

Federal Register

Monday
February 14, 1983

Part IV

Department of the Interior

National Park Service

Land Protection Plans; Proposed
Interpretive Plans

DEPARTMENT OF THE INTERIOR**National Park Service****36 CFR Ch. I****Land Protection Plans****AGENCY:** National Park Service, Interior.**ACTION:** Proposed interpretive rule; request for comments.

SUMMARY: The National Park Service is developing instructions for the preparation of land protection plans and providing the list of National Park System units expected to be preparing these plans during Fiscal Year 1983. These plans are being prepared in response to the Department of the Interior's policy for the Federal Portion of the Land and Water Conservation Fund (47 FR 19784). The public is invited to comment on the proposed instructions and participate in the planning process for individual areas.

DATES: Comments on the proposed instructions should be submitted by March 16, 1983.

ADDRESS: Comments should be addressed to Director, National Park Service (Attn: 130), Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Donald Humphrey or Warren Brown, Office of Park Planning and Environmental Quality, National Park Service, Washington, D.C. 20240 (202) 343-9377.

SUPPLEMENTARY INFORMATION: On May 7, 1982 the Department of the Interior published a new final policy statement on Use of the Federal Portion of the Land and Water Conservation Fund (47 FR 19784). In response to this policy, the National Park Service has, by notice in the **Federal Register** on January 3, 1983, (48 FR 85) withdrawn its 1979 land acquisition policy and guideline (44 FR 24790), and is beginning the preparation of land protection plans consistent with the instructions printed below.

These plans will be prepared for each unit in the National Park System containing non-Federal land or interest in land within its authorized boundary. Priority is being given to those areas with current appropriations. Approximately one-third of all plans are scheduled for completion by September 30, 1983, one-third by September 30, 1984, and the remaining plans will be completed by September 30, 1985.

Each individual plan will be prepared in compliance with the National Environmental Policy Act and other applicable legislation, regulations, executive orders, and Departmental and Service directives. In some cases

compliance requirements will already have been met in previous planning documents. The planning process will include consultation with the Fish and Wildlife Service where proposed actions may have an impact on endangered species, and the Advisory Council on Historic Preservation where actions may impact historic resources.

1. *Environmental Effects:* The action being taken in adopting these instructions will establish a general format and approach for completing these plans. Each plan will consider various alternatives for carrying out the purposes of the area as authorized by Congress and will, as necessary, consider environmental implications associated with implementation of the plan. The preparation of individual plans will guide future actions to protect unit resources. The development of instructions for land protection planning has no potential for significant effect on the human environment and is categorically excluded from the procedural requirements of the National Environmental Policy Act. Once again, environmental compliance will occur at the individual land protection plan level.

2. *Statement of Effects:* The Department of the Interior has determined that these interpretive instructions are not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act. National Park Service land protection is carried out under authorizing legislation for each area and annual appropriations acts. These instructions and individual land protection plans will provide landowners with more current information about NPS intentions for buying land or protecting it through other methods.

3. *Paperwork Reduction Act:* These interpretive instructions do not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

4. *Authorship Statement:* This document has been prepared by the National Park Service within the Department of the Interior. Principal authors are Donald Humphrey and Warren Brown.

Public Participation: The public was invited to comment on the proposed Departmental policy statement which was published in the **Federal Register** of March 18, 1982 (47 FR 11777). The final Departmental policy statement was published on May 7, 1982 (47 FR 19784). These instructions implement that policy. Comments on the proposed

instructions for plan preparation may be submitted to the address above by March 16, 1983. Individuals and organizations interested in being involved in the planning process for any specific unit should contact the Regional Director or the Superintendent at the addresses given in Appendix A.

In response to recommendation in House Report 97-978 on Interior Appropriations for Fiscal Year 1983, the planning process is being initiated as quickly as possible, and contacts with individual units should be made promptly. Specific guidelines concerning the period prior to final adoption of these instructions are being prepared and will be available upon request. Further notices and opportunities for public involvement will be handled at the regional and local levels. Pending completion of a land protection plan, discretionary acquisition actions in any individual unit of the National Park System are being reviewed on a case-by-case basis. These reviews are to assure that: (1) Acquisition proceeds in an orderly and timely manner as intended by Congress; (2) appropriated funds are used to protect high priority tracts and address hardships, emergencies and sites needed for administrative use, and (3) the interests to be acquired are those necessary to achieve unit purposes as established in authorizing legislation. Case-by-case reviews will be conducted in a timely manner to avoid unnecessary delays in the obligation of appropriated funds. When a land protection plan has been approved, acquisitions will proceed consistent with priorities identified in the plan.

Land Protection Plan Instructions*Background*

Under a policy and guideline adopted in 1979 (44 FR 24790) the National Park Service prepared land acquisition plans for approximately 120 areas. A new policy statement on land protection was adopted by the Department of the Interior on May 7, 1982 (47 FR 19784). Under this new policy, land acquisition plans will be revised or replaced by land protection plans by September 30, 1985. The following instructions for land protection plans will supercede directions in the 1979 policy statement on how to prepare land acquisition plans.

Requirements

Land Protection Plan will be prepared by the appropriate National Park Service Superintendent for each unit in the National Park System which

contains private or other non-Federal land or interest in land within its authorized boundary. Priorities for preparing plans will be established considering available or possible funding for acquisition, the amount of non-Federal land within the authorized boundary, and the potential for impacts on unit resources. The scope of the planning effort generally should be commensurate with the potential impacts to resources, complexity of the problems, and the amount of land requiring protection.

