's September 1, 1978, letter to a Stehekin landowner which concludes that the "Congress intended that private development should continue in the recreation areas." (See p. 41.)

The July 26, 1968, dialogue between Congressman McClure and the Service Director is presented in its entirety in appendix I. (See p. 25.) Interior's contention that the dialoque centered on the Service's new land acquisition policy for national recreation areas cannot be supported. The "two categories" referred to by the Service Director were those in his previous sentence--(1) the areas to be developed by the Service and (2) the areas to be made available for public use. Interior's deduction that the assurances given Congressman McClure relate only to the about 65 acres ultimately designated as a private use and development zone should not even be inferred in light of the Congressman's statement that it had not been his understanding "that within national recreation areas it was the intention of the National Government to acquire fee to any of the land, necessarily."

According to Interior, the land acquisition policy to be followed at the area was stated by the Service Director at February 18, 1970, Senate appropriation hearings. The excerpts included in the Service's March 24, 1980, letter to us address primarily the land acquisition plan for parks in general and the North Cascades National Park in particular, not the national recreation areas. As stated previously, the Service has failed to temper these statements to reflect Stehekin's status as a national recreation area and has never fully implemented its land acquisition policy for national recreation areas at Lake Chelan.]

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ACQUISITION OF IMPROVED PROPERTIES

The draft report fails to note that when the Lake Chelan National Recreation Area was established, NPS was mandated the responsibility to manage the area by providing protection, safety, maintenance, administration, sanitation and resource management, which requires that the area be staffed. The draft report fails to indicate that of the 31 houses acquired, 12 have use and occupancy provisions; 1 contains the district headquarters, small interpretive center and post office; 2 structures have been removed and the remaining 16 are used for quarters for permanent and seasonal personnel and concession employees. The NPS was fortunate in being able to obtain these residences; otherwise it would have been necessary to construct additional residences to house these employees, thus altering the community.

By utilizing these existing structures, the NPS was able to provide the necessary staffing with minimal impact on the valley caused by additional structures, except for the five trailers which were moved into the valley to provide for seasonal housing and which have caused critical comments by some residents. Had we been able to purchase additional residences, this would not have been necessary. If these facts are considered in the light of the draft report's statement, "...eventually lead to the elimination of the small community of Stehekin...," it is readily apparent that the opposite effect has occurred. By purchasing the land in fee, the NPS has retained the small community, and, in fact, become an integral part of the community.

The draft report implies that the community has somehow lost its small community homogeneity by the purchase of private residences and use by the staff. The report fails to state that, of the original full time residents of the community, many have been replaced not only by NPS personnel who have made the valley their home, but by other residents who have moved into the valley since the NRA was established.

[GAO COMMENT: Interior rationalizes that had the 31 homes not been acquired, it would have been necessary for the Service to construct additional residences to house employees, thus altering the community. Conversely, we believe that acquisition by the Service of these homes may have altered forever the character of Stehekin.

Prior to being designated a national recreation area, Stehekin was managed by the Forest Service, Department of Agriculture, which carried out its mandated responsibilities without acquiring the private enterprises which comprise the economic base of the community. By acquiring the private lodges and restaurant at the boat landing, the Service also acquired the responsibilities associated with operating and maintaining the facilities. Thus the one permanent employee stationed at Stehekin under Forest Service management has ballooned to eight permanent employees under the National Park Service. Combined with the homes acquired by the Service to house the 26 seasonal staff employed in 1980 as well as concession workers, the Service has become an impetus for further subdivision and development in the valley. (See p. 70.)

A study conducted from July to November 1979 and funded by the University of California, Santa Cruz, found that the Service "is clearly the economic base in Stehekin." Of the 38 permanent households in the area in 1979, only 13 were independent of the Service for finances. Ten of these received retirement income, leaving only three households employed independent of the Service. The study concluded that "although a great deal of the change in the Stehekin Valley is a result of private growth and development, much is due also to the National Park Service's activities and policies."

The Chelan County Board of Commissioners agreed with the study's conclusion. In an April 9, 1980, letter to the Service commenting on a March 1980 draft of the Service's land acquisition plan for the recreation area, the Board concluded that it may be that much of the pressure for new home construction in the recreation area had been generated by the acquisition of existing homes by the Service.

We agree. The Service raises the threat of uncontrolled further subdivision and development as justification for continuing to acquire privately owned land in the recreation area. However, the acquisition of existing homes by

the Service to house employees required to operate and maintain previously privately owned commercial facilities has been a major factor contributing to further development in the area.

Interior contends that by "purchasing the land in fee, the NPS has retained the small community, and, in fact, become an integral part of the community." We believe that a distinct difference exists between becoming an integral part of a private community and becoming the economic base of a community dominated by Service employees and directed by Service policies. Unfortunately, the latter is true in Stehekin.]

ACQUISITION OF COMMERCIAL FACILITIES

The original intent of the National Park Service was clearly set forth by former Director Hartzog in his May 29, 1967 Senate testimony stating that existing limited eating establishments and lodges were compatible. In his July 26, 1968 House testimony, he stated that the Service would "rely on the existing commerical establishment at Stehekin to take care of the users in Stehekin."

By the summer and fall of 1969, the service to the public had deteriorated to the point that guests were openly critical of the National Park Service for not controlling the activities of the private commercial establishment and for not providing adequate services.

The tourist season for the Stehekin area consisted primarily of the months of June, July and August, with the greatest tourist activity during the month of August. The short season did not allow the competing commercial establishments to derive sufficient income to hire competent help to serve their clientele; the result being that the operators worked 14 to 16 hours a day, seven days a week. The Stehekin Boatel and the Stehekin Hotel operators had unsuccessfully been actively attempting to sell their facilities for two years prior to the establishment of the recreation area.

The Master Plan Team, prior to any land acquisition, recognized that the majority of the tourists for the area would arrive by boat with only a 1½ hour layover. The government facilities would have to be located close to the boat landing to allow guests to eat lunch, visit the interpretive facilities, and to take the short bus trip to Rainbow Falls. Master Plan Team members and the Superintendent soon realized that a major problem facing the Service was the water and sewage problems at the landing. The water system serving the public at the lodges came from a diversion system situated on Purple Creek, approximately 3,000 feet east of the public facilities. The water system did not meet either State or County health standards. The minimum requirements to correct this deficiency were to install a large storage tank and chlorination system. The lodge facilities were located at the edge of the lake and all of the individual buildings were being served by septic tanks and drain fields except the Stehekin Hotel, and it contained only a large cesspool. It became obvious that the cost of bringing the water and sewage deficiences up to health standards were prohibitive for the operators based on the marginal income that each derived.

The Master Plan Team believed development of the visitor's center and related capital improvements should be located as close to the landing as possible, but with insufficient federally-owned land in the immediate vicinity, decided that the final location would have to await the outcome of the acquisition program. This was due to the limitation imposed by the Act of allowing us to acquire only those properties that were offered for sale. Until the acquisition program had progressed to the point where sufficient land for the construction of these

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facilities was available, it was the recommendation of the Team that a first, second, and third choice of location be adopted and that the final decision would depend on the land acquisition. The Team believed that their primary choice would be the land located in the vicinity of the Stehekin Hotel. The Team advised that the second choice for the location of government facilities would be on the westerly side of the lake adjacent to or within the present picnic area which was developed by the Forest Service. The third choice would probably be up-river several miles in the vicinity of the Harry Buckner property.

The Outdoor Recreation, Inc., owners of the Stehekin Hotel, contacted the Lands office for the North Cascades National Park Complex in the spring of 1969 and advised that they would like to dispose of their holdings in Stehekin. This information was submitted to the Director for his concurrence. After clearing with Senator Jackson and Congressman Meeds, the Director approved the Designation of a Public Development Zone around the head of Lake Chelan except for the area in the immediate vicinity of the Morris Resort. The Master Plan Team then designated approximately 65 acres at the head of the lake for a private development zone. The Director further conditioned the acquisition of the projected public use and development zone for the Stehekin landing area to the requirement that the existing facilities must be kept open by the existing operators until proper planning and funding for the continuation of visitor services could be guaranteed.

