
BY THE U.S. GENERAL ACCOUNTING OFFICE

Report To The Secretary Of The Interior

New Rules For Protecting Land In The National Park System-- Consistent Compliance Needed

In May 1982 the Department of the Interior implemented a policy that requires the National Park Service to prepare land protection plans. These plans both identify the land and degrees of title to that land needed by the federal government to protect the resource and designate cost-effective alternatives to full federal purchase, such as easements.

GAO found that 25 of the 38 land protection plans it reviewed did not implement Interior policy or comply with National Park Service rules, with instances of noncompliance affecting 213,000 of the 823,000 nonfederal acres these 25 plans encompass. This noncompliance occurred because the Park Service did not consistently follow rules when preparing the plans or reviewing the draft plans at headquarters. In addition, headquarters did not perform required follow-up to determine if changes identified during the headquarters reviews were made in the final, approved plans. If the Park Service implements the plans' recommendations that do not comply with its rules, it could acquire more interest in land than it needs, incur unnecessary acquisition costs, and deplete the limited funds available for land protection.



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

RESOURCES, COMMUNITY,
AND ECONOMIC DEVELOPMENT
DIVISION

B-215844

The Honorable Donald P. Hodel
The Secretary of the Interior

Dear Mr. Secretary:

This report discusses the National Park Service's experience in complying with a new Interior policy that requires the development of land protection plans. In preparing these plans each Park Service unit is required to determine the need for acquiring land or interest therein so that limited funds available are spent in the most cost-effective manner.

We made this review to evaluate how the Park Service identifies what interests, if any, it needs and whether the unit plan recommends obtaining and retaining only that interest in land needed to protect the unit's resources.

This report contains recommendations to you on page 18. As you know, 31 U.S.C. 720 requires the head of a federal agency to submit a written statement on actions taken on our recommendations to the House Committee on Government Operations and the Senate Committee on Governmental Affairs no later than 60 days after the date of the report and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report.

We are sending copies of this report to the above committees; Members of Congress; and to the Director, Office of Management and Budget. We are also sending copies to the Director, National Park Service, and your Inspector General.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Dexter Peach".

J. Dexter Peach
Director

EXECUTIVE SUMMARY

Since its inception the Department of the Interior's National Park Service has purchased more than 3 million acres of nonfederally owned land at a cost of almost \$2 billion. One half of this land has been purchased within the past 20 years. However, in the past GAO and other organizations have expressed concern that the Park Service has purchased land without either first determining need or considering alternatives to acquisition.

In response to such concerns, Interior implemented a policy in May 1982 that requires the Park Service to (1) identify what land or interests (degrees of title) in land need to be federally owned and (2) use cost-effective alternatives to complete federal purchase, such as acquiring easements (minimum interest). When purchase is necessary, the Park Service is to acquire or retain only the minimum interests necessary. In May 1983 the Park Service issued rules requiring the preparation of land protection plans.

GAO conducted its review to find out whether the Park Service

--was fulfilling these two basic requirements in its land protection plans and

--had instituted adequate controls to ensure compliance with Interior policy.

BACKGROUND

Park Service intent in acquiring interest in nonfederal lands within the National Park System is to protect the resource and ensure that its use is compatible with that of the park. In recent years the Park Service has been acquiring fewer acres at increasing prices while appropriations for land acquisition have declined. Presently about 200 Park Service units are preparing land protection plans, which will determine the resource protection needs of the 4 million nonfederally owned acres remaining within the National Park System's boundaries.

Complete purchase of land has several cost impacts. The Park Service not only pays for the

EXECUTIVE SUMMARY

land and any improvements, such as buildings, it also pays for such things as appraisals, title searches, and relocation expenses. To compensate for a loss of property tax revenue to the affected local government, the Park Service makes payments in lieu of taxes. Furthermore, the Park Service incurs management and development costs previously borne by others. (See p. 1.)

The Park Service has the authority to sell interests in certain acquired land that are not needed for resource protection. Land protection plans are to discuss specifically how that authority is to be used. (See p. 13.)

RESULTS IN BRIEF

GAO found that 25 of the 38 land protection plans it reviewed did not implement Interior's 1982 policy or fully comply with Park Service rules. While the plans usually identified the minimum federal interests needed to protect the lands, they did not adequately justify recommending the acquisition of a greater interest, generally a complete purchase, than may be necessary to protect the lands.

GAO found that noncompliance occurred because the Park Service did not consistently follow rules when preparing the plans or reviewing the draft plans at headquarters. In addition, headquarters did not perform required follow-up to determine if changes identified in the headquarters reviews had been made in the approved plans. (See p. 8.)

PRINCIPAL FINDINGS

Needed Degree of Interest

Instances of noncompliance identified by GAO affected 213,000 of the 823,000 acres the 25 land protection plans addressed. For example, GAO found instances where landowners' preference dictated the recommendation for complete purchase. In other cases the recommendation was based on unsupported claims of cost-effectiveness. (See pp. 9-11.)

Other plans either recommended acquisition of lands already used for purposes compatible with park usage or provided no justification for the recommended actions. Furthermore, when

EXECUTIVE SUMMARY

circumstances caused the Park Service to recommend a greater interest than needed, most plans did not provide for disposing of this potential excess interest as required by the rules. (See pp. 11-14.)

If the Park Service implements the plans' recommendations that do not comply with its rules, the Park Service could acquire more interest in land than it needs for resource protection, incur unnecessary acquisition costs, and deplete the limited funds available for land protection. Such purchases may be inconsistent with Interior's new policy. The Park Service will also unnecessarily take lands off local tax rolls and incur additional management costs.

Assurance of Compliance

The plans were reviewed at Park Service headquarters to determine overall compliance with policy and rules. These reviews, however, did not consistently identify instances of noncompliance. For example, although headquarters reviews identified 38 instances of noncompliance, GAO found 38 additional instances by applying the same criteria to the 38 plans it reviewed. In addition, headquarters did not always follow up to ensure that changes had been made. As a result GAO found that 9 of the 38 headquarters review comments requiring a change were not incorporated into the approved plans. (See p. 14.)

The Park Service issued guidelines in February 1985 that address the problems noted by GAO. These guidelines, however, are applicable only to future plans and updates. GAO believes the Park Service needs to correct plans that have already been approved and ensure that noncompliance is better detected and corrected to further minimize costs. (See p. 9.)

RECOMMENDATIONS

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

--not expend funds for acquisition of acreage that GAO found to be in noncompliance with

EXECUTIVE SUMMARY

Park Service rules until plan recommendations comply or proper justification is provided and review all other approved plans to ensure compliance with these rules;

--include provisions in the plans to sell, where authorized, interests in land not necessary for resource protection and identify and sell, where authorized, unneeded interests in lands already acquired; and

--establish a method that requires headquarters' plan reviews, including follow-up, to be properly and consistently conducted. (See p. 18.)

**AGENCY
COMMENTS**

The Department of the Interior agreed with all of GAO's recommendations except one: that no funds be spent to acquire the 213,000 acres questioned by GAO until the recommendations for acquisition comply with Interior policy or proper justification is provided. Interior claims that purchase of most of this acreage is justifiable, although the plans may need editorial adjustment. GAO believes that the inconsistencies and conflicting information on which decisions are based are more than editorial; on the contrary, the plans serve little purpose if they do not provide proper justification for the proposed actions. Until the plans in question reflect a rationale for their recommendations, GAO continues to believe no funds should be spent to acquire the acreages it questioned. (See p. 18 and app. IV.)

C o n t e n t s

	<u>Page</u>
EXECUTIVE SUMMARY	i
CHAPTER	
1 INTRODUCTION	1
New land protection policy emerges	2
Policy implementation	3
Objectives, scope, and methodology	4
2 MOST LAND PROTECTION PLANS DO NOT FULLY COMPLY WITH PARK SERVICE RULES	8
Minimum interest identified but not recommended	8
Most plans make no provision to retain the minimum interest	13
Controls to ensure policy compliance are inadequate	14
Less reliance on fee simple acquisition	16
Conclusions	16
Recommendations	18
Agency comments and our response	18
APPENDIX	
I Summary of land protection plans analyzed and locations visited by GAO	20
II Summary of recommendations made by the Park Service to protect lands remaining in 38 land protection plans reviewed by GAO	21
III Summary of noncompliance GAO found and acreage affected for 25 land protection plans	22
IV Advance comments from the U.S. Department of the Interior	23

ILLUSTRATIONS

	<u>Page</u>
Table I.1: Land protection plans and locations	20
Table II.1: Park Service recommendations for land protection in GAO-reviewed plans	21
Table III.1: Summary of noncompliance and acreage affected	22

ABBREVIATIONS

GAO General Accounting Office

G l o s s a r y

Condemnation	The exercise of the government's power of eminent domain.
Cooperative agreement	A written agreement defining administrative arrangements between two or more parties. The agreement can provide for exchange of services or other benefits.
Donation	The uncompensated transfer of an interest in land.
Easement	An interest in land owned by another that entitles its holder to a specific, limited use or enjoyment.
Eminent domain	The right of the government to take title to and possession of privately held land for public use, provided just compensation is made.
Exchange	The trading of land between parties.
Fee simple	When all of the rights in property are acquired--also known as "fee title" and "fee simple absolute." When a fee simple interest is acquired by the Park Service, title to the property acquired is conveyed to the federal government by a deed.
Interest	Right, partial title, or legal share in real estate.
Leaseback/ Sellback	The transfer of fee simple or leasehold interest in federally owned property previously acquired by the federal government from nonfederal sources. This method is legislatively prohibited in national parks and national monuments of scientific significance. It is most appropriate when the landowner wishes to sell complete interest but the National Park Service needs a less than fee simple interest. Purchase and lease or sellback, with deed restrictions, can be used to meet protection objectives.
Less than fee simple	Something less than fee simple, such as easements. Easements convey only some of the rights in property from one person or entity to

another. They may be positive--giving a right of access, or negative--restricting specific activities on the land. When an easement, for example, is acquired by the Park Service, title remains with the seller; and the provisions of the easement are permanently incorporated into the deed.