Purposes of the Plan

The guiding principle of each Land Protection Plan must be to ensure the protection of that unit of the National Park System consistent with the stated purposes for which it was created and administered. Each Superintendent has a duty to know the resources in question and to seek their protection consistent with those purposes. These instructions are designed to assist in meeting those objectives.

Land protection plans are prepared to:

1. Determine what land or interest in land need to be in public ownership, and what means of protection other than acquisition are available to achieve unit purpose as established by Congress.
2. Inform landowners about NPS intentions for buying or protecting land through other means within the unit.
3. Help managers identify priorities for making budget requests and allocating available funds to protect land and unit resources.
4. Find opportunities to help protect the unit by cooperating with state or local governments, landowners, and the private sector.

Coordination: Land protection plans are prepared as part of the unit's overall general management planning process and should be fully coordinated with other plans. The protection plan should be developed after a statement for management or general management plan (GMP) has been prepared. If an approved GMP has not been completed, the land protection plan may be prepared concurrently with the general management planning effort.

Where the land protection plan is prepared as a separate document, it becomes an action element of the general management plan when approved.

Public Involvement: The land protection plan will be prepared with public involvement. Property owners, State and local governments, and interested parties must be provided notice (individual notice should be provided when feasible) when the planning effort is initiated and given an

opportunity to comment on the alternatives under consideration. The format for public involvement will be specified in the task directive which is approved by the Regional Director.

Environmental Compliance: Land Protection plans will be prepared in compliance with applicable requirements of the National Environmental Policy Act (NEPA) and other laws or administrative directives. Specific compliance requirements for each area will depend upon the potential significance of environmental consequences. Some plans are expected to be categorically excluded from the NEPA process, others will require an environmental assessment, and some may require an environmental impact statement. Determinations about compliance requirements will usually be made at the regional level, in consultation with the Washington Office as necessary. Compliance documentation should include the extent of proposed changes in land use and potential impacts on unit resources or the surrounding community from the alternatives recommended by the land protection plan.

Compliance requirements for land protection plans being prepared as part of a General Management Plan effort should be covered in the GMP compliance. Where NEPA compliance is required for a land protection plan, an environmental assessment will be prepared as a separate, but attached document. The environmental assessment may reference the alternatives and proposal in the land protection plan, making it possible for the document to be essentially an analysis of environmental consequences and a list of persons consulted. National Park Service guidelines for environmental compliance are found in NPS-12 (National Park Service NEPA Compliance Guideline).

Endangered Species: The Regional Office should contact the U.S. Fish and Wildlife Service regional endangered species staff when planning begins for a specific area and arrange for any necessary consultation early in the planning process to determine if there are any potential effects on any endangered species. If a biological assessment is necessary, it will be incorporated into the environmental document released with the plan for public review and arrangements will be made with the Fish and Wildlife Service for the preparation of a biological opinion.

Notification of Advisory Council on Historic Preservation and the State Historic Preservation Officer (SHPO): The Regional Director will be

responsible for sending the Advisory Council and the SHPO a letter transmitting a copy of each task directive as it is approved inviting the Council and SHPO to participate in the development of the plan, as required by the 1981 amendment to the Programmatic Memorandum of Agreement. By that agreement the Council and the SHPO foreclose their opportunity to object to the selected alternative if they fail to participate in plan development. The Council and the SHPO shall be notified that they have 30 calendar days in which to express in writing their intent to participate.

Responsibilities: The Superintendent is responsible for the preparation and recommendation of the unit's land protection plan. The Regional Director is responsible for scheduling and monitoring the preparation of land protection plans by interdisciplinary teams including planners and realty specialists, and for approving them. Plans will be reviewed concurrently by the unit, region, and Washington Office. Comments compiled during the Washington Office review will be forwarded to the Regional Director for consideration prior to his or her approval of a plan. The time allocated for WASO review will be 30 days from the date of receipt in the Office of Park Planning and Environmental Quality. The regional or field solicitor should be consulted as necessary throughout the planning process and should review proposed plans for legal sufficiency.

Task Directive: The scope of the planning effort should be defined as soon as possible in a task directive. This very brief internal working document should list major issues to be discussed, outline alternatives to be considered, establish schedules for interim and final products allowing time for reviews, and assign responsibilities for completing the tasks.

The task directive also should identify the type of public involvement, environmental compliance, special expertise requirements, coordination with other plans, and any additional guidance needed from the Regional Director or Washington Office for the planning effort. The task directive will be prepared by the Superintendent and planning team and approved by the Regional Director.

Updates: The Superintendent will review the plan on a biennial basis, and revise it as necessary to reflect changes in conditions. Once approved, land protection plans may be amended or revised, generally following the processes for General Management Plans as outlined in NPS-2 (Planning

Process Guideline). If the plan is to be amended, the extent of review and public participation may be adjusted to reflect the scope of the amendment. The Superintendent is responsible for determining if an update is required and for recommending the scheduling of necessary revisions.

Format: Formats for land protection plans may be adjusted to fit special circumstances, but must address the following points:

I. Introduction

(a) Brief summary of Departmental and NPS policies for land protection and relevant legal authorities.

(b) Explanation of why the plan is being prepared and major issues to be addressed.

(c) Statement that the plan does not constitute an offer to purchase land or interests in land, that it will generally guide subsequent activities subject to availability of funds and other constraints, and that it does not diminish the rights of non-Federal landowners.