The draft report, on page 14, criticizes the Service for closing the largest lodge rather than to bring it up to fire and healty safety standards.

The Stehekin Hotel was operated by the former owners for five years prior to the establishment of the Lake Chelan National Recreation Area. The owners lost money every year, ranging from $8,000 to $36,000. The corporation was on the verge of bankruptcy and had actively been attempting to sell the property for two years prior to the establishment of the recreation area. The only phase of the business to show a profit was the liquor sales, and the State notified the owners that they were in nonconformance with the State regulations, and unless the food sales increased to the proper level the liquor license would be forfeited.

The structure itself was both functionally and physically obsolescent. The building was a fire hazard for overnight guests and could not meet fire and health standards. The twelve guest rooms were too small to accommodate a double bed and the operators found it impossible to keep guests in this type of accommodation. The cost of bringing the structure up to proper standards was prohibitive. The report did not mention that the structure is currently being used as the Visitor Center, for nightly interpretive programs, Stehekin school students exhibit and interpretive room, for public restroom facilities, and for interpretive offices and occasional community functions.

The draft report fails to consider the visitation and the adequacy of present facilities. The report notes that "the results of a Service questionnaire

distributed to recreational visitors during the summer of 1978 showed that while most were visiting for the day only, "an overwhelming majority indicated a desire to stay overnight on their next visit." The draft report then fails to consider the present capacity of existing facilities and whether or not these visitors desiring to stay overnight ever attempted to acquire accommodations since the facility normally has vacancies. 1979 was the second largest season for visitation since the recreation area was established. Historically, the month of August has the largest demand for overnight accommodations. The average occupancy for August averaged 75%, and only two nights during 1979 were the accommodations considered full.

A design concept proposal is presently being prepared so that when visitation increases to a point where additional accommodations are necessary, the facility can be expanded on a systematic and planned basis. The total visitation for the 1980 season was down and we do not anticipate a need for added facilities within the foreseeable future.

A private lodge facility still exists in the private development zone and the owners have been unable to offer the lodge and cabins to the public on a paying proposition. The owners have attempted to sell the facilities to the park and to outside interests for the last ten years but have not been successful. The owners have subsequently leased the accommodations to private groups and individuals on an annual basis and at present all of the cabins have been rented.

The draft report discusses the proposal by a former Stehekin resident to replace the lodge closed by the Service with a private recreational development called Stehekin Village. They then state, "as proposed, the village does not appear to us to be incompatible with either the Act or its legislative history." The proposal includes the construction of motel units, grocery store, restaurant, marina, swimming pool and public shower and laundry facilities on the shoreline of Lake Chelan. Additional motel units are to be constructed on the steep mountainside. The draft report summarily dismisses any problems of duplication of present facilities except for a swimming pool, the visual impact on the area, sewage problems, economic viability, or visitor needs. We respectfully disagree with GAO's view that such an extensive development would not be incompatible with the traditional scene Congress intended to be preserved.

Further, on page 11, the draft report states that family members of the former owner of the golf course development charged that it was sold to the Service based on promises made by Service officials. The draft report further states that family members of the deceased man who sold the 110-acre tract to the Service informed us that he did so only after the Service's regional land acquisition officer verbally promised that, if possible, the Service would complete the final four fairways of a golf course he had been developing. The report further states that the land acquisition officer agreed that he had promised to complete the golf course but could provide no documentation to show that an effort was made to obtain funds to complete the fairways.

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This statement is absolutely untrue. Witnesses at this meeting have substantiated that the land acquisition officer told the investigators the following:

Mr. Art Peterson, at the time he agreed to the sale, stated that he hoped that the National Park Service would complete the golf course that had been his life-long dream. He was advised that there was no chance that the Service would complete the rest of the fairways. He agreed that this was probably true, but he said he couldn't stand to see the property broken up and sold by the family after his death. He said he wanted the Service to have the property because he knew the Service would never sell or break up his property.

The draft report states that the Service has "ruined three of the newly-completed fairways with four trailers used to house seasonal employees, two bunkhouses and a utility building for Young Adult Conservation Corps (YACC) workmen; a large building to house a garbage compactor, a maintenance shop, a storage shed for building material and gasoline, and a topsoil pit. Service officials explained that they had to have someplace to put their facilities."

The report bases this allegation on a promise which was not made, as is explained elsewhere, and then castigates the NPS for using available open land rather than cutting trees, clearing land and creating a substantial impact upon the forest and scenic resources of the valley to provide for these needs.

[GAO COMMENT: In a March 24, 1980, letter from the Service's current Director to us responding to preliminary questions, he stated that "I am not aware of the reasons why the resort owners desired to sell." We believe that the explanations offered here by Interior to justify acquiring commercial facilities in the recreation area are laced with inaccuracies. For example, the former owner of the Stehekin Boatel provided us a signed statement which sets forth a chronology which shows that he believes the Service coerced him into selling. (See p. 10.) This contention is supported by the Service's Master Plan Team recommending alternative locations for a visitors' center and related capital improvements away from the existing boat landing, if "sufficient land" could not be acquired. (See p. 49.) If the Service had built a new lodge at either of the two other locations recommended by the team, it could have deprived the existing lodge owners of a reasonable return on investment.

The impact of the Master Plan Team's recommendation that alternative locations be adopted is also reflected in statements by the former owners of another lodge the Service acquired. An April 1970 newspaper article quotes one of the owners as saying: "Six years ago, we bought this place and it seemed like a dream to spend the rest of our lives here, but it looks like we can't." In an April 30, 1980, letter to us his widow stated that they sold to the Service after being "told by Park personnel that the NPS was purchasing adjacent property for the purpose of eventually relocating accommodations to another site."

The former owner of the Stehekin Boatel also disagreed with Interior's statement that he had been unsuccessfully trying to sell his facilities for 2 years prior to establishing the recreation area. He stated that his records show a 15-to-18 percent growth pattern per year between 1964 when the facility opened and 1970 when the property was sold to the Service. He also offered his 1970 income tax return which shows an adjustment to reflect a forced sale to the Service and contended that there were then and are now willing buyers who will acquire the property if offered for sale.

A comparison of Service visitation statistics supports this contention. The statistics show that demand for overnight lodging accommodations in the recreation area had increased from 928 guests in 1969 to 5,411 guests in 1979 or by almost 500 percent.

Interior contends that our draft report failed to consider visitation statistics and the adequacy of present facilities. They point to an average occupancy rate for August 1979 of 75 percent to imply that present accommodations are adequate. We disagree.

Most visitors to the recreation area during the summer of 1978 were making their first trip to Stehekin and were there for the day only. When responding to a Service questionnaire, they mentioned cabins with kitchens as the preferred type of accommodation--one not now offered by the Service in the recreation area. In fact the only rental cabins at the boat landing have been torn down by the Service which has no plans to replace them.

As stated by Interior, the 11 3-decade old cabins that comprise the remaining private resort in the recreation area are leased on a yearly basis. The reasons for this are numerous. Located away from the boat landing and restaurant, the cabins are not readily accessible to the public. Further, the cabins are small and antiquated, making them more attractive to hunters and fishermen who use them on a seasonal basis than to families on short summer vacations. The Service has not acquired the resort because it is located in the about 65 acre private use and development zone where the Service has stated it will acquire no land.

In its 1979 draft comprehensive plan for the lower Stehekin Valley, the Chelan County Planning Department noted that there appeared to be a need for additional reasonable and necessary commercial services in the Stehekin Valley. They included improved cafe and grocery services for both residents and visitors and an alternative to camping and motel units as a means of accommodating overnight quests. The Department recommended hostels, dormitories, and cabins as possible alternatives.

During our visit to Stehekin we noted that grocery services were not available which had presented problems for some of the residents, especially the elderly. We also noted that there were no eating facilities for visitors other than that offered by the Service concessioner.