- Purchase** The buyer pays a seller an agreed price.
- Transfer** The assignment of jurisdiction over federal lands by one agency to another.
- Withdrawal** A very specialized term that can be used only for actions involving public lands of the United States. Public lands, which would otherwise be open to various kinds of uses, such as location of mining claims, are withdrawn from availability for that kind of use and are thereafter limited to use for the specific purpose for which withdrawn, for example, park uses.
- Zoning** The regulation of the character and intensity of the use of real estate through employment of police power by state and local governments. Zoning is used to protect public health, safety, and welfare by regulating the use of the land. Within a unit of the national park system, zoning can be used to limit the density, type, location, and character of private development.

CHAPTER 1
INTRODUCTION

The Department of the Interior's National Park Service is responsible for managing and protecting about 80 million acres in about 350 separate units in the National Park System. These units include national parks, recreation areas, lakeshores, seashores, rivers, trails, historic sites, battlefields, monuments, and preserves. Seventy-three million acres in federal ownership within the system were obtained by withdrawing land from the public domain, transfers from other federal agencies, exchanges, and donations.¹ In addition, the Park Service has purchased some 3 million acres from private owners at a cost of almost \$2 billion, with about one half of this acreage acquired using funds provided by the Land and Water Conservation Act of 1965. This act signaled the beginning of a large scale, concentrated federal acquisition program for recreation and conservation. Its purpose was

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

To fulfill this mandate, the act established the Land and Water Conservation Fund, which is, subject to congressional authorization, the sole source of land acquisition funding for the National Park System.² Over 90 percent of the fund's annual deposits comes from outer continental shelf revenues.

The acquisition of land from private landowners has several cost impacts. The Park Service not only pays for the land and any improvements, such as buildings, it also pays for such things as appraisals and title searches. In addition, land coming under federal ownership results in a loss of property tax revenue to the affected local government. To compensate for this loss, the Park Service makes payments in lieu of taxes. In some instances, the Park Service also pays for relocating landowners that occupy the property. Furthermore, the Park Service incurs management and development costs previously borne by others. Because of these costs, it is important that the Park Service acquire only that land, or interests therein,

¹For a definition of terms used in this report, see the glossary following the table of contents.

²Other agencies that use the fund are Interior's Fish and Wildlife Service and Bureau of Land Management and the Department of Agriculture's Forest Service.

needed to protect the resources and meet the purposes for which the Congress established the unit. In this regard we reviewed Park Service plans that determine what protection is needed for the remaining nonfederal land within the National Park System.

In the last 20 years, the total National Park System has tripled in acreage and almost doubled in the number of park units. Over 3 million privately owned and 1 million nonfederal publicly owned acres remain within the congressionally established boundaries of about 200 units in the system. The Secretary of the Interior, in 1982, estimated it would cost \$3 billion to acquire lands in need of protection by the Park Service. Recent appropriations, however, for Park Service land acquisition have declined, from \$367 million in 1978 to \$74 million in 1985.

Additions to the National Park System in recent years have decreased while the costs have increased. For example, from fiscal years 1980 through 1984, the Park Service added 118,000 acres at a cost of almost \$600 million. This added land represents less than 8 percent of the total lands acquired since 1965 but accounts for 31 percent of the funds outlaid during the same period for land acquisition. Recent purchases have also been the most expensive. For example, per-acre cost from 1965 through 1979 averaged less than \$1,000. In contrast, the per-acre cost from 1980 through 1984 averaged over \$5,000.

NEW LAND PROTECTION POLICY EMERGES

During the period 1978 to 1981, the Park Service's land acquisition practices came under the scrutiny of landowner organizations, the Congress, GAO, and its own in-house review. The concern of all these groups centered on the Park Service's general practice of acquiring fee simple ownership of most lands in designated park units without determining need or considering less than fee simple ownership and alternatives to purchase. For example, our December 14, 1979, report entitled The Federal Drive To Acquire Private Land Should Be Reassessed (CED-80-14) questioned the way the Park Service purchased land and concluded, among other things, that the Park Service 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. This practice resulted in the Park Service's purchasing fee simple ownership to 99 percent of the 3 million acres purchased.

These groups' concerns, coupled with appropriation reductions and escalating costs to acquire land, led to an executive moratorium on Park Service land acquisition, except for hardships and settlement of past condemnations, from February to June 1981. In April 1981 Interior also established a work group to develop a clear and positive national policy

outlining the federal role in open space conservation, including acquisition of land for national parks.

Interior's work group developed a new land protection policy, which was officially adopted by the Department in May 1982. In a memorandum to the Secretary of the Interior, the chairman of the work group highlighted the expected benefits of the new policy as follows:

"We will know what level of protection is necessary for each unit, by tract. We will have a much more finite understanding of the cost for completion of each unit and what appropriated or other federal resources are necessary to complete them. We will have prioritized, with highest natural, cultural, and recreational resource values first, the acquisition of sufficient interests in the land to allow cost effective resource management, meet the intent of Congress and facilitate appropriate levels of public use."

The May 1982 policy requires the Park Service to

- identify what land or interests in land need to be in federal ownership and
- use, to the maximum extent practical, cost-effective alternatives to direct federal purchase and, when acquisition is necessary, acquire or retain only the minimum interests necessary, such as obtaining an easement on a tract of land rather than purchasing it in fee simple.

In September 1982 the authority delegated to the Regional Directors to purchase lands was also withdrawn by the Director, National Park Service. All offers to sell or purchase had to be forwarded to the Director, National Park Service, and Interior's Assistant Secretary for Fish and Wildlife and Parks for review and approval.

POLICY IMPLEMENTATION

The Park Service, in May 1983, issued rules implementing Interior's land protection policy by requiring the preparation of land protection plans for each of its 200 units with nonfederal land remaining within the congressionally established boundaries. These plans are a detailed and critical evaluation of the resource protection needs of units on a specific tract-by-tract basis. Unit personnel with assistance from regional staff prepare the plans, which are subject to Park Service, Interior, and public review and comment prior to approval.

The rules emphasize that the plans must document that alternative protection methods to acquisition have been fully considered for each remaining tract. The plans must also identify specific protection methods available and critically analyze the effectiveness of each alternative to protect the resources. When a high level of interest, such as fee simple, is recommended, the plans must explain why other available protection methods are not adequate and why problems with these other methods cannot be solved. The plans must also prioritize recommended protection actions and provide a specific reason for the recommended actions.

As noted above, each plan goes through an Interior and Park Service headquarters review process for conformance to policy and rules. If the problems noted during these reviews are not considered serious, the plan receives policy concurrence from Interior's Assistant Secretary for Fish and Wildlife and Parks.

Upon concurrence the unit can begin implementation of the plan subject to addressing any required changes. In addition, concurrence returns purchase approval authority to the Regional Director. However, all noted deficiencies must be addressed and the plan subjected to a public review process prior to final approval of the plan by the Regional Director. The first land protection plan was approved by a Regional Director in May 1983. As of May 1985, 105 plans had been approved with an additional 35 plans concurred in, leaving about 60 yet to be submitted.

Plan concurrence is an important event for the unit because without it each separate purchase must be approved by the Director, Park Service, and Interior's Assistant Secretary for Fish and Wildlife and Parks. Park Service headquarters officials are required to review final approved plans to ensure that changes in areas that they had identified as being needed during their earlier review of the draft plan were made.

The land protection plan is intended to respond to changed conditions affecting unit protection requirements. Park Service rules also require unit personnel to review the plan on a biennial basis and revise the plan as necessary. Biennial updates of approved plans started in May 1985, with 23 updates scheduled by the end of calendar year 1985.

OBJECTIVES, SCOPE, AND METHODOLOGY

We performed this review as part of our continuing effort to assess the Park Service's land acquisition practices. Because Interior's 1982 policy responded to our prior recommendations, we wanted to evaluate how unit personnel were implementing the policy. This review was limited to the Park Service because it is the primary user of the Land and Water

Conservation Fund. For example, in fiscal years 1983 and 1984, appropriations for the Park Service from the fund were almost double the amount appropriated to the other three agencies combined.

The review's overall objective was to determine how effectively the Park Service complied with the new Interior policy through the development of land protection plans. We reviewed those aspects of the policy requiring a determination of the need for acquiring land or interests therein. These determinations are critical to ensure that the limited funds available are spent in the most cost-effective manner.

The new policy also included provisions for (1) cooperation and coordination with other governmental units and (2) consideration of sociocultural impacts, such as how the recreation potential of the unit affects the surrounding communities. With concern to cooperation and coordination, we discussed Park Service efforts with planning and liaison officials in 6 states and 10 local governments in the Park Service regions we visited. Most of these officials, 15 of 16, were very positive about the status of their working relationships with the Park Service and the forward direction these relationships have taken in recent years. In addition, these 15 officials were satisfied with their involvement in the development of land protection plans and supportive of the Park Service's planned actions. Where appropriate to the issues we address in chapter 2, their comments are included. With regard to sociocultural impacts, we reviewed each plan to ensure that these impacts had been considered. While all plans discuss sociocultural impacts, during this review we did not evaluate the sufficiency or quality of the analysis provided.