II. Purpose of the Unit and Resources To Be Protected

(a) A brief statement of the purpose of the unit as contained in the authorizing legislation, GMP, or statement for management.

(b) A brief description of the significance of the area and the resources to be protected.

(c) Special legislative, administrative, or congressional directives or constraints on acquisition, appropriations ceiling, mandated acquisition periods, etc. and a history of the unit's growth including boundary changes, ceiling increases, other factors relevant to the protection of the unit's resources.

(d) A brief description of planned resource management and visitor use objectives and activities by zone or subzone as contained in the *General Management Plan*, *resources management plan*, etc.

III. Non-Federal Ownership and Uses

(a) Description of private and other non-Federal ownership and uses of land and interests within unit boundaries and the character of these lands (developed, undeveloped, and as relevant, the terrain, vegetation, relation to water bodies, roads, boundaries, communities, etc.). Maps should include a State map showing location of the unit; a regional map showing relationship to adjacent lands including, where relevant, existing protection and uses of these lands; and a map of the unit showing tracts, acreage and ownerships. (If there is a

large number of tracts, the map may aggregate tracts by such useful groupings as type of ownership, use, level of development, etc.)

(b) Description of existing and potential uses of non-Federal lands which would be compatible or incompatible with planned management actions.

(c) External conditions and activities that have a direct bearing on the protection of land within unit boundaries and an assessment of their impact on protection efforts.

(d) Identification of Federal, State, and local laws or authorities which currently provide some resource protection or allow for planned management activities.

(e) A listing of the number of acres acquired by all means, the number of improvements acquired, the numbers and types of interest retained by sellers including, where involved, the term of years and other relevant information regarding retained right of use and occupancy, the number of acres and tracts of land and interests in land acquired by Federal purchase, donation or exchange; the present acquisition ceiling including dates and amounts of previous ceilings; the amount of money in the authorized ceiling expended to date; the amount of money appropriated and available for expenditure; the number of properties acquired through condemnation, declaration of taking, and the number of properties presently in condemnation.

(f) A general discussion of the relationship of landowners to social and cultural resources of the unit and of social, cultural, economic, and institutional relationships with nearby communities and political subdivisions; important folkways or activities that contribute to the creation, maintenance or protection of the unit's cultural resources; whether landowners are, for instance, corporations or individuals, long-term or short-term owners and known plans for changes in land use, if any.

IV. Protection Alternatives

(a) Description of reasonable alternative methods for protecting land to carry out the purpose of the unit. (See "Protection Alternatives" below).

(b) Explanation of the circumstances, conditions and requirements affecting the application of each alternative.

(c) Analysis of the effectiveness of each alternative to protect unit resources.

(d) Assessment of the social and cultural impacts of each alternative on non-Federal landowners as well as social and economic impacts on

community life (environmental impacts will be assessed in a separate but attached document).

V. Recommendations

(a) Describe the rationale and list priorities for protection by tract or other reasonable aggregated areas or categories, considering the importance of resource protection, visitor use, administrative purposes, etc.

(b) Identify categories of land and rationale for protection:

—by means other than acquisition

—by acquisition of less-than-fee interests

—by acquisition of fee

(c) Discuss proposed methods of acquisition including donation, exchange, transfer, withdrawal, purchase, or condemnation.

(d) Identify land adequately protected under existing ownership and not requiring any NPS protection efforts.

VI. Appendices (as Necessary)

(a) Maps and black and white photographs should be used wherever necessary to improve understanding of the contents of the land protection plan. These may be included in the text (see III(a) above) or the Appendices. Special photo albums (for review purposes only) may be provided at the the unit, the Regional Office and other official review sites.

(b) Listing by priority ranking or grouping, where feasible, of individual tracts showing tract number, name of owner, acreage, proposed protection method (cooperative agreement, zoning, fee or less-than-fee acquisition etc.) and specific reason for protection (i.e., an easement to "protect the historic scene and permit continued farm use" in an historical area).

(c) Copies of authorizing legislation

(d) Sample documents (Easement provisions, agreements, notices to local governments etc.)

(e) *One page statistical summary of plan* (acres, methods of protection, highlights of III(e)).

Although all plans should follow these analytical steps, some may be very brief and all should place primary emphasis on sections IV and V rather than repeating information already contained in the *General Management Plan* or other plans.

Policy and Legislative Changes

The analysis of alternatives and recommendations should be developed on the basis of current authorities and policies. However, the land protection plan may reveal the need for changes in unit boundaries, protection authorities,

or management policies. The plan must recognize that changes in legislation or policy can only be accomplished through Service planning processes and Departmental or Congressional channels. The analysis of alternatives may include various contingencies for what will be done if such new policies or authorities become available, but suggestions for major changes should be included in the Superintendent's memorandum to the Region and in the Regional Director's memorandum transmitting the plan to Washington and processed through amendment or revision to the General Management Plan or other appropriate procedures.

Land Protection Plans should be developed with special attention to the following issues relating to private ownership within unit boundaries and analysis of alternative methods for protecting land.

Private Ownership Within Unit Boundaries

Boundaries for units of the National Park System are not always drawn exclusively on the basis of natural or cultural features or clear determinations of resource significance. Consequently, not all of the land within a unit boundary may require the same type or level of protection to achieve the purpose of the unit. Plans which call for NPS to assume management responsibility for lands currently in private or other ownership should be able to document that these lands are needed for resource protection and visitor use purposes that cannot be accomplished without Federal acquisition of these lands or interest in these lands. (See Format, Parts II, IV, V, and VI).