Contrary to Interior's accusation, we thoroughly considered problems of duplication of present facilities, the visual impact on the area, sewage problems, economic viability, and visitor needs relating to the proposed new

private lodge. This facility, considered by the Service to be an unacceptable visual intrusion on the scenic integrity of the lake, could provide needed restaurant and grocery services for residents and visitors alike. Rental cabins are also included in the proposal to fill the void created when the Service did not replace the cabins they tore down. The proposed lodge is located in the proximity of the boat landing where new sewer, water, and solid waste facilities have been constructed. Finally, the lodge appears to be economically viable in light of increased visitor and overnight guest statistics and the lack of comparable services. We hasten to point out that a new lodge may not be needed if the existing facilities are returned to private ownership and services improved and expanded. This could significantly lessen any potential visual impact on the area.

We believe that it was the Congress' intent that additional compatible development be permitted to accommodate increased visitor use. The Service proposes to wait until visitation increases to a point where additional accommodations are necessary before expanding. We believe that new accommodations of the type preferred by visitors are compatible with what the Congress intended and should be developed. This, in turn, could increase visitation to the recreation area. After all, the purpose of a national recreation area is to provide all Americans with a unique and rewarding recreational experience.

According to Interior, the statement in our draft report that the Service's regional land acquisition officer agreed that he had verbally promised an owner that the Service would complete his golf course as a condition to the sale of a 110-acre tract of land is "absolutely untrue." Service officials are willing to substantiate that the regional land acquisition officer informed us that the owner had been informed that "there was no chance that the Service would complete the rest of the fairways." Our two evaluators at the meeting have no record of this statement. Further, several residents of the area at the time with no vested interest in the transaction have informed us that they are willing to attest that the regional land acquisition officer assured the former landowner that, if possible, the Service would complete the golf course.

In a 1970 newspaper article the regional land acquisition officer stated that:

> "The park service also is in the final stages of a possible purchase contract with Arthur Peterson for about 111 acres, including a proposed golf course that Peterson has been developing near Stehekin." (Emphasis added.)

This statement could be read either that the Service was proposing to complete the golf course or that the Service was merely acquiring the land that comprised the nearly completed fairways.

Since this tract of land was sold to the Service in September 1970, before the Service's Master Plan for the area was approved in November 1970, the former owner was precluded from knowing the Service's development plans. Further, at a May 29, 1967, hearing, Senator Henry M. Jackson had specifically identified the golf course as a business compatible with the recreation area which could continue in perpetuity.]

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PURPORTED BUSINESS RESTRICTIONS

The draft report then goes on to make allegations that Service actions have imposed restrictions on businesses which are so prohibitive that a reasonable return on investment could not be realized and that the Service thereby coerced such businessmen to sell their property. The Service denies that any coercion was made. The report then specifically refers to three private horse packers who were equipped to take care of public saddle trips and day trail rides. It then states that the Service has restricted groups to 15 horses and 12 people to reduce their impact on the backcountry.

The draft report goes on to state, "since the Service imposed restrictions on the number of horses and people per group, two of the three private horse packers have gone out of business. According to the remaining packer, the Service-imposed restrictions deprived them of a reasonable return on investment and they subsequently sold their lands to the Service. He stated that he has been forced to find additional sources of income just to break even."

The restrictions on the numbers of horses and persons in the backcountry was instituted in 1975. One of the packers referred to in the above statement wrote to the NPS in April 1973 stating that he did not wish to continue his packing operation during the 1973 season because he was retiring. The second packer was a military retiree and operated his packing operation until 1974. He sold his horses and equipment and left the valley to be with his wife who left the valley in 1973 for medical treatment because of a serious illness.

The packer who is still in business has not sold his land to the NPS and still occupies a 20-acre ranch from which he continues to operate his pack trips. In addition to the 20 acres he owns, the NPS has also issued him permits to use a cabin and a barn located on land adjacent to him. A permit has been issued for use of a ranger patrol cabin for his use when he takes commercial winter ski trips. Additional permits have been issued for constructing, maintaining and operating a 3-foot concrete diversion dam and 1,200 feet of water line for irrigation and domestic use; for 4 acres of open land to grow, harvest and utilize hay; for constructing a reservoir 30 feet long by 5 feet high for irrigation of the hay field; and for 10 acres for operating a corral, hay storage and related grazing.

This packer does have outside income. The report should have noted that this individual is an expert in his field and has been involved in this outside activity prior to the establishment of the national recreation area.

The draft report states that by combining their efforts, the packers handled larger groups such as 75 Sierra Club members. One might infer from the report that this is a reasonable objective under management for backcountry use. Though the report fails to indicate the year that this allegedly occurred, it must have been prior to 1974 because there was only one packer left after that time.

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The report states, "According to the North Cascades Complex Superintendent, the Service has never conducted a study to determine the impact of various group sizes on the backcountry." The Service has relied instead on observations by its backcountry personnel to make determinations on when an area is reaching its limits. Incompatibility, in this instance, although defined by the Service, was not based on a study." What the draft report fails to consider is that there has been continual study and evaluation of these impacts since 1970.

The draft report indicates that the Service has compatibility standards but they are not based on a specific study. Prior to any discussion of what constitutes a study, we would refer to the book Wilderness Management by John C. Hendee, George H. Stankey and Robert C. Lucas, published by the Forest Service, U.S. Department of Agriculture. "The determination of carrying capacity is ultimately a judgmental decision. Perhaps the most fundamental point to be made about carrying capacity is that it is a product of management judgment rather than a precisely defined measure--it is a decision-making concept rather than a scientific concept. Whether we are measuring physical-biological impact or social impact, the relationships between use and the resultant impact are typically described by continuous curves that lack abrupt and clearly defined changes." (Frissell and Duncan 1965; Wager 1964; Stankey 1973)."

This does not mean that management's decisions are arbitrary. They must be based upon research studies, continual on-the-job review and consideration of objectives. The North Cascades is fortunate in having a situation where it is necessary to have both backcountry Park Rangers and trail crew personnel continuously in the backcountry during the visitor use season. These ten to fifteen employees are on the trails throughout this period making reports on trails and condition of campgrounds. Trail conditions are only one part in a determination of capacity in the backcountry.

Backcountry campgrounds are equally considered, as overuse here can destroy those resources we are mandated to preserve. Several of the studies listed will give a clear indication of the amount of work needed to restore an area after it has been damaged by lack of adequate use control. The list of studies found in Appendix B, combined with the observations of backcountry personnel, who are most closely associated with day-to-day use, assisted in the determination of limits. As a comparison, the limit within Olympic National Park is eight animals per group for overnight trips. They are faced with different conditions and impacts than those found on the east side of the North Cascades where drier conditions permit additional numbers. In addition, we have made provisions for the packer in Stehekin on his walk and pack trips to increase the number of persons when he is using the campgrounds in the valley which can withstand impacts not tolerated in the alpine or subalpine zones.

Each year the Backcountry Plan is reviewed to assure that the resources are being property managed.

[GAO COMMENT: In May 1980, the North Cascades complex superintendent provided us with a typed statement on backcountry pack trips. He stated:

> "The only information which I have been able to put together starts with concern by the National Park Service and the U.S. Forest Service on the effects of horse travel in the backcountry in 1972/73. Then in 1975, the two agencies came together and in a joint meeting made the decision to restrict use to 15 horses and 12 people. This was arrived at by a consensus of those managers who had the responsibility for backcountry use. This has been used by the North Cascades National Park Complex * * * since that time. * * * There have been no definitive studies which I have located, except the backcountry personnel have through observation and familiarity with the area been able to make determinations when an area use is reaching a limitation." (Emphasis added.)

This statement is consistent with and supports our conclusion that "incompatibility, in this instance, although defined by the Service, was not based on a study."

As stated in the superintendent's May 1980 statement, concern over the effects of horse travel in the backcountry began in 1972-73, before either of the two horse packers referred to in our draft report went out of business. While several former and existing residents of Stehekin provided examples of proported harrassment of the packers by Service employees during this period, we were unable to substantiate these claims.

The remaining packer was able to show how the Service imposed restrictions had required him to make quantum increases in his rates, split parties between him and his wife, and spend more time away from home on his second job "just to break even." However, since he had not yet sold his property, the adverse impact of the Service imposed restrictions did not fall within the scope of our review. Therefore, we have deleted the discussion of private horse packers from the final report.]