In addition, a stated purpose of the land protection plan is to help managers identify priorities for making budget requests and allocating available funds to protect land and unit resources. As such, Park Service rules require plan recommendations to be prioritized by tract or other reasonable aggregation of land. The priorities, however, are site specific and are not easily translated to regional or national priorities. Recognizing this, Interior established a task force in October 1984 to develop a method for setting National Park System priorities. The task force has submitted its planned methodology, which includes consideration of unit plan priorities, to the Park Service Director for approval. Because of these actions, we did not include the priority issue in this review.

Thus, in this review we sought answers to the following questions:

- Do the land protection plans recommend obtaining only that level of interest in land needed to protect the resource?

--Where acquisition is necessary, do the plans make provisions, such as leaseback/sellback, so that only the minimum interest necessary to protect the resource is retained?

--Are there adequate controls to ensure compliance with policy and rules?

To answer these questions we made an assessment involving detailed analyses of individual unit plans and site visits to selected units. Although the Park Service intends to prepare plans at about 200 of its 350 units, 94 plans had been approved or had received Interior policy concurrence at the initiation of our work in July 1984. We analyzed 38 of these plans, which represent 100 percent of the plans that address protection of at least 1,000 acres and involve over 99 percent of the 1.2 million acres proposed for protection in all 94 plans. Those units below the 1,000-acre level significantly increased the number of plans to review with no appreciable increase in the number of acres covered. As of May 1985, 140 plans had received the Assistant Secretary's policy concurrence, leaving about 60 plans yet to be submitted.

Plan analysis involved evaluating each plan's conformance to Interior's policy and compliance with the Park Service's rules. We reviewed the approved or concurred-in version of each plan and reviewed comments raised by Interior and Park Service reviewers. To discuss the results of our plan analyses and the controls in the review process, we interviewed (1) plan preparers at 14 units, (2) management and program officials at 6 Park Service regional offices, (3) management and program officials at Interior and Park Service headquarters, and (4) planning and liaison officials in at least 1 state and local government in each of the 6 regions visited.

Regions were selected to provide a dispersion of national coverage and allow selection of at least two units for visit within each region. Units were selected primarily on the amount (greatest) of nonfederal acreage remaining, although plan analyses were also considered. Appendix I lists the plans we analyzed and sites we visited, by Park Service region. Appendix II summarizes the recommendations made by the Park Service for the 38 plans we reviewed.

Our field work was done primarily between July 1984 and December 1984. Although the results cannot be projected to all plans because we did not use statistical sampling techniques to select the plans reviewed, the 38 plans we reviewed cover over 99 percent of the 1.2 million acres proposed for protection in all 94 approved or concurred-in plans at the start of our review.

Following completion of our field work, in January 1985 we also discussed our findings with (1) the principal program

official in the Office of the Assistant Secretary for Fish and Wildlife and Parks and (2) the Associate Director, Planning and Development, National Park Service, and his staff to apprise them of our review results. Information and comments received from these officials were considered in our final analysis.

We made our review in accordance with generally accepted government auditing standards.

CHAPTER 2
MOST LAND PROTECTION PLANS
DO NOT FULLY COMPLY WITH PARK SERVICE RULES

Interior policy is very specific that when purchase of land is necessary, only the minimum interest needed to protect the resource be acquired or retained. We noted, however, that not all land protection plans implement the Interior policy direction or comply with Park Service's rules concerning the identification, acquisition, and retention of only the minimum interests needed to protect lands in the National Park System. Recommendations affecting 213,000 acres, covered in 25 of 38 plans we reviewed, are not consistent with the interest identified in the plans as the minimum necessary to protect the resources. These acres represent about 22 percent of the 959,000 nonfederally owned acres remaining in the 38 units.

Instead of recommending acquisition of the minimum interest needed for resource protection, some plans reject the minimum interest on the basis of landowner concerns or unsupported claims of cost-effectiveness. Other plans recommend acquisition of lands that are being used for purposes that are compatible with park purposes or provide no justification for the recommended action. In addition, most plans do not provide for retaining only the minimum interest identified as needed.

If the recommendations in these 25 plans are implemented, the Park Service may acquire more interest in land than it needs for resource protection, incur unnecessary acquisition costs, and deplete the limited funds available for land protection. This potential noncompliance may occur because the Park Service did not consistently apply its May 1983 rules during the headquarters review of draft plans. In addition, the Park Service headquarters did not perform the required follow-up to ensure that required changes identified in the draft plan reviews had been made in the final approved plans.

The Park Service's implementation of the new Interior policy through the development of land protection plans is a change from past practices that relied almost entirely on fee simple acquisition to protect lands in the National Park System. Recommendations made in the plans we reviewed show that much of the nonfederal land remaining to be protected will require no federal interest and, where an interest is needed, use of less than fee simple acquisition has increased.

MINIMUM INTEREST IDENTIFIED
BUT NOT RECOMMENDED

Our analysis of 38 plans showed that 25, in whole or in part, did not implement Interior policy direction or comply with Park Service rules. Although these 25 plans identify the minimum interest needed to protect the resource, they recommend

obtaining a higher interest. Acquisition of the identified minimum interest was rejected in some plans on the basis of accommodation to landowner concerns and/or unsupported claims of cost-effectiveness. Other plans recommend acquisition of lands being used for purposes compatible with Park Service management objectives or provide no justification for the recommendation. The noncompliance pertains to about 213,000 of the 823,000 acres covered by the 25 plans.

For most of the 25 plans, we determined the noncompliance resulted from recommendations based on more than 1 of the above factors. Sometimes the use of two factors affected the same acreage. For example, for the Big Cypress National Preserve plan, landowner concerns and unsupported claims of cost-effectiveness affect the recommendations made for the same 43,000 acres we determined to be in noncompliance.

Appendix III lists the noncompliance we found in each plan and shows total acres affected by all instances of noncompliance. Noncompliance was applicable to only a small portion of the total acreage remaining in some plans; while for others, the total acreage remaining was affected. For example, use of landowner concerns at Apostle Islands National Lakeshore (Wisconsin) affected only 10 of the 26,000 acres covered by the plan, while the same factor at the Appalachian Trail affected all 26,000 privately owned acres covered by the plan. Appendix III shows the acres affected by the plans' noncompliance and the amount of acreage affected in relation to the total acreage covered in the plans.

Throughout our review we discussed these issues with Interior and Park Service headquarters program officials. They agreed that according to Park Service rules (1) landowner concerns and unsupported claims of cost-effectiveness should not determine the interest the Park Service needs to protect the resource, (2) compatible-use lands should not be purchased, and (3) the plans should fully justify the recommendations made for resource protection. As a result of these discussions, the Director, National Park Service, instructed all regional directors, in a February 1985 memorandum, to give special attention to these issues when developing future plans and updating approved plans.

Landowner concerns determine recommended interest

Park Service rules state that plans should give special attention to defining what interests in land are required to achieve park unit purposes rather than leave the choice between fee simple and easement entirely to the property owner. The Director's comments from the policy review process on some plans reinforce the Park Service's rules and specifically require plan preparers to base recommendations on the interest the Park Service needs to protect the resource, not on what the landowner wants.

However, 17 of the 38 plans we analyzed used landowner concerns as a basis to reject acquisition of the identified minimum interest. For example,

--At Golden Gate National Recreation Area (California), the plan determines that easements are the minimum interest needed for resource protection but recommends fee simple acquisition for 150 acres. According to Park officials the owner, a nonprofit organization, bought the land with the intent of eventually selling it to the Park Service. Park Service has historically worked with nonprofit organizations in its land acquisition program.

--The Appalachian Trail plan determines that easements are the minimum interest needed for resource protection but does not recommend what interest the Park Service should have for 26,000 privately owned acres. Unit officials told us they have historically allowed the landowners to make this choice and saw no reason to change.

Landowner concerns may influence the interest eventually acquired but should not determine what interest is needed to protect the resource. For example, the Point Reyes National Seashore (California) plan identifies that a less than fee simple interest would provide adequate protection for a 200-acre ranch and recommends such even though discussion with the landowner indicates a lack of interest in the sale of only a partial interest. The plan recognizes that during plan implementation fee simple acquisition could prove to be the most cost-effective and overall satisfactory approach.

Interior and Park Service headquarters officials agreed that landowner concerns should not be used to determine what interest in land the Park Service needs. The Director's February 1985 memorandum requires all future plans, as well as updates of approved plans, to define what interest in land the Park Service needs to protect the resource and provide visitor use.

Unsupported claims of
cost-effectiveness determine
recommended interest

We found eight plans that state that easements are the minimum interest needed for resource protection but reject easements on the basis of unsupported claims of the cost-effectiveness superiority of fee simple over easements. Park Service rules state that no "rule of thumb" exists for determining whether easements are too expensive in relation to fee simple. The rules also state that in making such determinations, plans must balance all relevant factors including purchase price, impact on local tax base, benefits of continued private use, maintenance expenses, enforcement costs,

degree of management control, and allowability of public use. However, the eight plans reject use of easements on the basis of unsupported cost-effectiveness claims, rather than on an analysis of all relevant factors. For example,

--At the Delaware Water Gap National Recreation Area (Pennsylvania and New Jersey), easements, which the plan states could adequately protect over 1,300 acres, were rejected because "they could be expected to approach the cost of fee" and/or "are not likely to be cost effective." The unit's Assistant Superintendent told us these statements were based on planning team members who had experienced problems in the past administering easements. However, the plan provides no analysis to support these statements and offers no other rationale. Only one easement has been acquired in the area's acquisition history.