Short and Long Term Needs

In considering protection options, the plan should recognize the difference between needs for interim protection and long term objectives for the unit. Some areas have a long term objective of restoring natural systems to their condition prior to human settlement. However, with appropriate controls, it may be possible and, in fact, desirable to allow continued compatible private uses of the land for a specific period of time without adverse impacts on the long term mission of the unit.

In many areas, private uses of the land may contribute to the purposes of the unit by providing visitor services, reducing requirements for maintenance, reducing costs for management or continuing traditional activities that are part of the resource to be protected, particularly in areas of cultural value. The land protection plan should indicate

what private uses need to be continued, controlled, or eliminated to meet long range goals of the unit. Interim private use may be provided by deferral of acquisition, right of first refusal, acquisition subject to reservation of use and occupancy, or by purchase followed by leaseback, sellback with deed restrictions.

Protection Alternatives

Direct NPS acquisition and management of land may not be the only effective or desirable method of protecting unit resources in all cases. *Land protection plans must document that other approaches have been fully considered.* The plan must identify specific protection methods and assess the ability of various alternatives to achieve management objectives. This includes attention to the following types of methods:

Agreements

Agreements are legal instruments defining administrative arrangements between two or more parties. They can provide for exchange of services of other benefits. Within unit boundaries, agreements are most likely to be useful for land owned by:

- State or local governments
- Private non-profit organizations (scout troops, churches, land trusts or conservation groups)
- Other federal agencies
- Individuals or corporations who are supportive of unit purposes, in areas where such agreements are specifically authorized by law.

The terms of an agreement can include provisions for:

- Limited NPS access to manage natural or cultural resources
- Shared responsibility for maintenance of structures or facilities
- Public access for recreation or interpretation
- Conditions for management of wildlife or other resources
- Law enforcement

For example, land administered by the Coast Guard and Navy in Channel Islands National Park can be managed for unit purposes under an agreement which grants NPS access yet continues the defense and coastal security uses of the islands. NPS directives and the Federal Grants and Cooperative Agreement Act of 1977 (Pub. L. 95-224) establish some important distinctions among contracts, cooperative agreements, and memoranda of understanding. The land protection plan should outline the specific requirements to meet NPS management needs and other types of provisions to be included

in an agreement so that the appropriate legal instrument can be drawn up at a later date.

Zoning

Zoning is based on the power of State and local governments to protect public health, safety, and welfare by regulating the use of land. Within a unit of the National Park System, local zoning regulations can be used to limit the density, type, location, and the character of private development. Some authorizing legislation specifically requires cooperation between NPS and local governments in developing zoning regulations. In other areas, zoning should be considered when:

- Local government has a zoning ordinance in place or appears to be willing to adopt one
- There is evidence of State and local support for the protection objectives of the unit
- Some reasonable private use of the land is consistent with unit purposes
- Private land use needs to be controlled and managed rather than prohibited to meet unit objectives.

The land protection plan should be specific about what types of protection should be exercised through a zoning ordinance administered by the local government. This may include:

- Restrictions on the type of use; residential, commercial, industrial, agricultural, etc.
- Limits on the intensity of use; size of lots, height of buildings, number of units per acre
- Specific standards for design; requirements for set backs from property lines, number of parking spaces per unit, portion of lot to remain in open space.

The plan should take special care to consider what uses of land may be allowed under current zoning classifications which appear to meet NPS objectives as well as those which seem to conflict. For example, the zoning category of "recreation use" may allow for trailer parks, resort motels, and other development unlikely to be compatible with purposes of the unit. Land zoned for low density residential use may be more adequately protected in terms of unit objectives than land zoned for agricultural use where feed lots, timber operations, and other intense activities may be allowed automatically.

A few zoning ordinances allow for transfers of density or development rights from one tract to another. This tool is especially useful in jurisdictions where development can be concentrated

in areas already served by public utilities while undeveloped land is retained in low density uses. The land protection plan should consider if development should be prohibited, controlled, or concentrated in other locations. Where the location of new development is of primary concern, zoning and related TDR (transferable development right) programs are likely to be worthy of consideration in the protection plan.

Cooperation with state or local governments may be necessary to revise or prepare zoning regulations. The land protection plan should advise local governments about the types of zoning provisions which would be consistent with unit objectives. At the same time, the plan should recognize that zoning changes are often controversial and the NPS role should be defined with sensitivity to the potential for criticism of federal involvement in local land use regulation. Special expertise may be required to advise unit managers on complex zoning questions.

Local zoning has been criticized as a long term protection tool because of the potential for changes in local governing bodies, political pressures on decisions, and problems in enforcement of regulations. Land protection plans may suggest what steps could be taken to overcome some of these problems, or what contingency actions may be taken if zoning fails. Suggestions for NPS involvement in State or local zoning and other land use regulatory activities should be developed in close consultation with the Office of the Solicitor. In discussing zoning, the plan should give special attention to maintaining cooperative relationships with local governments rather than creating confrontations.

In limited instances where the state has ceded exclusive jurisdiction to the Federal Government within the boundaries of a National Park, or where otherwise authorized by law, the National Park Service may be able to exercise direct regulatory authority over private lands. In such cases, NPS would be acting like the local governing body in establishing limits on the type, density, and character of land use. This approach is most appropriate for developed areas within older established National Parks rather than a method of protecting new areas or undeveloped land.