COMPATIBILITY

The next general topic to be covered in these comments is that of compatibility, as discussed by GAO. As pointed out earlier, the legislative history pretty well defines compatibility--or the lack thereof--by speaking of retaining the traditional character of the valley and of protecting it from subdivision and intensive development.

The statement in the draft report, "we believe much of the land already acquired by the Service was compatible.... and did not have to be acquired...", could involve 987 acres including 31 residences. This added to the 369 acres proposed to be acquired , increases the possibilities of subdivision or development to change the atmosphere and character of the recreation area, and would not stop the intensive development Congress wanted to prevent.

The assumption that easements or zoning could prevent extensive development is not very practical. Sell back and no opportunity purchase would actually create the opposite effect promoted by GAO, and this position "would lead to the elimination of the small community of Stehekin recognized by the Congress as adding a key dimension to the atmosphere and character of the recreation area." (GAO draft report, page 8)

Actually, realistic scenic easement or sell back provisions would necessarily have to allow at least some development. Thus such, except in the private use and development zone, would be counterproductive to the intent of the legislation.

The report fails to consider the effects of additional residences upon the supply of firewood, its availability, and foreseeable changes in the management of the forest resources. The NPS has the authority for and is providing firewood under a permit system to the present residents of the valley, both permanent and seasonal. The University of Washington has just completed a study for NPS that concludes that we will have to develop a woodlot cutting system to meet just the present firewood demands within the area. Any future development will have some critical effects upon the forest resources.

No mention is made of the increased cost of electricity by the additional residences that would be built on the 369 acres proposed for acquisition by NPS or on that portion of the 987 acres that GAO proposes be returned to private ownership. Presently, the major portion of the power is hydroelectric, which is relatively cheap. Any new electrical requirements must be filled by diesel power, now only used for back-up generation. Diesel power is considerably more costly.

Perhaps the most glossed-over part of the draft report is the section dealing with the Land Acquisition Plan for Lake Chelan NRA. The report superficially passes over the history of the work with the county in developing a zoning plan for the NRA. One of the primary objectives of the NPS has been to work with the local communities and county in the development of a land acquisition plan, and there has been close involvement. The land acquisition plan is dependent upon the development of an acceptable zoning plan. The Stehekin plan will be implemented after the county's comprehensive plan and zoning ordinance has been completed.

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The draft report, on page 13, states that the regional land acquisition officer stated "that he is opposed to any alternative land protection strategy in the recreation area other than fee simple acquisition. He stated that acquiring partial interests such as scenic easements often costs nearly as much as fee simple acquisition, and restriction on the use of private land is ineffective and a heavy administrative burden."

It is obvious that the investigators saw fit to use a portion of the regional land acquisition officer's comments, and for some reason left out the full intent. The land acquisition officer actually stated that he was against the use of partial interests such as scenic easements without the inclusion in the restricitions that the government had the right to go on the property to enforce the provisions of the deeds. He further stated that this provision may cost more, but without it, the subsequent owners can violate the terms of the restrictions, and, before legal action can be taken or an injunction secured, the damage would have been done.

[GAO COMMENT: The term "compatibility" and its definition are key to many of the issues relating to Service land acquisitions in the recreation area. However, it is important to note that compatibility is contingent upon one's interpretation of the legislative history. We found Interior's interpretation to be erroneous, contradictory, and misleading. (See p. 40.)

We are strongly opposed to density subdivisions and intensive development in the recreation area. We believe only that the private community of Stehekin should continue to exist, existing commercial development should not have been eliminated, and additional compatible development should be permitted to accommodate increased visitor use. As we point out, however, in our discussion on compatibility, the extent to which additional compatible development would be permitted was left to the Service which has not yet identified what is compatible and incompatible with the recreation area. (See p. 19.)

Interior contends that our recommendations could result in the Service having to sell back all lands acquired. According to Interior, this coupled with not acquiring the additional 369 acres included in the May 1980 request

> "increases the possibilities of subdivision or development to change the atmosphere and character of the recreation area and would not stop the intensive development Congress wanted to prevent."

Our draft report did not recommend that the Service sell back the large tracts of land already acquired, only those compatible with the recreation area, including the modest homes, the lodges, and the restaurant. We also recommended that the Service attach scenic or developmental restrictions to the deeds before the properties are resold to assure that their use will be consistent with the enabling legislation. The proceeds would then be available for future acquisitions if an incompatible use is identified without having to first increase the statutory land acquisition appropriation ceiling. (See p. 23.)

Further, our analysis of the 11 tracts of land to be acquired if the statutory ceiling is raised and an additional $3 million appropriated has shown that no plausible reason exists for the Service to acquire these lands at this time even if the owners are willing to sell. (See p. 17.)

Our evaluation of Interior's comment that easements or zoning are "not very practical" in preventing extensive development was addressed in the draft report. (See p. 13.) It should be noted that the Service's current Director, in an August 7, 1979, letter to the Sierra Club Legal Defense Fund, stated that:

> "* * * it is our current intention to work with Chelan County towards an acceptable land use ordinance to preserve the character of the valley and its resources consistent with the intention of Congress for the use of the area. * * * at the present time it is my view that cooperative action by Chelan County and the National Park Service is the best and quickest way to control development in Stehekin Valley." (Emphasis added.)

This statement reflects the Service's April 26, 1979, land acquisition policy which requires the Service to consider alternative land protection and management strategies such as easements, zoning, and cooperative planning and management. For Interior to unilaterally conclude that easements or zoning are not practical reflects an intent to continue to acquire land in fee simple while paying lip service to alternative land protection and management strategies.

In disregarding scenic easements or sell backs, Interior stated that development in other than the private use and development zone would be counterproductive to the intent of the legislation. Again we disagree. The Service, not the act, set aside about 65 acres for private use and development. The legislative history, on the other hand, calls for additional compatible development to accommodate increased visitor use. In fact, it can be argued that the Service policy of concentrating private development at the head of the lake instead of dispersing the homes throughout the recreation area and developing site orientation and visual impact standards could result in a potential visual intrusion to the scenic value which makes Stehekin unique.

The failure of the Service to define compatibility may have resulted in periods of increased private development. For example, the Chelan County Assessor's records show that 32 dwellings had been built in the recreation area from 1920 to 1968. However, 26 residential building permits were issued from 1968 thru 1971.

The University of California study found that:

> "* * * the establishment of the park complex precipitated this construction activity because property owners were afraid that building and development would be curtailed by the National Park Service. When this fear proved unfounded, the building activity slackened but did not cease entirely."

Residential construction accelerated once again in 1978 when it became increasingly obvious that the Service was intent on acquiring most of the privately owned land in the valley. Again residents point to the fear that the Service would either acquire all the remaining private land and/or define compatibility in such a way as to prohibit all future subdivision and development as reasons for the building surge. Thus again, much of the pressure for new construction may have been generated by Service policies, or a lack thereof.

Interior's comments contend that we failed to consider the effects of additional residences on the supply of firewood and electricity in the recreation area. We believe that neither presents a problem to future development as implied by Interior. For example, Interior's conclusion that "any future development will have some critical effects upon the forest resources" cannot be supported. One of the University of Washington investigators informed us that their study reached no such conclusion and that the lower valley can provide firewood for a much larger population. This is consistent with the county's comprehensive plan which estimated that the valley could supply cordwood for about 2-1/2 times the present number of wintering households.

The county plan also concluded that the present 600 kilowatt hydro/diesel electrical energy generation facilities can accommodate perhaps 30 or 40 more units. There is also a privately owned 560 kilowatt turbine and generator which could be renovated to provide additional relatively cheap hydroelectric power and other hydroelectric facilities could be constructed. It must be noted, however, that many of the properties which we recommend be returned to private ownership or not be acquired by the Service are already developed and would <u>not</u> contribute to any new electrical demand.

Interior stated that we glossed-over the Service's land acquisition plan for the recreation area. Our draft report included an indepth analysis of the plan with a chronology of Chelan County's efforts to develop a zoning plan for the recreation area. (See pp. 9, 14, 16, and 28.) Our draft report noted the frustration the county has had in working with the Service primarily because of the Service's refusal to define compatibility.