--At Biscayne National Park (Florida), the plan recommends fee simple because it is questionable to use easements if their purchase would cost as much as fee simple. The Superintendent at Biscayne had no cost data to support this conclusion. The plan rejects easements on the basis of the local county's planning and management officials' belief that easements would cost as much as fee simple. County officials had no data to support their belief.

Interior and Park Service headquarters officials agreed that cost-effectiveness should not be used as a justification unless the plan contains supporting data. The Director's February 1985 memorandum also requires that plan statements about easements not being cost-effective be supported by facts. However, the memorandum states if a plan determines that an easement would provide adequate protection, but might not be cost-effective, then the plan should recommend obtaining an easement. The Director will allow this position to be reconsidered during plan implementation when negotiations are underway and further information is available to assess cost-effectiveness.

Compatible-use lands recommended for acquisition

Park Service rules require that plans identify any nonfederal land being used for purposes that will be allowed to continue because they are compatible with planned management actions. As such, compatible-use land need not be owned by the Park Service to provide protection. Although some restrictions may be necessary to ensure continued compatible use, this can be accomplished through other means. For example,

--At Zion National Park (Utah), about 3,400 acres of compatible-use grazing lands will be retained in private

ownership through the use of cooperative agreements and easements. According to the plan, trespass problems will be controlled by requiring fencing of the land, and the amount of grazing will be regulated.

However, we noted six plans that recommend fee simple acquisition of land that is defined in the plans as being in a compatible use. For example,

--The Grand Teton National Park (Wyoming) plan states continued use of developed residential and commercial property is a compatible use and then recommends, as a long-range goal, fee simple acquisition of 69 businesses and residences. In addition, over 1,300 acres of state-owned grazing land identified in the plan as compatible is recommended for fee simple acquisition.

--At Lake Mead National Recreation Area (Nevada and Arizona), over 1,350 acres of private land used for grazing are recommended for fee simple acquisition even though the plan states grazing is a compatible use. The plan states the land is not immediately critical to park needs and argues that fee simple acquisition would not affect the owners' use of the land since grazing would be allowed to continue under a special use permit.

Park Service headquarters program officials acknowledged that plans may be recommending acquisition of land currently in a compatible use on the basis of long range goals not necessarily identified or clearly stated in the plans. To clarify this situation, the Director's February 1985 memorandum advised regional offices that defining a current use as compatible means acquisition is not necessary and plans must be very specific about defining both compatible uses and instances in which a current compatible use is not in accord with long range goals.

No justification for recommended interest

Park Service rules require that plans justify all recommendations concerning land remaining in the unit. In addition to the issues discussed in the previous three sections, which concern inadequate justifications for actions recommended, we noted an additional issue of no justification to support the recommended action. This issue affected 10 plans. Although each of the 10 plans recommended acquiring fee simple interest in some remaining lands without any justification, 6 of the plans did contain information that identified how a less than fee simple interest would provide adequate protection for the resource. The remaining four plans contained no such information. For example,

--The Gulf Islands National Seashore (Alabama, Mississippi, and Florida) plan recommends fee simple interest in a 600-acre parcel to protect a scenic view. The plan states, however, that an easement would accomplish the same objective and the view could actually be preserved even if no interest is acquired.

--The Fire Island National Seashore (New York) plan considers existing zoning regulations as adequate protection for improved residential property in the unit because use of the property does not significantly conflict with management objectives, no Park Service development is planned for the area, and no visitor use occurs. The plan then recommends fee simple acquisition of 45 residences as a long-range priority.

Park Service headquarters program officials agreed that the plans should clearly provide proper justification to support the recommendations.

MOST PLANS MAKE NO PROVISION
TO RETAIN THE MINIMUM INTEREST

The Park Service has authority to dispose of an interest in nonfederal land acquired at certain units, (such as through leaseback/sellback or exchange) but not needed for resource protection, if the use of the land, when placed back in nonfederal ownership or possession, is compatible with Park Service management objectives.³ Although the Park Service has this authority at 28 of the 38 units whose plans we reviewed, only 6 plans made provisions to use this authority. Park Service rules discuss how the Park Service's authority will be used in their protection programs where a landowner's wish is to sell a higher interest than necessary and the land could be leased or resold with restrictions.

We found an example of how this authority works at Ebey's Landing National Historic Reserve (Washington). The Park Service purchased all interests in 270 agricultural acres in a critical area of the reserve that were threatened with development. The Park Service then exchanged the agricultural rights on the 270 acres with a farmer owning adjacent property for the development rights to his 250 acres. In this case, the Park Service initially acquired a higher interest than needed (fee simple) and, through the exchange, retained the minimum interest needed to protect the resource. Thus, the Park Service protects 520 acres, the land remains on the local tax rolls, a compatible use continues, and the management objectives for one area of the unit are fulfilled.

³Authority is not available for national parks or national monuments of scientific significance (36 CFR part 17).

Park Service rules also say that fee simple acquisition may result from a situation where the landowner does not want to sell a lesser interest identified in the plan as the minimum interest necessary to protect the resource. In this situation the rules state that the unit should identify tracts where initially a higher interest may be obtained to meet the landowner concerns, and then the higher interest could be leased or sold so that only the interest needed for resource protection is retained.

As noted earlier in the chapter (see p. 9), 17 plans use landowner concerns to recommend obtaining an interest greater than that identified in the plan as needed. Although authority exists to sell excess interests at 13 of these units, not 1 of the plans made provisions to do so. While these 13 units may initially obtain an excess interest, they could sell that interest. However, for the other four units without Park Service authority to sell excess interests, implementation in accordance with their plans' recommendations may result in the Park Service acquiring and retaining an interest higher than that identified in the plans as needed to protect the resources.

In contrast to the lack of provisions to sell excess interests, at Cuyahoga Valley National Recreation Area (Ohio), over 450 acres of agricultural land that have been out of production for a number of years are owned by persons who, the plan states, intend to subdivide and develop the property. The plan recommends the land be initially acquired in fee simple, then leased back to others for farming use.

Park Service and Interior headquarters officials said there was no incentive to use this authority because proceeds received from such transactions are not available for Park Service use until congressionally authorized. The only exception is the National Trails System, which received authorization in 1983 to have proceeds from the sale of excess interests returned to a trail, thereby allowing these funds to be used in a trail's acquisition program.

CONTROLS TO ENSURE POLICY
COMPLIANCE ARE INADEQUATE

Plan reviews at Park Service headquarters for compliance with its rules did not consistently identify instances of noncompliance, nor did the Park Service adequately follow up plans that did not comply. Draft plans are reviewed by Park Service headquarters personnel to determine overall consistency with policy and general compliance with the formatting, statistical, and justification requirements set forth in the rules.

This review results in a memorandum from the Director specifying changes that must be made to the draft plan prior to final approval by the Regional Director. The memorandum is

cosigned by Interior's Assistant Secretary for Fish and Wildlife and Parks who concurs that the draft plan is consistent with policy, subject to revisions that address the Director's review comments. With this concurrence independent purchase of land can begin in accordance with the plan because purchase approval authority returns to the region. Prior to concurrence all purchases must be approved by the Director and the Assistant Secretary.

It is important that all problems affecting compliance with policy and rules be identified during this review to ensure that the Park Service has determined and recommended only the minimum interest necessary to protect the resources. If problems are not detected during the review and funds are available, acquisition of a higher interest than necessary may occur.

Although Park Service headquarters' reviews identified 38 instances of noncompliance with its rules, we found an additional 38 such instances by applying the same criteria to the 38 plans we reviewed. Our findings, affecting some 213,000 of the 823,000 nonfederally owned acres covered in 25 of the plans, were discussed in the previous sections on landowner concerns, cost-effectiveness, compatible use, and no justification.

The principal reviewer in the Park Service headquarters office stated that when policy and rule problems arise during the review process, plan preparers at the units are generally allowed to provide oral justification and/or clarification for recommended actions. He further stated that if he is not satisfied on matters of policy, these issues are included in the Director's memorandum commenting on the plans. In addition, comments that do not concern policy issues are referenced in the memorandum.

Review procedures, established by the Director in November 1983, require Park Service headquarters officials to review approved plans to ensure that required changes noted during review of the draft plan are made. We found this was not always being done. According to the headquarters reviewer, approved plans have not been reviewed because of time constraints and because no system existed to ensure such review occurred. As a result 9 of the 38 headquarters review comments requiring a change because they directly affected compliance with policy were not corrected in the approved plans. For example,

--The Lake Mead National Recreation Area draft plan justified fee simple acquisition of a compatible-use area on the basis that it would eliminate the last private lands in one section of the unit. Initial Park Service headquarters comments declared this rationale insufficient since no apparent threat to the resource

existed and the land was not needed for park development purposes. Although required to be changed, the approved plan contains the same rationale and recommendation for fee simple acquisition.

--Initial Park Service headquarters review comments declared the recommended fee simple acquisition of compatible-use land in an area of the Grand Teton National Park (Wyoming) plan as not adequately justified since the area is away from the park entrance, near the park boundary, and of relatively little importance considering the cost of acquiring developed properties included in the area. Although required to be changed, the approved plan contains the same recommendation and provides even less justification than was in the draft plan.

If the particular recommendations noted in the above plans are implemented, the Park Service will acquire land for which it had questioned the need to purchase. At Grand Teton this potential unnecessary expenditure of funds could be irreversible since no Park Service authority exists to sell excess interests in national parks.