Regulations

In addition to zoning, Federal agencies and state and local governments administer a variety of other laws that can help protect unit resources. The land protection plan will

consider what regulatory authorities are available to control:

- Air and water pollution
- Dredging or filling of wetlands
- Hunting and fishing
- Tree cutting and forestry practices
- Resource extraction and excavation
- Construction in navigable waters
- Subdivision of land
- Development in flood hazard areas

Regulations cannot usually provide for public use, but they can prevent harm to natural or cultural resources. For example, Federal, state, and local regulations often impose strict limits on dredging or filling of wetlands which would destroy wildlife habitat or degrade water quality. Local subdivision and environmental regulations may restrict residential development that is not adequately served by roads, water, and sewage treatment facilities.

It is much more difficult for regulations to absolutely prohibit an activity than to simply limit the type, amount, or intensity of the activity. In units where the impact of development is already evident regulations are more likely to be effective in reducing adverse effects of major projects. In relatively pristine areas, regulations may be of little use in efforts to preserve natural systems from any intrusions of development. Regulations also are more likely to be effective where there is a good base of information about the impacts of certain activities on unit resources. For example, documentation that water pollution is destroying specific fish and wildlife populations will be helpful in efforts to enforce state or local regulations on the source of the pollutants.

A land protection plan should discuss the role NPS can play in assuring that regulations are effectively implemented. This could include cooperative efforts to identify and prosecute violators as well as technical assistance or review of permit applications.

Easement Acquisitions

Property ownership should be envisioned as a bundle of rights. These include the right to farm, cut trees, build houses, or extract resources and exclude others from it. Easements convey only some of the rights in property from one person to another. They may be positive: Giving a right of access, or negative: Restricting specific activities on the land. Easements are most likely to be useful where:

- Some, but not all private uses are compatible with unit purposes
- Current owners desire to continue current types of use and occupancy of the land under terms set by NPS

- Scenic values need protection, or access by the public or NPS is needed only over a portion of the land.

Easements are extremely flexible and can be drafted to fit the specific characteristics of the land as well as concerns of the owner. The protection plan should identify the types of conditions imposed by or uses which will be limited by an easement. These could include restrictions on:

- Tree cutting
- Excavation or grading
- Resource extraction
- Hunting or fishing
- Residential development
- Farming practices that erode the soil
- Grazing
- Commercial or industrial activities.

Restrictions need not be absolute; they may specify that the activity will be allowed by the unit manager subject to clearly defined conditions on the timing, intensity, or amount of the use.

The easement also could include positive provisions for:

- Public access along a river or trail
- NPS access to manage natural or cultural resources
- Utility rights of way.

Negative easements are often likely to be appropriate on developed properties where single family residential uses can continue without adverse impacts on public use of the unit. Negative easements also are useful in protecting scenic values of agricultural or forest land. The type of restrictions to be imposed can be as general or specific as necessary to meet protection needs. For example, an easement on a farm along a parkway or historic area could specify that no trees will be cut or structures built in a legally defined area unless consistent with clear standards in the easement. An easement on an historic building might specify that it will be maintained and painted only a certain color to match the character of the neighborhood, or preserve historic values.

Positive easements are likely to be most useful where the planned use by NPS or the public will not substantially interfere with other private uses of the land. Public access through land managed for farming or timber production is one example of a likely application for a positive easement. While some landowners may be receptive to selling less than their entire interest in land, others may prefer to sell in fee. The plan should indicate what factors will be considered in making the choice between fee and easement. These may include: Owner preference, relative costs, character of the site or the

resource, and plans for public use or other management requirements. In general, plans should give special attention to defining what interests in land are required to achieve unit purposes rather than leave the choice between fee and easement entirely to the property owner. The plan also should identify what special efforts might be necessary to inform landowners about possible advantages of owner imposed deed restrictions, easement sales and requirements for monitoring and enforcement of easement conditions. Plans proposing substantial use of easements should discuss any special staff, funding, or training needs to assure that easement conditions can be adequately managed and enforced.

There is no rule of thumb for determining whether easements are "too expensive" in relation to fee acquisition. Costs for purchasing easements will vary widely depending on how much potential uses of the land are limited and the local trends in development. Proposed easement programs must be evaluated on a case-by-case basis. In discussing costs of an easement program, the plan should balance all relevant factors:

Easements: Limited management control, purchase price, enforcement costs, benefits of continued private use, opportunities for public use, impact on local tax base.

Fee ownership: Full control over management, purchase price, maintenance expenses, payments in lieu of taxes, NPS liability for damages, patrol and enforcement expenses, opportunities for public use, development costs.

Fee Acquisition

When all of the interests in land are acquired, it is owned in fee-simple. Fee acquisition may be recommended when other methods of protection have been found to be inadequate, inefficient, or ineffective to meet management needs. Before recommending a protection strategy that relies entirely on fee purchases, *the plan should explain why other approaches are not adequate and why problems with these other approaches cannot be solved.* Fee acquisition is most often appropriate where the land:

- Is needed for development of unit facilities or heavy public use
- Must be maintained in pristine natural condition which precludes reasonable private use
- Requires intense NPS management to preserve historic and archeological resources, eliminate exotic species, or

conduct other activities which substantially conflict with private use

- Is owned by individuals who do not wish to sell less-than-fee interests (sellback and lease back should be considered)
- Cannot be protected in accord with unit purposes by other methods, or alternatives would not be cost-effective.

Methods of Acquisition

NPS can acquire fee and less-than-fee interests through several different methods. These include:

- Purchase with donated or appropriated funds
- Withdrawal from the public domain
- Transfer from other federal agencies
- Donation
- Bargain sale
- Exchange
- Condemnation.