An excellent example of the difficulty in working with the Service is reflected in this compatibility enclosure. Interior praises the Service for working "with the county in developing a zoning plan for the NRA." However, they state just previously that zoning "is not very practical" and that eventually all property is "to be brought into federal ownership." There will be no need for zoning since it is the expressed intention of the Service to acquire all privately owned land in the recreation area, other than the about 65 acres in the private use and development zone.

The draft report has been revised to include the statement by the Service's regional land acquisition officer concerning using scenic easements in lieu of fee simple acquisition. (See p. 13.) It must be noted, however, that he did not offer former landowners the option of owning their land in perpetuity with a scenic easement. Therefore, Federal enforcement of the deeds' provisions were never discussed.]

SELLBACK

The draft report recommends that real property already acquired be sold under the provisions of the amended section of the Land and Water Conservation Fund Act which permits certain lands of the National Park System to be sold or leased with restrictions. This provision of law is found in Title 16, United States Code, Section 4601-22(c). The authority of this statute has not been used to date anywhere; however, this statute is tied in with the 3-P Plan developed for recreation areas and, normally, would be considered for use only in the private use and development zone. To sell back, even with restrictions, all of the land purchased at Lake Chelan--land in the public use and development zone--would, in our view, be contrary to the intent of Congress, both in the North Cascades legislation and the Land and Water Conservation Fund legislation.

The report states that if the lands are sold back, the proceeds would be credited to the Land and Water Conservation Fund and then be available for future acquisition if an incompatible use is identified, subject to the $4.5 million appropriation ceiling in Public Law 90-544. GAO is aware that the present ceiling is almost exhausted and that the purchase of any additional land would be dependent upon legislation raising the appropriation ceiling and subsequent appropriation of funds. These are processes that would require concrete congressional action and would consume years of time.

The draft report recommends, in connection with this, that Congress amend the law to remove the limitation on the former owner having the opportunity to meet the high bid and so to reacquire the properties they had sold to the United States. We realize that in the three or four days the two GAO representatives spent in the area they found some former owner receptive to the idea that their former lands be returned to them. What some of these former owners may not have understood was they they would have to bid against the highest bidder. The increase in land values because of increased subdivision interest in the area has probably rendered it impossible for many former owners, who are persons of modest means, to compete against outsiders who have become interested in the area.

[GAO COMMENT: Of utmost concern is Interior's comments on the sell back provisions of the Land and Water Conservation Fund Act of 1965, as amended. First, the proceeds from the sales would be credited to the fund and would be available for future acquisitions subject to the $4.5 million appropriation ceiling. In other words, if the small tracts of land and the commercial facilities were sold back, the funds obtained would be available for future acquisitions without having to increase the statutory land acquisition appropriation ceiling above the $4.5 million already approved.

Secondly, and of equal concern, is Interior's attempt to paint a bleak outlook for the former landowners of "modest means." Interior's opinion is that many of the former owners cannot reacquire their properties due to escalating land values. Our recommendation that the Congress exempt land acquired pursuant to Public Law 90-544 from the 2-year limitation in 16 U.S.C. 460l-22(a) is to enable the last owner(s) to have first chance to reacquire property sold to the National Park Service. We did not evaluate the ability of the former owners "to compete against outsiders who have become interested in the area." We must note, however, that many of the modest homes acquired are not on the lake and have not appreciated as rapidly as those with lake frontage. Regardless, compatible lands acquired by the Service should be returned to private ownership.

Interior fails to point out that of the 31 houses acquired, 16 are being used to quarter permanent and seasonal Service personnel and concession workers. Another contains the Service's district headquarters while two structures have been removed. Thus, Service personnel not private individuals, may be displaced if these tracts were returned to private ownership.

The 12 owners who remain in their homes under retained rights of use and occupancy will also be displaced by the Service when their terms expire. According to Service officials, those homes not needed to house Service personnel, seasonal employees, and concession and Young Adult Conservation Corps workers will be demolished. Thus, the former owners will be displaced regardless of whether or not the land is returned to private ownership. However, the retained rights of use and occupancy are legally binding on the Service and, as such, go with the deeds to the properties. Therefore, the former owners cannot be prematurely

displaced even if the land is resold to other private individuals.

As stated before, we believe that the Service has not correctly implemented its land acquisition policy for national recreation areas at Lake Chelan. (See p. 42.) Further, the policy, if implemented correctly, would require the Service to adhere to the act and legislative history. We believe that it was not the intent of the Congress to limit private ownership in the valley to about 65 acres. Again, it must be emphasized that we are not recommending that the Service sell back the large tracts of land already acquired, only those compatible with the recreation area.]

NEED FOR NEW LAND ACQUISITION
FUNDING AUTHORITY

The Service's records show that at the time the area was authorized there were some 1,730 or so acres of privately owned land consisting of approximately 174 tracts, 67 of which were improved. By 1974, the Service had acquired 81 tracts totaling about 987 acres, or about 57 percent of the total of the private lands. This leaves about 648 acres of privately owned lands in the area. The extent of progress is to some degree illusory. Though the acreage of privately owned land has been substantially reduced, subdivision and other land splits have been such that there existed early this Spring a total of 196 privately owned tracts. This is to be compared with the original total of about 174 tracts. The story with regard to improved tracts is even more disheartening. As of this Spring, there were 127 improved properties in the area despite the fact that the Service had acquired 34 improved properties. This is not much progress when measured against the original 67 such properties.

The new subdivisions and many of the new structures, it must be said, are seriously detracting from the traditional scene Congress was intent on preserving.

The existing statutory ceiling on land acquisition funding of $4.5 million is practically exhausted. In fact, it is likely to be exceeded when judgments on pending condemnations in the North Cascades National Park are paid. An increase in the statutory ceiling is needed primarily to acquire several of the larger tracts lying along the lake that are ripe for subdivision. Neither present county regulations nor any that can be expected to be adopted can be relied upon to do more than ameliorate the effects of subdivision. Only fee acquisition, the imposition of stringent scenic easements approximating fee value, or similar measures can keep these lands in their present pristine condition.

GAO says in the digest to the draft report that subdivision of these tracts is highly unlikely. It is our belief that sooner or later the owners or their successors will put the properties to their highest economic use; namely subdivision.

[GAO COMMENT: Interior's justification for new land acquisition funding authority, like its jusitification for previous Service land acquisitions, is based primarily on speculation and conjecture. Also, the statistics used by Interior to show the impact of uncontrolled subdivision and development are not compatible with the data included in the Service's April 25, 1980, draft land acquisition plan for the recreation area (see p. 28) or with information obtained from Chelan County. It appears that both the 197 privately owned tracts of land and the 127 improved properties referred to in Interior's comment are not so much the result of uncontrolled subdivision and development as they are the result of inaccurate data on the number of tracts and improved properties that existed when the recreation area was established.

For example, in its April 9, 1980, letter commenting on a March 1980 draft of the Service's land acquisition plan for the recreation area, the Chelan County Board of Commissioners noted that:

> "As we know, there has been considerable confusion with regard to the question of the inventory of ownership of private holdings in the valley which was never really resolved until early this year. To infer that some 100+ parcels have been created since the establishment of the NRA is misleading at best. While our records may not be the most accurate, a review of this information reveals that a limited number of minor subdivisions and/or illegal divisions have occurred. In fact, fewer than fifteen lots have been created."

The Service subsequently revised its draft land acquisition plan to state that only 15 new tracts had been created by subdivision. (See p. 30.)

Interior also stated that with regard to improved tracts the story "is even more disheartening." They imply that new homes are being constructed faster than the Service can acquire them.

According to the Chelan County Assessor's records, the 127 improved properties are disaggregated as follows.