LESS RELIANCE ON FEE SIMPLE ACQUISITION

Our review of 38 land protection plans shows a movement from almost total reliance on fee simple acquisition. Prior to 1979 less than fee simple acquisition accounted for only 1 percent of all Park Service acquisitions. In 1979 and 1980 less than fee simple acquisition had risen to 3 percent. The 38 plans we reviewed recommend that 12 percent of the land needing a federal interest be acquired in less than fee simple. For privately owned lands identified as needing a federal interest, the plans recommend that 21 percent of the acreage be protected by less than fee simple acquisition. Previous acquisitions at these 38 units had resulted in only 0.5 percent less than fee simple.

In addition, no federal interest is recommended for 60 percent of the remaining nonfederal acreage in the 38 plans we reviewed. Recommended alternatives to acquisition to protect these lands include zoning and cooperative agreements, or the land is identified as already adequately protected. Appendix II summarizes the protection methods recommended for the remaining nonfederal acres in the 38 plans.

CONCLUSIONS

When considering the amount of acreage left to protect, the high costs of acquiring land, and the limited funds available, it is important that the Park Service acquire only those lands, or interests therein, needed and that alternatives to fee simple

acquisition be used to the maximum extent feasible. The new Interior policy recognizes this and specifically directs the Park Service to acquire and retain only the minimum amount of land necessary to protect Park Service resources.

The land protection plans, in many cases, complied with Park Service's rules by recommending the minimum interests necessary to protect park resources. However, most plans, in whole or in part, also made recommendations to acquire a greater than necessary interest on the basis of factors such as landowner concerns and unsupported claims of cost-effectiveness. The plans also recommended obtaining land that is in a compatible use or provided no justification for the recommended actions. Most plans for the units that had authority to sell land or interests obtained but not needed for resource protection did not provide for using this authority.

The cause of these instances of noncompliance with the rules is twofold. First, during its review of draft plans, Park Service headquarters did not consistently require adherence to the rules; and second, headquarters did not perform the required follow-up to ensure that required changes that it had identified during its review of draft plans were made in the final approved plans.

Interior policy, which instructs the Park Service to acquire and retain only the minimum interests in land needed for resource protection, may not be met if the recommendations affecting some 213,000 acres in 25 of the 38 plans we reviewed are implemented. Interests exceeding those identified as needed could be acquired and retained at a higher cost than necessary. This would drain the already limited funds available for resource protection.

As shown in appendix III, we are not questioning all acreage covered by the 25 plans. Accordingly, we provided details of our findings to the Park Service so they can identify the specific acreage questioned.

In February 1985 the regional offices were directed to address the compliance problems disclosed in our review. The instructions, however, apply only to future plans and updates. To avoid unnecessary expenditures and ensure full compliance with Interior policy, the Park Service should also correct the noncompliance we found and review all other plans that have been approved. In addition, to ensure that plans remaining to be completed comply with Interior policy, the Park Service should establish a review procedure that is properly and consistently applied.

RECOMMENDATIONS

To ensure that all plans fully comply with Park Service land protection rules and that only the minimum interest in land is acquired and retained, we recommend that the Secretary of the Interior direct the Director, National Park Service, to

- not expend funds for acquisition of acreage that GAO found to be in noncompliance with Park Service rules until plan recommendations comply or proper justification is provided and review all other concurred-in or approved plans to ensure compliance with Park Service rules;
- include provisions in the plans to sell off, where authorized, interests in land not necessary for resource protection and identify and sell, where authorized, unneeded interests in lands already acquired; and
- establish a method that requires headquarters' plan reviews, including follow-up, to be properly and consistently conducted.

AGENCY COMMENTS AND OUR RESPONSE

The Interior Department expressed a shared concern that park protection plans clearly explain the minimum interest needed to protect park resources, noting that it has already addressed or plans to address most of the problems we identified and carry out most of our recommendations. Interior took exception to one of our findings, however, and for that reason disagreed with one of our recommendations.

Interior claimed that with few exceptions, the recommendations for land acquisition that we questioned in 25 plans were justifiable, on the basis of need for public use, restoration and management of natural systems, or other management objectives that preclude reasonable private use of the land. Most of the problems we found, according to Interior, could be corrected with editorial adjustments. The department said that contrary to our findings, cost-effectiveness and landowner concerns were not determining factors in the recommendations to acquire lands but had been considered only as supplemental to information on resource protection or visitor use.

For these reasons Interior disagreed with our recommendation to delay expenditure of funds for the land acquisitions proposed in these 25 plans. The department believes that such an action would unreasonably risk damage to park resources, impose hardships on landowners, and expose the U.S. government to possible increases in acquisition and administrative costs. It said, however, that the 25 plans we questioned will be updated as soon as possible, and the points

we raised will be covered in the biennial update of other plans as well.

With regard to our other recommendations, Interior said that during these plan updates, further attention will be given to selling or leasing any excess interest. As to the system of plan reviews, Interior said that it will be improved by requiring the regions to document how policy comments have been addressed and by requiring a second headquarters review of plans that raise policy questions before they can be approved by the regional directors.

GAO response

We are pleased that Interior and the Park Service have begun to address our concerns by planning improvements in both documentation and review of the park protection plans. However, we disagree that the problems we uncovered in the 25 plans can be corrected simply by making editorial adjustments. As our report points out, the acreage we question is that for which the plan recommends acquiring a level of interest higher than what the plan states is the minimum necessary to protect the resource. In these cases we found only cost-effectiveness and landowner concerns used as a basis for rejecting the stated minimum interest. If any other analyses were used to support these decisions, as Interior claims, they were not evident in the plans. Without this information the plans' recommendations remain inconsistent with the parks' needs as stated. Until these inconsistencies are resolved in the plans and concerned parties have a chance to review and comment on the Park Service's needs for these lands, we believe their acquisitions should be held in abeyance.

The full text of Interior's comments and our responses appears in appendix IV.

**SUMMARY OF LAND PROTECTION PLANS ANALYZED
AND LOCATIONS VISITED BY GAO**

Table I.1: Land Protection Plans and Locations

<u>Land Protection Plans Analyzed</u>	<u>Acres remaining^a</u>	<u>Visits made by GAO</u>			
		<u>Regional office</u>	<u>Site</u>	<u>State government</u>	<u>Local government</u>
<u>Region</u>					
SOUTHEAST					
Biscayne National Park	77,557	X	X	X	X
Big Cypress National Preserve	54,230		X		
Gulf Islands National Seashore	23,456				
Obed Wild and Scenic River	3,985				
PACIFIC NORTHWEST					
Ebey's Landing National Historic Reserve	12,607	X	X	X	X
Olympic National Park	11,107		X		
John Day National Monument	3,272				
ROCKY MOUNTAIN					
Capitol Reef National Park	19,151				
Rocky Mountain National Park	2,155				
Grand Teton National Park	3,652				
Zion National Park	3,757				
NATIONAL CAPITAL					
C & O Canal National Historic Park	4,834				
Antietam National Battlefield	2,037				
Manassas National Battlefield	1,517				
Monocacy National Battlefield	1,238				
MIDWEST					
St. Croix Wild and Scenic River	40,367	X	X	X	X
Sleeping Bear Dunes National Lakeshore	5,112		X		X
Apostle Islands National Lakeshore	26,179				
Cuyahoga Valley National Recreation Area	17,736				
Indiana Dunes National Lakeshore	4,058				
Voyageurs National Park	4,474				
Lower St. Croix National Scenic River	2,366				
NORTH ATLANTIC					
Fire Island National Seashore	13,486				
SOUTHWEST					
Jean Lafitte National Historic Park	12,417	X	X	X	X
Big Thicket National Park	6,479				
Chaco Culture National Historic Park	10,966				
Buffalo National River	2,901		X		
MID ATLANTIC					
New River Gorge National River	61,460	X	X	X	X
Appalachian National Trail	42,949		X		
Delaware Water Gap National Rec. Area	13,077		X		X
WESTERN					
Channel Islands National Park	238,839	X		X	
Santa Monica Mountains Nat. Rec. Area	137,605		X		X
Golden Gate National Recreation Area	43,805		X		X
Lake Mead National Recreation Area	13,770				
Redwood National Park	28,844				
Point Reyes National Seashore	7,093		X		X
War in the Pacific National Historic Park	1,120				
Koloko-Honokohau National Historic Park	1,161				
Total	960,809	6	14	6	10
	=====	==	===	==	===

^aNonfederal acres include privately owned and state and local government-owned lands.