Plans for direct purchase should recognize the uncertainties about the level of annual appropriations by Congress. Transfers and withdrawals also usually require specific direction from Congress. Donations and exchanges depend upon a variety of factors not usually within the direct control of NPS. Consequently, the plan should discuss specific means of acquisition (i.e., donation, purchase or exchange) in general terms without attempting to define which individual tracts will be acquired by specific methods, unless some agreement has already been reached or the methods are specified in the authorizing legislation.

Landowners who have substantial taxable incomes would most likely be interest in a full donation. A bargain sale (partial donation) may be attractive to individuals or corporations which need some cash and some deductions from taxable income. The plan provides an opportunity to determine what special assistance may be necessary to inform landowners about the tax advantages of donations. The plan should not, however, attempt to offer tax advice, but may indicate what steps can be taken to encourage landowners to consult with their attorneys and accountants.

Exchanges should be considered where:

- NPS has identified potential trade lands under its own control (land outside of the current boundary acquired to avoid severance damages, for example).
- Land is located in the same state under other Federal agency jurisdiction.

In cases where the landowner wishes to sell fee but NPS needs a less-than-fee interest, a purchase and sell or lease-back arrangement should be considered. The land protection plan should identify those tracts where fee acquisition could be used initially to meet landowner objectives, and then the land could be leased, or resold with restrictions in the deed to meet NPS objectives. A discussion of timing for lease back or sell back and any necessary restrictions should be included in the plan.

Authorizing legislation for many areas provides that land also may be acquired subject to reservations of a right of use and occupancy. Reservations may be for a term of years or the life of the owner and must include restrictions to assure protection of unit resources. Rights to salvage structures or materials also may be reserved. The plan should specify what land or structures may be acquired subject to reservations as well as land which cannot be acquired with reservations, in accord with the area's legislation.

The plan should explain what circumstances may require the use of condemnation to acquire fee or less-than-fee interests in private property. These include simply resolving disagreements over fair market value and solving title problems as well as preventing uses which would harm unit resources. The plan should note any specific legislative directions on condemnation, recognize the distinction between inholding areas and recently authorized areas, and explain to landowners that condemnation is a judicial process to assure them of just compensation when private land is taken for public purposes.

The land protection plan should identify and special concerns about the actual process of acquisition which should be taken into consideration to minimize adverse impacts on landowners.

Emergencies and Hardships

It is not possible to predict in advance when landowners may be subject to hardships that require them to dispose of land or improvements in land, or to know when action by landowners may cause significant or irreparable damage to unit resources. Accordingly, both emergencies and hardships will be reviewed on a case-by-case basis as they arise and will not affect the overall setting of priorities in the preparation of land protection plans. Where authorizing legislation provides for special consideration to be given to hardships, appropriate reference to the

legislation should be included in the plan.

Appendix A

Alaska Region: John E. Cook Regional Director, National Park Service, 540 West 5th Avenue, Room 202, Anchorage, Alaska 99501 (907-271-4196)

Sitka NHP, P.O. Box 738, Sitka, AK 99835

Appalachian Trail: David Richie, Project Manager, Appalachian Trail Project Office, National Park Service, Harpers Ferry, West Virginia 25425 (304-535-2346)

Mid-Atlantic Region: James W. Coleman, Jr., Regional Director, National Park Service, 143 South Third Street, Philadelphia, Pennsylvania 19106 (215-597-7013)

Allegheny Portage RR NHS, National Park Service, P.O. Box 247, Cresson, PA 16630

Appomattox Court House NHP, P.O. Box 218, Appomattox, VA 24522

Assateague Island NS, Route 2, Box 294, Berlin, MD 21811

Colonial NHP, P.O. Box 210, Yorktown, VA 23690

Delaware Water Gap NRA, Bushkill, PA 18324

Fredericksburg & Spotsylvania NMP, P.O. Box 679, Fredericksburg, VA 22401

Friendship Hill NHS, c/o Fort Necessity Nat'l Battlefield, the National Pike, Farmington, PA 15437

Gettysburg NMP, Gettysburg, PA 17325

Hampton NHS, 525 Hampton Lane, Towson, MD 21204

Johnstown Flood N Memorial, P.O. Box 247, Cresson, PA 16630

Maggie L. Walker NHS, c/o Richmond Nat'l Battlefield Park, 3215 East Broad Street, Richmond, VA 23223

New River Gorge NR, P.O. Drawer V, Oak Hill, WV 25901

Petersburg NB, P.O. Box 549, Petersburg, VA 23803

Richmond NBP, 3215 E. Broad Street, Richmond, VA 23223

Upper Delaware SRR, P.O. Box C, Narrowsburg, NY 12764

Valley Forge NHP, Valley Forge, PA 19481

Mid-West Region: Jim L. Dunning, Regional Director, National Park Service, 1709 Jackson Street, Omaha, Nebraska 68102 (402-221-3431)