Type of residence		Number
Private		
Dwellings	85	
Trailers	3	
Stehekin River Resort cabins (leased annually)	11	99
National Park Service Acquisitions		
Use and occupancy dwellings	12	
Residences acquired and used by the Service	15	
Trailer	1	a/28
Total		127

a/The Service had acquired 31 residences, including 1 used as the district headquarters and 2 that have been removed. (See p. 46.) The 34 improved properties Interior referred to on p. 69 must include the 31 residences and 3 garages or other structures acquired.

The Service's April 25, 1980, draft land acquisition plan for the recreation area states that only 40 new residences had been constructed since the area was established. (See p. 30.) This figure is supported by the Chelan County Assessor's records which show that 39 residences had been built in the recreation area from 1969 through 1979 and that another 7 residences were underway. Offsetting the 31 residences acquired by the Service with the 40 residences constructed shows that private construction had outpaced Service acquisitions by only 9 residences. Thus, it appears that there were about 90 private residences in the recreation area in 1968 as opposed to the 67 Interior quoted.

In summary, it appears that private construction in the recreation area has mostly replaced those residences acquired by the Service. This supports the county's contention that it may be that much of the pressure for new construction has been generated by the policies of the Service itself. The new construction may not have been necessary if the Service had left existing homes and commercial facilities in private ownership.

Our draft report addressed the Service's jusitifcation for raising the statutory land acquisition ceiling by $3 million. (See p. 4.) We found, however, that the 11 tracts totaling about 369 acres to be acquired are not "ripe for subdivision" as stated by Interior. (See p. 17.) Therefore, we see no plausible reason for the Service to acquire these lands at this time. Further, if the Service sells back those lands previously acquired that are compatible with the recreation area, funds would be available for future acquisitions if an incompatible use is ever identified.]

APPENDIX III

SUMMARY AND CONCLUSIONS

It may undoubtedly be concluded from the foregoing discussion that the National Park Service is in fundamental disagreement with GAO's major conclusions and, particularly, with its recommendation. We are, first of all, in disagreement with GAO's interpretation of the authorizing act and the legislative history thereof. We believe very strongly that acquisition of land within the area with the consent of the owner is in accord with the intent of Congress at the time the legislation was enacted. We believe that Congress intended that land be acquired for the use of the public and also to prevent subdivision and other uses not in character with traditional uses in the valley.

We agree with GAO that Congress intended the valley community to be kept intact but that it did not intend to allow the traditional character of the entire area to be despoiled with subdivisions. This subdivision issue, an issue that is treated so emphatically in the legislative history, is carefully sidestepped by GAO. This alone, we believe, deprives the draft report of any validity. There is in fact an obvious bias in the draft report and in the previous report about the Federal drive to acquire land for intensive development by the private sector and against natural preservation.

Circumstances surrounding this draft report, and probably also the previous one, show a much greater involvement by the National Park Inholders Association and Mr. Charles Cushman than is consonant with professional objectivity.

In view of the foregoing we trust that GAO will reconsider its conclusions.

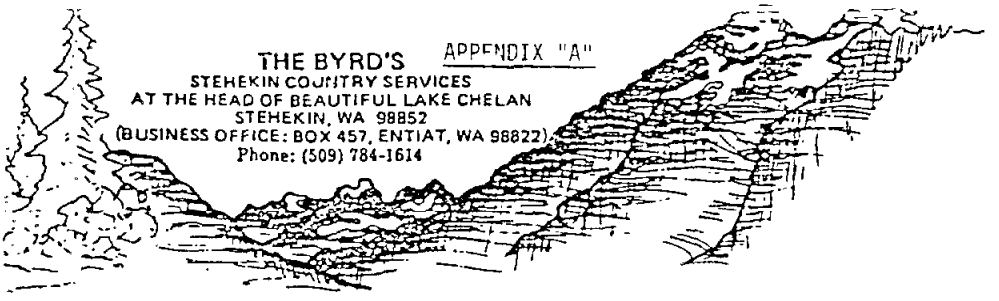
[GAO COMMENT: The fundamental disagreement between the Service and us lies in whether the private community of Stehekin should continue to exist. Interior believes that the Congress' intent, as reflected in the Senate and House reports and the enabling legislation, is that eventually all private property in the recreation area is to be brought into Federal ownership by means of an opportunity (willing buyer--willing seller) purchase program. As such, Interior believes that all acquisitions to date, including the modest homes, the lodges, and the restaurant identified by the Service Director as compatible with the act, are justified and that the Congress should appropriate an additional $3 million to continue the acquistion program.

We, on the other hand, believe that the Congress' intent was that land acquisition costs be minimal, the private community of Stehekin continue to exist, existing commercial development not be eliminated, and additional compatible development be permitted to accommodate increased visitor use. While we are strongly opposed to high density subdivision and intense development in the recreation area, we believe much of the land already acquired by the Service was compatible with the recreation area and did not have to be acquired and that the public interest could have been adequately protected by alternative land acquisition strategies, including scenic easements or zoning. Further, by acquiring these lands in fee simple the Service has unnecessarily increased Federal land acquisition costs. We believe the compatible lands should be returned to private ownership.

The statement that the draft report carefully sidestepped the issue of subdivision is totally unfounded. We showed that many of the tracts acquired by the Service were so small that they could not have been subdivided under the existing zoning ordinance or developed in a way which would make them incompatible with the recreation area. (See p. 12.) We also showed that subdivision of the tracts to be acquired by the Service if the statutory ceiling for land acquisitions is raised is highly unlikely. (See p. 17.) But we make provisions for funds to be available for future acquisitions if an incompatible use is identified.

We found Interior's comments on the draft report to be erroneous, contradictory, and misleading. We also found that the land acquisition policy Interior so heavily relied on to justify land acquisitions in the recreation area had not been correctly implemented.]

APPENDIX III



NEWSLETTER -- May 30, 1980

Mr. Charles Cotton of the U. S. General Accounting Office has asked me to inform the Stehekin Community and other interested individuals of his continuing interest in the happenings in the Stehekin Valley in its relations with the National Park Service.

He said that regardless of his having now turned in his Stehekin report and gone on to another project, he wants anyone to feel free to call him personally at any time with any questions he may have.

Mr. Cotton has just been promoted and is now in another office with a new phone number which is: 202/275-6461.

Mr. Cotton's Stehekin report is now going through a review process by his superiors and any day now will be forwarded back here to the regional and local National Park Service officials for any rebuttal comments they may have. These comments will then be added to the report and forwarded to Senator Stevens who will publish it.

Mr. Cotton has said his report will state among other things that:

-- all previously privately owned property in the Stehekin Valley should be sold back to their previous or other private owners with at most only specified easements withheld;

-- the community that existed prior to the Lake Chelan National Recreation Area being formed continue to exist as it did then;

-- the burden to prove what is not compatible in the Stehekin Valley falls on the National Park Service because the legislative history is so specific regarding what is compatible.

We hope to have some extra copies of this report for circulation as soon as it is published. They can also be obtained from your senator or the G. A. O. office.

Post Script: Mr. Charles Cushman of the National Park Inholders Association will be in Stehekin June 25th for a public meeting. One item to be discussed is how his organization can help in the process of getting Stehekin property returned to private ownership again.

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APPENDIX "B"

SURVEY OF RECREATIONAL IMPACT AND MANAGEMENT RECOMMENDATIONS FOR THE SUBALPINE VEGETATION COMMUNITIES AT CASCADE PASS, NORTH CASCADES NATIONAL PARK

Dr. Dale A. Thornburgh
Assistant Professor of Forest Ecology
Humboldt State College
Arcada, Calif. January 1970

PERMANENT VEGETATIONAL MONITORING SYSTEM FOR WHITECAP PASS, NORTH CASCADES NATIONAL PARK

Dr. Dale A. Thornburgh July 1976

SURVEY OF RECREATIONAL IMPACT AND MANAGEMENT RECOMMENDATIONS FOR THE SUBALPINE VEGETATION AT EASY PASS, NORTH CASCADES NATIONAL PARK

Dr. Dale A. Thornburgh June 1973

ANNUAL REPORTS DEALING WITH REVEGETATION EXPERIMENTS AT CASCADE PASS

JOSEPH W. AND MARGARET M. MILLER 1970 - 1978

FISHER PASS: A REPORT ON THE FISHER CREEK APPROACH AND CONDITIONS OF RECREATIONAL IMPACT

John Schubert, VIP August 1977

AN INVESTIGATION OF THE EFFECTS OF RECREATIONAL HORSE GRAZING

ON A SUBALPINE MEADOW COMMUNITY IN THE NORTH CASCADES

Jim Hammett, March 1980 - Field survey during summers of 1978-1979.