SUMMARY OF RECOMMENDATIONS MADE BY THE PARK SERVICE TO PROTECT
LANDS REMAINING IN 38 LAND PROTECTION PLANS REVIEWED BY GAO

Table II.1: Park Service Recommendations for
Land Protection in GAO-Reviewed Plans

Protection method recommended	Total non- federal acres remaining		Privately owned		State/local owned	
	Acres	%	Acres	%	Acres	%
Fee simple title	299,912	31	149,377	36	150,535	28
Less than fee simple	46,809	5	46,809	11	0	0
Not determined	37,710	4	28,462	7	9,248	2
Cooperative agreements	254,779	26	54,653	13	200,126	37
Zoning	112,298	12	112,298	27	0	0
Adequately protected	172,580	18	13,943	3	158,637	0
State responsibility	29,449	3	5,787	1	23,662	29
Acquisition prohibited	7,252	1	6,941	2	331	4
Total	960,809	100	418,270	100	542,539	100
<hr/>						
<u>Plans recommend the Park Service should</u>						
Acquire an interest	384,431	40	224,648	54	159,783	29
not acquire an interest	576,378	60	193,622	46	382,756	71
Total	960,809	100	418,270	100	542,539	100
<hr/>						
<u>Recommended interest for land the Park Service plans to acquire an interest in</u>						
Fee simple title	299,912	78	149,377	66	150,535	94
Less than fee title	46,809	12	46,809	21	0	0
Not determined	37,710	10	28,462	13	9,248	6
Total	384,431	100	224,648	100	159,783	100

**SUMMARY OF NONCOMPLIANCE GAO FOUND AND ACREAGE
AFFECTED FOR 25 LAND PROTECTION PLANS**

Table III.1: Summary of Noncompliance and Acreage Affected

Land protection plans	Interest determined by landowner concerns	Fee acquisition recommended			Non-federal acres remaining	Acres affected by noncompliance	
		Based on unsupported cost effectiveness claim	For compatible use land	No basis for recommendation		Amount	Percent of total
Apostle Islands	X				26,179	10	a
Appalachian Trail	X				42,949	25,600	60
Big Cypress	X	X			54,230	43,472	80
Biscayne		X		X	77,557	2,055	3
Buffalo	X		X		2,901	286	10
Capitol Reef	X			X	19,151	19,150	100
Chaco Culture				X	10,966	1,770	16
Channel Islands	X	X			238,839	52,794	22
C & O Canal	X				4,834	b	b
Delaware Water Gap	X	X			13,077	1,482	11
Ebey's Landing	X				12,607	90	1
Fire Island				X	13,486	27	a
Golden Gate	X	X		X	43,805	289	1
Grand Teton	X		X		3,652	1,492	41
Gulf Islands	X	X	X	X	23,456	7,253	31
Koloko-Honokohau	X	X			1,161	616	53
Lake Mead			X	X	13,770	9,912	72
Lower St. Croix			X		2,366	84	4
New River Gorge	X				61,460	7,517	12
Obed	X	X			3,985	833	21
Point Reyes				X	7,093	50	1
Rocky Mountain			X		2,155	155	7
Santa Monica Mountains				X	137,605	32,532	24
Voyageurs	X				4,474	4,107	92
War in the Pacific	X			X	1,120	1,067	95
Total (25 plans)	17	8	6	10	822,878	212,643	26
	===	==	==	===	=====	=====	===

^aLess than 1 percent.

^bAcreages not presented in plan.

ADVANCE COMMENTS FROM THE
U. S. DEPARTMENT OF THE INTERIOR

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

JUL 26 1985

Mr. J. Dexter Peach
United States General
Accounting Office
Washington, D.C. 20548

Dear Mr. Peach:

Thank you for giving us the opportunity to comment on the draft report entitled "New Policy for Protecting Land in the National Park System -- Consistent Compliance Needed."

Since the inception of the Department's land protection policy in 1982 we have been monitoring progress and seeking to improve the quality of land protection plans prepared by the National Park Service. At the same time, we have sought to streamline the review process to avoid unnecessary administrative costs or delays in obligating funds that have been appropriated for needed acquisitions. We share your interest in assuring that land protection plans provide a clear explanation of the minimum interest needed to protect park resources. However, we do not agree with your findings that a substantial number of plans approved to date are inconsistent with Departmental policy or National Park Service regulations. Therefore, we do not agree with the recommendation to delay expenditure of funds for land acquisition proposed in the 25 plans that you questioned.

The National Park Service already has taken action to address most of the concerns identified in your review of this program. A memorandum of February 20, 1985, summarizing these actions is enclosed. In the months ahead we will be continuing to improve the quality of the plans and the system for reviewing them by 1) updating the 25 plans you questioned as soon as possible and assuring that biennial updates of other plans fully address the points raised in your review, 2) developing a guideline on conservation easements that includes a format for assessing cost-effectiveness, and 3) requiring final plans that raise policy questions to be submitted for an additional review at the Washington level and instructing Regional Offices to more thoroughly document how comments have been addressed.

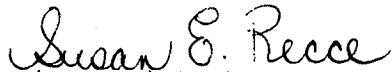
In 1984 the House Subcommittee on Public Lands and National Parks released a report on the land acquisition policy and program of the National Park Service. This report suggested that delays in the land acquisition program were having adverse impacts on park resources, creating hardships for landowners, and potentially increasing the costs of acquiring needed land or interests in land. The expedited completion of land protection plans has been an important step in assuring that the land acquisition program proceeds as promptly and efficiently as possible.

After reviewing the acreage discussed in the 25 plans questioned by your report, we found that the recommendations for fee acquisition were adequately supported based upon need for public use, restoration and management of natural systems, facility development, protection of habitat for endangered species, or other management objectives that preclude reasonable private use of the land. A few exceptions were noted, and will be promptly addressed. Most of the problems you identified in the land protection plans are matters requiring editorial adjustments rather than substantive changes in recommendations. Therefore, we do not believe that a delay in expenditure of appropriated funds is necessary to make certain that all acquisitions will be consistent with the Department's land protection policy.

We are enclosing detailed comments that address the primary issues raised in your report's questions about recommendations in the land protection plans: landowner preference, unsupported claims of cost-effectiveness, and compatible uses. We also are providing additional information on the background and scope of the program, the review process, and other specific points in the draft.

We will appreciate your considering these comments in your final report.

Sincerely,


Acting Assistant Secretary for
Fish and Wildlife and Parks

Enclosures

DETAILED COMMENTS ON GENERAL ACCOUNTING OFFICE PROPOSED
DRAFT REPORT: NEW POLICY FOR PROTECTING LAND IN THE
NATIONAL PARK SYSTEM -- CONSISTENT COMPLIANCE NEEDED

Background

The National Park Service's land protection planning program currently involves 184 areas. These plans are an additional responsibility that has generally been absorbed by park managers and regional offices without any special allocation of funds or positions. Plans are prepared by park superintendents and their staff. They are reviewed at the regional level and forwarded for policy clearance by the Director and the Office of the Assistant Secretary. Responsibility for addressing comments on policy and technical issues has been delegated to the Regional Directors. Where substantive questions about policy issues have not been clearly resolved, additional clearances at the Washington level have been required before the plan is approved.

The review process has been very rigorous. During the past three years, virtually all of the 161 plans forwarded to the Washington Office required some revisions to meet requirements outlined in the instructions. Sixty-six (40 percent) were returned to the regions for additional information at least once before receiving policy clearance. Many plans have been rejected three or four times before being found to meet basic requirements. In 1985, 56 percent of the draft plans submitted were rejected and are being revised.

In the past, land acquisition plans were approved at the regional level without any further review. Under the current system, the land protection plans have been subjected to a high level of scrutiny. The review process is continually being improved to make certain that final plans include recommendations that are clearly justified.

The Department's land protection policy is a very broad statement covering four different agencies that use the Federal portion of the Land and Water Conservation Fund. National Park Service guidelines implementing the Department's policy (48 FR 21121) apply to 184 different areas. Each area has a unique combination of natural and cultural resources, opportunities for visitor use, landownership patterns, legislative authorities, external conditions, and local issues. Both the Department's policy and the Park Service guidelines recognize the need for flexibility in plan content and format to accommodate the diversity of areas being addressed.

Policy Issues Questioned by GAO Draft Report

When draft plans are reviewed, we consider the document as a whole to determine compliance with policy. If the plan contains adequate justification for recommended acquisitions, it may be consistent with policy even though some points need to be revised, clarified, or reconsidered before the plan is released for public review.

The draft report questions 25 plans with recommendations that appear to be based on landowner concerns, unsupported statements about cost-effectiveness, or inadequately justified proposals to acquire land currently in compatible use. In reviewing these 25 plans, we found that landowner concerns and cost-effectiveness were cited as supplementary information to other facts that adequately justified the recommendations. We also found that the question about land considered to be "compatible" was a problem of clarifying definitions rather than a departure from established policies.

Landowner Concerns

Now on p. 9.
See comment 1.

On page 13, the draft report inaccurately states that Park Service officials agreed that landowner concerns should have no bearing on determining the minimum interest needed to protect the resource. The final land protection plan instructions (48 FR 21126) indicate that owner preference is one factor to be considered in making a choice between fee and easement. Consistent with these instructions, NPS officials explained that landowner concerns should not determine the interest required, but that they may indeed have some bearing on what the plan proposes.

See comment 2.

We found that the 25 plans in question consistently offered landowner concerns as additional information rather than the only basis for recommending the interest to be acquired. The one exception to this rule is found in the plan for the Appalachian Trail.

The Appalachian Trail is a unique area within the National Park System that is managed as a cooperative effort involving trail clubs, private property owners, and local governments as well as the National Park Service. The planning process for trail corridor location relies on landowner cooperation in selecting a route that will allow for public access and use with a minimum of conflict with private ownership. The land protection plan for the Trail was substantially revised three times before being found in compliance with policy. The final plan explains that the minimum interest needed in this case depends on the willingness of landowners to cooperate.

Now on p. 10. As noted on page 14, we have instructed that future plans and updates avoid the appearance that landowner preference is the determining factor in plans for areas other than the Appalachian Trail. We believe that this is an editorial matter rather than a substantive issue where acquisition is justified on the basis of needs for resource protection or visitor use.

See comment 3.

Cost-effectiveness of Fee or Easement

We agree that unsupported claims of cost-effectiveness should not determine the interest recommended in the plans. However, we found that the plans questioned by GAO included adequate explanation of why the recommended interest was needed. Cost-effectiveness also was provided as an additional point rather than the determining factor.

The land protection plan instructions indicate that fee acquisition is most often appropriate where land 1) is needed for public use or development of facilities, 2) must be maintained in a natural condition that precludes reasonable private use, 3) requires active NPS management to protect natural and cultural resources, 4) is owned by individuals who do not wish to sell less-than-fee interests, 5) cannot be protected by other methods, or alternatives would not be cost-effective.