Apostle Islands NL, P.O. Box 729, Bayfield, WI 54814

Cuyahoga Valley NRA, P.O. Box 158, Peninsula, OH 44264

Herbert Hoover NHS, P.O. Box 607, West Branch, IA 52358

Indiana Dunes NL, 1100 N. Mineral Springs, Porter, IN 46304

Lincoln Home NHS, 526 South 7th Street, Springfield, IL 62703

Lower Saint Croix, NSR, P.O. Box 708, Saint Croix Falls, WI 54024

Mound City Group NM, 16072 State Rt. 104, Chillicothe, OH 45601

Pictured Rocks NL, P.O. Box 40, Munising, MI 49862

Saint Croix NSR, P.O. Box 708, Saint Croix Falls, WI 54024

Scotts Bluff NM, P.O. Box 427, Gering, NE 69341

Sleeping Bear Dunes NL, 400 1/2 Main Street, Frankfort, MI 49635

Voyageurs NP, P.O. Drawer 50, International Falls, MN 56649

William H. Taft NHS, 2038 Auburn Avenue, Cincinnati, OH 45219

Wilsons Creek NB, Postal Drawer C, Republic, MO 65738

National Capital Region: Manus J. Fish, Jr., Regional Director, National Park Service, 1100 Ohio Drive, S.W., Washington, D.C. 20242 (202-426-5720)

Antietam NB, P.O. Box 158, Sharpsburg, MD 21782

C & O Canal NHP, P.O. Box 4, Sharpsburg, MD 21782

Harpers Ferry NHP, P.O. Box 65, Harpers Ferry, WV 25425

Manassas NBP, P.O. Box 1830, Manassas, VA 22110

Monocacy NB, c/o C & O Canal NHP, P.O. Box 158, Sharpsburg, MD 21782

Piscataway Park, c/o National Capital Region—East, 5210 Indian Head Highway, Oxon Hill, MD 20021

North Atlantic Region: Herbert S. Cables, Jr., Regional Director, National Park Service, 15 State Street, Boston, Massachusetts 02119 (617-223-3769)

Adams NHS, P.O. Box 531, Quincy, MA 02269

Boston African American NHS, c/o Boston NHP, Charleston Navy Yard, Boston, MA 02129

Boston NHP, Charleston Navy Yard, Boston, MA 02129

Cape Cod NS, South Wellfleet, MA 02663

Fire Island NS, 120 Laurel Street, Patchogue, NY 11772

Gateway NRA, Floyd Bennett Field, Bldg. 69, Brooklyn, NY 11234

Home of FDR NHS, Hyde Park, NY 12538

Lowell NHP, 171 Merrimack Street, P.O. Box 1098, Lowell, MA 01853

Martin Van Buren NHS, P.O. Box 545, Kinderhook, NY 12106

Minute Man NHP, P.O. Box 160, Concord, MA 01742

Morristown NHP, National Park Service, Washington Place, Morristown, NJ 07960

Saint Croix Island NM, c/o Acadia National Park, Route 1, Box 1, Bar Harbor, ME 04609

Salem Maritime NHS, Custom House, Derby Street, Salem, MA 01970

Saratoga NHP, R.D. #1, Box 113-C, Stillwater, NY 12170

Springfield Armory NHS, One Armory Square, Springfield, MA 01105

Pacific Northwest Region: Daniel J. Tobin, Jr., Regional Director, National Park Service, 2001 6th Avenue, Seattle, Washington 98121 (206-442-5565)

Ebey's Landing NHR, c/o Pacific Northwest Regional Office, Westin Building—Rm. 1920, 2001 6th Avenue, Seattle, WA 98121

Fort Vancouver NHS, Vancouver, WA 98661

John Day Fossil Beds NM, 420 West Main Street, John Day, OR 97845

Lake Chelan NRA, Chelan, WA 98816

Mount Rainier NP, Tahoma Woods, Star Route, Ashford, WA 98304

Nez Perce NHP, P.O. Box 93, Spalding, ID 83551

North Cascades NP, 800 State Street, Sedro Woolley, WA 98284

Olympic NP, 600 East Park Avenue, Port Angeles, WA 98362

Ross Lake NRA, c/o North Cascades National Park, 800 State Street, Sedro Woolley, WA 98284

Rocky Mountain Region: L. Lorraine Mintzmyer, Regional Director, National

Park Service, P.O. Box 25287, Denver, Colorado 80225 (303-234-2500)

Arches NP, c/o Canyonlands National Park, 446 S. Main Street, Moab, UT 84532

Badlands NP, P.O. Box 6, Interior, SD 57750

Bent's Old Fort NHS, P.O. Box 581, La Junta, CO 81050

Bighorn Canyon NRA, P.O. Box 458, Fort Smith, MT 59035

Black Canyon of the Gunnison NM, P.O. Box 1648, Montrose, CO 81401

Bryce Canyon NP, Bryce Canyon, UT 84717

Capitol Reef NP, Torrey, UT 84775

Dinosaur NM, P.O. Box 210, Dinosaur, CO 81610

Fort Laramie NHS, Fort Laramie, WY 82212

Fort Union Trading Post NHS, Buford Route, Williston, ND 58801

Glacier NP, West Glacier, MT 59936

Golden Spike NHS, P.O. Box 394, Brigham City, UT 84302

Grand Teton NP, P.O. Drawer 170, Moose, WY 83012

Grant-Kohrs Ranch NHS, P.O. Box 790, Deer Lodge, MT 59722

Great Sand Dunes NM, P.O. Box 60, Alamosa, CO 81101

Rocky Mountain NP, Estes Park, CO 80517

Zion NP, Springdale, UT 84767

Southeast Region: Robert M. Baker, Regional Director, National Park Service, Richard B. Russell Federal Bldg. & U.S. Courthouse, 75 Spring Street, S.W., Atlanta, Georgia 30303 (404-221-5185)