RECREATIONAL IMPACT AND MANAGEMENT RECOMMENDATIONS IN THE PARK CREEK PASS AREA - Tim Tunison 1974 - Instructor Marin County Junior College - Park Technician - North Cascades

RECOMMENDATIONS FOR THE SUBALPINE VEGETATION COMMUNITIES AT PARK CREEK PASS, NOCA - Dr. Dale A. Thornburg - Assist. Prof. of Forest Ecology, Humbolt State College - June 1971

REVETATION OF IMPACTED SUBALPINE PLANT COMMUNITIES IN THE NORTH CASCADES. Joseph W. Miller (Naturalist) and Margaret M. Miller (Botanist) Apirl 1970-79 (annually)

PATTERNS OF VISITOR USE AT FOUR TRAILHEADS AND AT CASCADE PASS, NOCA AND ROSS LAKE N.R.A. - Park Biologist Wasem, 1977

NOCA 1977 HIGH COUNTRY SEMINAR - Report and recommendations on high country use.

WILDERNESS MANAGEMENT - U.S.D.A. Misc. Publication No. 1365
by Hensee, Stankey, Lucas

GUIDELINES FOR UNDERSTANDING AND DETERMINING OPTIMUM RECREATION
CARRYING CAPACITY - Urban Research Development Corp.

THE CARRYING CAPACITY OF WILD LANDS FOR RECREATION by
J. Alan Wagar - Publication of the Society
of American Foresters - 1964

GROUND COVER STUDIES AT BACKCOUNTRY HUMAN IMPACT AREAS DURING
1974 SUMMER - Wasem and Mullen - Park Biologists

Backcountry Report on Use and Impact have been maintained
and reviewed annually since 1974 on the Skagit District

CODE-A-SITE System and photographic documentation of all back-
country campsites have been maintained and reviewed annually
for the past six years.

THE PLACE OF CARRYING CAPACITY IN THE MANAGEMENT OF RECREATION
LANDS. J. Alan Wagar. 1968. Third Annu. Rocky Mountain-
High Plains Park and Recreation Conf. Proc. 3(1), Fort Collins, CO.

EFFECTS OF HUMAN ACTIVITIES ON ALPINE TUNDRA ECOSYSTEMS IN
ROCKY MOUNTAIN NATIONAL PARK, COLORADO. Beatrice E. Willard
and John W. Marr. 1970. Biol. Conserv. 2(4):257-265.

RADIO INTERVIEW OF MR. CHARLES S. COTTON,

SENIOR EVALUATOR, U.S. GENERAL ACCOUNTING OFFICE,

BY MR. STEVE BYQUIST OF RADIO STATION KOZI, CHELAN,

WASHINGTON, AIRED ON JUNE 17, 1980

Mr. Byquist: "What is the status of your report?"

Mr. Cotton: "In 2 weeks it should be out to the agency for comment."

Mr. Byquist: "What happens then?"

Mr. Cotton: "OK. They have 30 days to respond to the report and then what we do is take and combine their comments into the report and in turn respond back to them."

Mr. Byquist: "When does the whole thing become public?"

Mr. Cotton: "The whole thing would become public after [pause] OK, you're talking probably the first of July when we send it out for comments, so you're talking about 2 weeks for a report this size just to go through the process to incorporate the comments in and to have it retyped and reviewed and everything. So you're talking in all honesty toward the end of August before we get it up to [the requestor], and more than likely he will release it fairly quickly after he gets it."

Mr. Byquist: "What happens from there?"

Mr. Cotton: "Well, from there the agency is required by law to respond back to us within 60 days as far as the implementation of our recommendations to them. And they respond to the various congressional committees as well."

Mr. Byquist: "Can you tell us in a general sense anything about the report?"

Mr. Cotton: "Just that it pretty well follows the lines of the questioning that we had when we were out there on that trip. It strictly relates to the land acquisition actions by the Park Service in relationship to the congressional intent as reflected in the act and the various Senate and House reports. But as far as recommendations and conclusions

and everything, I am not at liberty to say yet." (Emphasis added.)

Mr. Byquist: "OK, but basically then it would be as I understand the original intent in the congressional record, then it would be somewhat critical of perhaps some of the Park's land acquisition policies?"

Mr. Cotton: "Oh yes, it will make recommendations to remedy past actions as far as acquiring private lands in the recreation area by the Park Service." (Emphasis added.)

Mr. Byquist: "In the meantime the county is back working on a comprehensive plan for the valley, can you state that your document would have any impact on the local plan as to land use and zoning?"

Mr. Cotton: "Not to any great extent, you know. I wouldn't see it as far as involving any type of-it will address subdivision-it will address development on undeveloped lots, but in the context of what is or is not compatible with the purpose of the recreation area in light of congressional directives. Now then, that, in turn will have an impact on the position of the Park Service in the recreation area and in turn with them working with the county, you know, would have an indirect impact anyway."

Mr. Byquist: "Do you attempt to define compatible?"

Mr. Cotton: "No, that's not--you see that's not our job. OK, the fact (is) that we will point out what was identified as being compatible as far as the congressional record is concerned, and we will make-we will point out that the Park Service has not in turn defined what is not compatible or incompatible with the purposes of the recreation area."

Mr. Byquist: "What did the act define as being compatible?"

Mr. Cotton: "Well, when you look-when you take a look at the Senate and House reports and the enabling legislation and couple that with the statements made at the Wenatchee meeting or at the Wenatchee hearings by the then Director of the Park Service, you know, you identify as being compatible modest homesites, the lodges, the restaurant and also that it was the congressional intent that limited further

development be permitted as long as it was quite 'compatible with the recreation area.' So really you have, I would say four things if you were taking and summarizing the intent of the Congress. One of them would be that land acquisition costs should be minimal. The second would be that the private community of Stehekin should continue to exist. The third would be that existing commercial developments should not be eliminated. And the fourth one would be that additional compatible developments should be permitted to accommodate increased visitor use."

Mr. Byquist: "The outcome of this--someone down the line, what are the chances of them saying, well the original legislation, and what not, is defective, let's go back and rewrite the whole thing."

Mr. Cotton: "Oh, that's always a possibility. As far as it being a probability, I doubt it, in light of two things. Number one, the growing concern by the Congress as to the acquisition practices of the various agencies and number two, and more important as far as the Park Service is concerned in light of their April--was it April 26, 1979 land acquisition policy?--which states that, you know, they will actively pursue alternative land protection and management stratagies other than fee simple acquisition."

Mr. Byquist: "Such as scenic easements."

Mr. Cotton: "Such as scenic easements and development easements and zoning and, you know, all the others. I don't see with the climate in the Congress and in the Service at this time, I don't see them going back and rewriting the legislation."

Mr. Byquist: "This has been Charles Cotton of the General Accounting Office."

RADIO INTERVIEW OF MR. CHARLES S. COTTON

SENIOR EVALUATOR, U.S. GENERAL ACCOUNTING OFFICE

BY MR. STEVE BYQUIST OF RADIO STATION KOZI, CHELAN

WASHINGTON, ON MAY 5, 1980

Mr. Byquist: "Today we present an interview that was conducted after the Monday public meeting. We began by asking Charles Cotton who he is and what the General Accounting Office is doing."

Mr. Cotton: "OK. I am team leader of a GAO review of land acquisition policies of the National Park Service. Now we are doing this at the specific request for about a dozen Congressmen and Senators. We're here in Stehekin to look at Park Service land acquisition policies and practices for the Lake Chelan National Recreation Area and to tie them back into the congressional intent as reflected in the act and the legislative history."

Mr. Byquist: "This is going on in other areas of the country simultaneously [by] other teams?"