See comment 4. In an effort to document that alternatives have been fully considered, some plans indicate that easements could accomplish the same purposes as fee, but they would not leave the owner with any reasonable uses of the land, and would not be cost effective. We found this to be a sufficient explanation: where no reasonable private uses were compatible with management objectives, fee needs to be acquired. Calling acquisition of all rights of use and ownership an "easement" would be misleading. Cost effectiveness was offered as a supplementary justification, or a way to summarize that no private uses were to be allowed.

See comment 5. The example cited for Biscayne National park is instructive. The plan documents that all private land within the park must be maintained in a natural condition, and that any private use or development would conflict with park purposes. Nevertheless, the draft plan indicated that an easement could be appropriate only where owners were willing and able to count the acreage in calculating allowable density of development on land outside of the park boundary. The required easement would totally restrict all other private uses, and would otherwise be the same as a fee interest. Comments from the county officials explained that this "density transfer" proposal was not practical in light of experience in the East Everglades area and pending

recommendations to reduce the density of development allowed adjacent to the park. The original proposal to consider easements was revised based on these comments from the county about practicality of the plan. In this case, fee acquisition had been justified from the beginning, regardless of relative cost.

See comment 6. The acreage questioned at Delaware Water Gap NRA was similarly justified on the basis of need for public use or because NPS resource management objectives precluded reasonable private uses. Cost-effectiveness was not the only basis for recommending fee acquisition.

We agree that there is a need to provide further guidance to the field on how to evaluate "cost-effectiveness" as discussed in the Department's land protection policy. This is not a simple matter, as costs and benefits over time may be very difficult to quantify. Nevertheless, this issue will be addressed in the guideline on conservation easements scheduled for completion by the end of this year.

Compatible Uses

Within inholding areas of the National Park System, the established policy has been to acquire all land in fee on an opportunity basis. Plans listing "compatible uses" have been developed to inform landowners what use or development may continue without the risk that the Service will initiate condemnation actions. Previous policies have envisioned that existing private uses may continue without substantial change until the land can be acquired to meet long range objectives of restoring natural conditions or providing for public use.

See comment 7. Many of the new land protection plans have referred to "compatible use" without adequate explanation of the difference between long and short range objectives. We do not believe that the statement on page 17 accurately reflects comments by National Park Service officials on this issue. Rather than agreeing that land currently in compatible use should not be acquired, we agreed that the plans should be clarified. We have already instructed regional offices to address this point when plans are updated. However, we believe that this is usually a matter of editorial adjustment rather than substantive changes in recommendations.

Now on p. 12.

See comment 8. For example, 1,300 acres of State lands were questioned in the plan for Grand Teton National Park. The plan explains that these lands are "State School Sections" that are required to generate income for the State's school system. Although current use for grazing is not having an adverse impact on park purposes, the State's mandate to maximize

See comment 8.

income from these lands may lead to their being sold and developed in the future. We found the recommendation for acquisition by exchange to be reasonable and consistent with policy. An easement might be adequate in theory, but it would conflict with State constitutional provisions that the lands be sold at public auction to the highest bidder and is not a viable option.

Justifications

Now on p. 13.

See comment 9.

We agree that the justifications in many plans can be strengthened as some plans contain statements that can be misleading when taken out of context. We found that your summary of certain issues in the draft report did not reflect the broad recommendations of the plan. For example, on page 18, the plan for Fire Island National Seashore is questioned for recommending acquisition of 45 residences as a long range priority. This excerpt does not include statements in the plan that the National Park Service will not seek to acquire these residences and that acquisition would be considered a last resort where regulation is not effective. We found only one clear instance of a plan that did not provide any justification for the proposed action: Capitol Reef National Park where State lands were proposed for acquisition by exchange. We have taken action as necessary to assure that justifications will be improved when plans are updated.

Retention of Minimum Interest

See comment 10.

We agree with the finding that many plans do not contain detailed explanations of how land may be leased or re-sold with deed restrictions. However, we do not agree with the implication that such arrangements are precluded because they are not discussed in detail in the land protection plan.

The Land and Water Conservation Fund Act, as amended in 1968, authorizes the Secretary to lease or sell certain property within any unit of the National Park System, except national parks and those national monuments of scientific significance. Land to be sold or leased must be in an area designated by the General Management Plan as a special use zone. We agree that discussion of purchase and lease back or sell back authority could be expanded in the land protection plans. In some cases, however, an amendment to the General Management plan may be required to comply with the requirement for the land to be in a special use zone. This issue will be addressed when the land protection plans are updated and when revisions are scheduled for General Management Plans.

Controls to Ensure Policy Compliance

As noted above, we believe that the allegations of non-compliance with Departmental policy are inaccurate and reflect needs for editorial adjustments rather than major substantive changes. A detailed response to the points in Appendix III of the report is being prepared and can be made available to the appropriate oversight committees.

See comment 11. The statement at the bottom of page 21 does not accurately reflect information provided about the review process. When plans are on review, Superintendents or other plan preparers are often asked to provide additional data or explanations by telephone. This often helps distinguish substantive policy questions from technical and editorial problems. The Director's memorandum commenting on the plan always lists policy compliance issues that must be addressed before the plan can be released to the public. Additional comments that do not concern policy issues are referenced in the Director's memorandum and forwarded to the region under separate cover.

Now on p. 15. On the top of page 22 the report suggests that headquarters officials have been required to review final approved plans. The Director's memorandum of June 20, 1983, indicates that review at the Washington level will usually end at the draft stage and that no further review of the final plans is required. The memorandum you cited and other directives prior to your report have emphasized the responsibility of Regional Directors to assure that comments are fully addressed. When the program was getting underway, the Washington Office concentrated available resources on the initial review of draft plans, and only checked those final plans that involved significant or controversial issues.

We agree that the system for making certain that policy comments are addressed can be improved. As part of our continuing efforts to strengthen policy oversight of all planning programs, land protection plans that raise policy questions will be returned to the Washington Office for clearance prior to final approval by the Regional Director. This additional review will be conducted in consultation with the Assistant Secretary for Fish and Wildlife and Parks to assure that all policy issues have been adequately addressed.

Conclusions

See comment 13. Your conclusions cite the high costs of acquisition and the amount of acreage left to protect. The data about average costs of land acquired (page 3) is misleading. In recent years "average" per acre acquisition costs have been distorted by a few tracts involving high timber values,

geothermal resources, and court awards far in excess of estimates of just compensation. Comparisons of cost trends may not be valid due to different types of land being acquired. We also found that the acreage figures in the report appear to be distorted by including State submerged lands that will be acquired by donation or other lands that will be acquired by exchange.

There may be differences of opinion on what is the minimum interest necessary to protect park resources. Nevertheless, we believe that plan reviews have consistently identified where draft plans must be revised to meet requirements of the Department's policy and park Service regulations. As noted above, this program is a new responsibility placed on staff at the park and regional level. Since the planning process began, we have been making progress in training appropriate staff how to prepare the plans and respond to the types of issues raised in your review. We anticipate that continued training and technical assistance efforts, as well as additional review procedures, will improve the quality of plans as they are updated.

Recommendations

See comment 14. As noted in our cover letter, we do not agree that a "hold" on expenditure of appropriated funds is necessary or appropriate. Such an action would unreasonably risk damage to park resources, impose hardships on landowners, and expose the Government to potential increased costs for acquisition as well as other administrative expenses.

See comment 15. A review of all plans is scheduled to proceed in accordance with the original instructions. Regional Directors will be instructed to review your final report and initiate updates wherever necessary prior to the established biennial review. Special attention will be given to the 25 areas you questioned. We believe that any further efforts to undertake a review of all plans at this time would result in unnecessary administrative expenses and confuse landowners, especially where public involvement in preparing the plan has just been completed.

Further attention will be given to the potential to sell or lease any excess interests when the plans are updated and when additional instructions are provided on general management planning.

The current system of conducting plan reviews will be improved by strengthening the requirements for regions to document how policy comments have been addressed and by requiring plans that raise policy questions to be reviewed again at the Washington level prior to approval by the Regional Director.



United States Department of the Interior

NATIONAL PARK SERVICE
WASHINGTON, D.C. 20240

IN REPLY REFER TO:

L14(763)

FEB 20 1985

Memorandum

To: Regional Directors

From: Director

Subject: Land Protection Plans

During the past 2 years, there has been a substantial improvement in the quality of land protection plans. However, in checking our comments on plans submitted to date, we find several points that most often require revision. The following issues should be given special attention as work proceeds on the new plans for FY 1985, and as approved plans are updated.

1. The introduction should include a brief summary of the issues to be addressed by the plan. These should be specific to the area being discussed. For example, "potential residential development in a highly scenic area" or "conflicts between private ownership and public access to the lake" might be issues. "Providing adequate protection" or "eliminating incompatible uses" are general objectives, not issues. Clear definition of the issues helps the plan on reasonable alternatives and recommendations.

2. The plan must define the minimum interest necessary to carry out purposes of the park. Fee acquisition has, in some cases, been recommended on the basis that 1) the owner is unwilling to sell less-than-fee, or 2) easements are not expected to be cost-effective. In both cases, these assertions must be backed up with facts and should not be the only justification for the recommendations.

Owner preference is one factor to consider in selecting an effective method of protection. However, ownerships and owner preferences may change with time. The plan must define what interest in the land is needed by the National Park Service to protect the resource and provide for visitor use. The plan should be considered as the starting point of the acquisition process. If the owner is unwilling to sell the interest required, the decision to acquire a greater or

lesser interest must be made on the basis of facts of the case. These include authority and potential cost for acquiring the necessary interest by condemnation, long term management requirements, and potential for adverse impact on the resource.