Andersonville NHS, Andersonville, GA 31711

Big Cypress N Preserve, S.R. Box 110-Satinwood Drive, Ochopee, FL 33943

Biscayne NP, P.O. Box 1369, Homestead, FL 33030

Canaveral NS, P.O. Box 2583, Titusville, FL 32780

Cape Hatteras NS, Route 1, Box 675, Manteo, NC 27954

Cape Lookout NS, P.O. Box 690, Beaufort, NC 28516

Castillo de San Marcos NM, 1 Castillo Drive, St. Augustine, FL 32084

Chattahoochee River NRA, 1905 Powers Ferry Rd-Suite 150, Marietta, GA 30067

Chickamauga & Chatanooga NMP, P.O. Box 2128, Ft. Oglethorpe, GA 30742

Cumberland Gap NHP, P.O. Box 840, Middlesboro, KY 40965

Cumberland Island NS, P.O. Box 806, Saint Marys, GA 31558

De Soto N Memorial, National Park Service, 75th Street, N.W., Bradenton, FL 33529

Everglades NP, P.O. Box 279, Homestead, FL 33030

Fort Caroline NM, 12713 Ft. Caroline Road, Jacksonville, FL 32225

Fort Frederica NM, Route 4, Box 286-C, St. Simons Island, GA 31522

Fort Pulaski NM, P.O. Box 98, Tybee Island, GA 31328

Fort Raleigh NHS, c/o Cape Hatteras National Seashore, Route 1, Box 675, Manteo, NC 27954

Fort Sumter NM, 1214 Middle Street, Sullivan's Island, SC 29482

Great Smoky Mountain NP, Gatlinburg, TN 37738

Gulf Islands NS, P.O. Box 100, Gulf Breeze, FL 32561

Mammoth Cave NP, Mammoth Cave, KY
42259
Martin Luther King, Jr., NHS, c/o Southeast
Regional Office, National Park Service, 75
Springs Street, SW, Atlanta, GA 30303
Moore's Creek NB, P.O. Box 69, Currie, NC
28435
Natchez Trace Parkway, Rural Route 1, NT-
143, Tupelo, MS 39901
Obed WSR, P.O. Drawer 630, Oneida, TN
37841
Shiloh NMP, Shiloh, TN 38376
Vicksburg NMP, P.O. Box 349, Vicksburg, MS
39180
Virgin Islands NP, P.O. Box 7789, Charlotte
Amalie, St. Thomas, VI 00801
Southwest Region: Robert I. Kerr, Regional
Director, National Park Service, Old Santa
Fe Trail, P.O. Box 728, Santa Fe, New
Mexico 87501 (505-988-6388)
Bandelier NM,
Los Alamos, NM 87544
Big Bend NP,
Big Bend Nat'l Park, TX 79834
Big Thicket NP,
P.O. Box 7408,
Beaumont, TX 77706
Buffalo NR,
P.O. Box 1173,
Harrison, AR 72601
Chaco Culture NHP,
Star Route 4, Box 6500,
Bloomfield, NM 87413
Chickasaw NRA,
P.O. Box 201,
Ft. Oglethorpe, GA 30742
El Morro NM,
Ramah, NM 87321
Fort Smith NHS,

P.O. Box 1406,
Fort Smith, AR 72902
Georgia O'Keeffe NHS,
c/o Southwest Regional Office,
National Park Service,
P.O. Box 728,
Santa Fe, NM 87501
Hot Springs NP,
P.O. Box 1860,
Hot Springs, AR 71901
Jean Lafitte NHP,
c/o Municipal Auditorium,
1201 St. Peter Street,
New Orleans, LA 70116
Lyndon B. Johnson NHS,
P.O. Box 329,
Johnson City, TX 78636
Padre Island NS,
9405 South Padre Island Drive,
Corpus Christi, TX 78418
Palo Alto Battlefield NHS,
c/o Padre Island NS,
9405 South Padre Island Drive,
Corpus Christi, TX 78418
Salinas NM,
P.O. Box 496,
Mountainair, NM 87036
San Antonio Missions NHS,
727 E. Durango—Rm. A612,
San Antonio, TX 78206
Western Region: Howard Chapman, Regional
Director, National Park Service 450 Golden
Gate Avenue, Box 36063, San
Francisco, California 94102 (415-556-4196)
Channel Islands NP,
1901 Spinnaker Drive,
Ventura, CA 93001
Coronado NM,
Rural Route 1, Box 126,

Hereford, AZ 85615
Golden Gate NRA,
Building 201, Fort Mason,
San Francisco, CA 94124
Grand Canyon NP,
P.O. Box 129,
Grand Canyon, AZ 86023
Kaloko Honokohau NHP,
c/o Pacific Area Director,
300 Ala Moana Blvd.,
Honolulu, HI 96850
Kings Canyon NP,
c/o Sequoia and Kings Canyon Nat'l Parks,
Three Rivers, CA 93271
Lake Mead NRA,
601 Nevada Highway,
Boulder City, NV 89005
Lassen Volcanic NP,
Mineral, CA 96063
Point Reyes NS,
Point Reyes, CA 94956
Santa Monica Mountains NRA,
22900 Ventura Blvd., Suite 140
Woodland Hills, CA 91364
Sequoia NP,
c/o Sequoia & Kings Canyon Nat'l Parks,
Three Rivers, CA 93271
War in the Pacific NHP,
P.O. Box FA,
Agana, Guam 96910
Yosemite NP,
P.O. Box 577,
Yosemite National Park, CA 953789

Russell E. Dickenson,
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[FR Doc. 83-3865 Filed 2-11-83; 8:45 am]

BILLING CODE 4310-70-M