Mr. Cotton: "Yes, we have three teams--one out of Denver, one out of Detroit, and one out of Dallas--and we're covering roughly 15 Park Service areas to include parks themselves, recreation areas, wild and scenic rivers, national monuments, national seashores, etc."

Mr. Byquist: "What prompted your visit to the Lake Chelan Recreation Area?"

Mr. Cotton: "The uniqueness of the legislation as far as the emphasis it gave to the community of Stehekin as far as preserving the character of the area at the time the act was passed by the Congress, and the compatibility of the private development that existed at that time and the need to develop it further to accommodate increased visitor use."

Mr. Byquist: "There's considerable discussion in the congressional record about the community of Stehekin."

Mr. Cotton: "There is as far as maintaining the historic homesteader atmosphere that existed prior to and since the enactment of the act in 1968."

Mr. Byquist: "As an ocassional visitor to the Stehekin Valley and a person that really enjoys Lake Chelan, I'm here often and I know a lot of the residents. The past several years I get the impression that the valley has been in an uproar. The community has not been really very cohesive because of some apparent--I want to say threats--I don't know that that's the word, but the Park Service either saying 'No' to people, 'you can't do this', or indicating that they are after that person's property."

Mr. Cotton: "OK. Well the first thing that you have to look at is that there was 1,700 acres of private land in the recreation area in 1968. Since that time 60 percent of that private acreage has been acquired by the Park Service and they have expressed their intent to acquire additional acreage. And one of the purposes that we are here for is to see how removing that acreage from privately owned development to publicly owned land has affected not only the community of Stehekin, but also implementation of the congressional intent as it related to this recreation area."

Mr. Byquist: "I have some real difficulty there. There were some--I know over 50 buildings here that have been acquired and in some instances perhaps burned, torn down, left vacant, maybe fixed up for employees. Somehow, when I read the act and whatnot, that doesn't seem right."

Mr. Cotton: "OK. The act specifically--not the act, but the legislative history--specifically mentioned that existing private development within the recreation area--and it included the private homesites, the lodges and the restaurant--were all compatible with the purposes of the act and should remain. Implicit in that is the fact that they should remain in private ownership and not be acquired by the Park Service to house park employees, that they were indeed compatible with the purposes of the act, that there is no necessity or even the question of the legality of the Park Service acquiring them to be torn down and burned down."

Mr. Byquist: "What's compatible?"

Mr. Cotton: "Compatible varies based on the area. Compatible is to be defined after a review of the legislative history and the act. In this case it's much clearer than in other areas. Compatible is the private development that existed at the time the act was passed and further development of the area that would not adversely affect the pristine nature of the recreation area."

Mr. Byquist: "On any given summer day some 300 or 400 people may arrive down there at the landing for a short stay. A lot of instances a long stay. Back country's full of hikers. People are here to recreate and enjoy perhaps their vacation. You can't house and feed and supply the services to that number of people without having quite a quantity of people working for you. Those people have to be housed, but at the same time the residents that are here earning their wages basically off of those tourists have to be allowed to exist. Is part of your study--part of it will basically end up being a land use planning document?"

Mr. Cotton: "It would, and you know we are interested to look to see what impact the influx of Park Service personnel has had on the area. And also of interest is that the lodging accommodations in the area have been decreased by approximately 50 percent since the Park Service took over, and yet the personnel that are required to manage the reduced services available has increased drastically over that that existed under private ownership."

Mr. Byquist: "Prior to the Park Service being here I remember when it was Forest Service area and they only had 4 or 5 employees, and all of a sudden I've seen 30 and 40. That's what you're speaking to?"

Mr. Cotton: "That's right. Additional cost comes with the additional acquisition, especially of developed properties. OK, when you buy a lodge and when you buy a restaurant, when you attempt to maintain an area in a way that is different from how it was being maintained before, it requires increased staff."

Mr. Byquist: "What happens to you--from here? You will be spending some time collecting data, then what happens?"

Mr. Cotton: "OK. The next couple days we are staying here. Then we are going down on Wednesday afternoon to meet with the Chelan County Board of Commissioners. Thursday we're going back into Seattle to meet with the regional Park Service personnel. Then I return to Washington and we will take a look at the documentation that we have gotten and decide either to write a separate analysis report relating strictly to the Lake Chelan Recreation Area, or to wait and include this in an overall report that we are issuing on approximately 15 Park Service areas that will come out sometime in December."

Mr. Byquist: "I got the impression you were somewhat surprised at the number of people that attended the meeting this evening that are expressing interest to talk to you privately."

Mr. Cotton: "Surprised by both the crowd and by the fact that I thought the crowd would be more evenly divided between pro-Park acquisition and anti-Park acquisition. They seemed more prone toward nobody really understanding whether they were opposed or for the Park Service, but really not understanding what the Park Service has done and what their ultimate goal is going to be."

Mr. Byquist: "Any time that I've quizzed Park Service officials about this kind of thing, they always come back to their national constituency. They have to respond to the national constituency and you almost get a 'to hell with the folks that live here-we're responding to our national constituency'."

Mr. Cotton: "Well, in this case it is questionable whether they are responding to either because they were directed to increase recreational development or development in the area to accommodate increased visitor use which has not been done. And at the same time by acquiring acreage land along with the developed properties it has a potential of having an adverse impact on the homesteader community that existed here at the time the park was created."

Mr. Byquist: "The community that exists here includes a guy that has a cement truck and he pours cement, or the guy that has a mechanical shop and he does work on a car. Those cars are owned by private individuals who have property here. They may not be year-round residents. That guy who pours cement, you know, for new construction-and as the Park is clamping down and has no-those persons are hurting economically-their business is hurting because of few bodies."

Mr. Cotton: "Well as far as the guy with the cement truck, the act that established this area made recreational development and the preservation of this area to be considered along with maintaining the area as it existed--maintaining the scenic and historic and other values that supposedly made the Stehekin area unique, or does make the Stehekin area unique. You know, he can only pour so much and there can only be so much subdivision. That's where the Park Service has been mandated by their own policy to establish what is or is not compatible. To date they haven't done it."

Mr. Byquist: "Chelan County has spent considerable time, effort, energy, money forming citizens groups, holding meetings here, moving a lot of people uplake for meetings here with the valley residents, lots of valley residents going down there putting together a planning effort, a document that has--it's in limbo. At the last meeting the Park Service officials generally threw the county's plan our the window and since that time there has been absolutely no communication. What do you, how do you react to that?"

Mr. Cotton: "I know it's the impression that we got that the regional director rejected back in October the proposed subdivision by the county and at that time he made the statement that there would be no further subdivision and very little development to be permitted in the area. We were under the impression too that it was a stalemate except that in the new revised draft land acquisition plan they are stating that meetings and further discussions with county officials are going on to resolve the issues."

Mr. Byquist: "That land acquisition plan lists every parcel of property in this valley, except one. I don't know exactly how that turned out, but one of them is apparently not listed. The numbers don't add up right, but virtually every piece of property here is listed."

Mr. Cotton: "That plan doesn't say what they plan on doing with each piece of property."

Mr. Byquist: "Precisely. And one would think that a plan should address that."

Mr. Cotton: "It not only should, the Park Service superintendent here was mandated, again by their own policy, to identify what they intended to do, what alternatives to the outright acquisition of the land that they would consider, and again to identify what is or is not compatible with the purposes of the act and would be permitted by the Park Service."

Mr. Byquist: "I envision your visit and whatever report that you produce as all of a sudden the hundred people or so that call Stehekin home and the thousands that visit here every summer are going to know where they stand. Finally, I think, I know where they stand. Do you envision that kind of thing from your report?"

Mr. Cotton: "They would still probably be one step away from knowing exactly where they stood in that our job would be to point out that the Park Service has not identified what is or is not compatible, has not identified their acquisition plan for the future, and more importantly in many cases has not justified past land acquisitions. Once we point that out, the Park Service will be directed to do that. Once they do it, then the individual landowners will know where they stand, but we will not identify for the Park Service what is or is not compatible, etc."

Mr. Byquist: "You have been listening to part of our conversation with General Accounting Office representative Charles Cotton."

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