Statements that an easement would not be cost-effective must be supported by facts. If an easement would be adequate, but might not be cost-effective, the plan should recommend easement acquisition. This position may have to be reconsidered when negotiations are underway and further information is available.

There is no set portion of fee cost that determines "cost-effectiveness." This decision requires a judgement on the individual case considering the rights to be acquired, costs for administration, and benefits for park resources or the visiting public. Further guidance on how to evaluate cost-effectiveness will be provided in the near future. Land protection plans should explain what costs and benefits will be considered in determining what is cost-effective.

3. Descriptions of compatible uses must distinguish between short and long-range objectives. Some plans recommend that land currently in "compatible" use be acquired. Defining current use as compatible undermines the rationale for acquiring an interest in the land. Current uses may be having a nominal impact on the resource. However, these should not be defined as "compatible" unless they are consistent with long-range plans for resource protection and public use. Before proposing acquisition, the plan should explain the potential for changes in land uses that are now "compatible" or how continued private ownership may conflict with future plans for resource protection.

4. Local regulatory authorities require further attention as potential interim protection measures. Local zoning is frequently dismissed since there is no realistic possibility for the local government to adopt or enforce land use regulations. Even where local zoning is in place, most plans indicate that it cannot be relied upon for permanent protection. Nevertheless, local regulatory authorities may be the only tool available to protect the resource until funds are available for acquisition. The plan should

explain what type of land use, residential densities, or standards for sewage treatment systems would help protect park resources. Cooperation with local officials in addressing these issues should be encouraged.

As noted in previous correspondence, you are responsible for assuring that all policy review comments are addressed in the final plan. If you disagree with a comment, you should provide an explanation of why and suggest how the issue can be resolved. These plans are being carefully scrutinized by the Department, Congress, and other reviewers outside of the National Park Service. Your prompt and thorough response to our comments is appreciated, and essential if the plans are to meet the requirements.

Russell E. Dickenson

The following are GAO's comments on the U. S. Department of the Interior's letter dated July 26, 1985.

GAO COMMENTS

1. The change was made on pages 9 and 10.
2. We questioned the use of landowner concerns as justification for rejecting the minimum interest identified as needed in 17 plans, not 25. The only other information some of these plans provided to justify these rejections had to do with cost-effectiveness. However, as we point out elsewhere, these reasons for rejection were not properly supported. As we also point out on page 9, the Park Service should give special attention to the agency's needs and not base its recommendations entirely on the wishes of the landowner.
3. Even though the Appalachian Trail may be a unique area, it is nonetheless subject to Interior policy. In this case, as in all others, plans should include a recommended interest and, if landowners' cooperation is a factor that influences the recommended interest, a justification should be discussed in the plan.
4. Although other considerations may have been mentioned, the plans we questioned all cited cost-effectiveness as the basis for rejecting acquisition of the minimum interest identified in the plans as needed. And, as we indicated in the text, the eight plans using cost-effectiveness as a reason to reject acquisition of the minimum interest had not supported their claims with analysis. If claims of cost-effectiveness were equivalent to saying that no private uses were to be permitted, then we wonder why easements were considered minimum interest in the first place.
5. While the Park Service may know that the county plans to take steps to reduce the density of development next to the park, the plan does not discuss this. As we state in the report, according to the plan we reviewed and the county officials with whom we spoke, the acquisition of easements was rejected because of beliefs that they would not be cost-effective.
6. As noted on page 11, the Delaware Water Gap plan made no mention of the need for public use or any rationale other than cost-effectiveness in rejecting easements in favor of fee simple acquisition.
7. We have revised the statement on page 12 to make clear that Park Service officials are aware of the requirements for taking long- and short-term objectives into account when considering compatible land uses.

8. Although this explanation may satisfy the Park Service, we fail to see the justification for recommending acquisition of these lands in Grand Teton National Park. The Park Service states in the plan that continued use of these lands for grazing is compatible with park objectives. The plan also states that if the lands were to change ownership and be developed, the impacts would be detrimental to park values. But, while the plan mentions development as a long-range possibility, it does not reserve its recommendation to acquire the lands for the future; the recommendation could be implemented at any time. We can accept the need to plan for the future but see no reason to base present recommendations on purely conjectural events, especially since the plans should be revised biennially.

9. The statements from the Fire Island plan, which Interior cites, are taken from the plan's summary. The plan's recommendations, however, are to encourage the owners of these 45 properties to consider donating or selling the land to the Park Service--even though the plan clearly states that the Park Service has no need for these properties. For this reason, we continue to believe that the Park Service has offered no justification for its recommendation.

10. We have revised the text on page 13 to remove this implication.

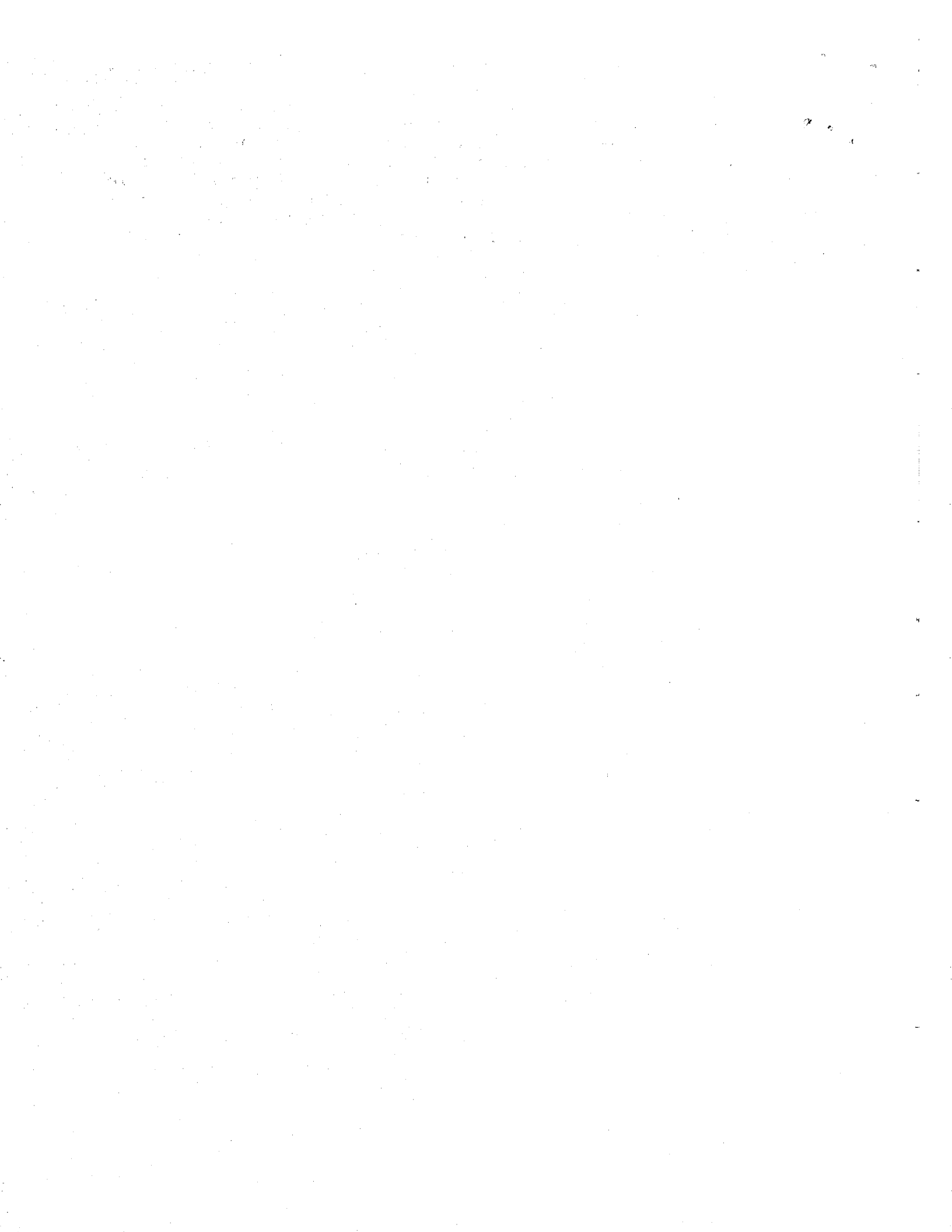
11. We have made the necessary corrections to page 15.

12. The Director's memorandum we referred to was issued November 14, 1983; page 15 has accordingly been changed. That memorandum states: "Five copies of the final approved plan should be transmitted to the Washington Office, and they will be reviewed against the comments we have provided."

13. The averages reported are provided as background information and are based on published Park Service statistics. The acreage figures used in the report are those provided in the park protection plans. The Department policy also applies to all nonfederal lands regardless of whether they are privately owned, state-submerged lands, or lands to be acquired by exchange.

14. While the Park Service may have satisfied itself that its regional offices can justify the acquisitions we questioned, that information has not been shared with members of the public who are meant to be involved in the planning process. As we note on page 18, we found no analytic support in the plans we questioned for rejecting the stated minimum interest and recommending the acquisition of a higher one. Without this information the plans' recommendations are inconsistent with the defined needs of the park. Until the 25 plans are revised to comply with the standards set by the Park Service, we believe that no funds should be spent on the lands in question.

15. We recognize that a review of all plans may add somewhat to Park Service expenses. We cannot agree, however, that another review would confuse landowners. If the plans are complete by Park Service rules, they will require no change and hence little expense and little new public involvement. On the other hand, if the plans are not complete and their recommendations lack ample justification, the public deserves to take another look at the proposals.



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A handwritten signature in dark ink, appearing to be 'JD', is located in the lower-left quadrant of the page.