



United States Department of the Interior

NATIONAL PARK SERVICE
NATIONAL CAPITAL REGION
1100 OHIO DRIVE, S. W.
WASHINGTON, D.C. 20242

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SEP 07 1983

Memorandum

To: Associate Regional Directors and Superintendents,
National Capital Region

From: Associate Regional Director, Land Use Coordination,
National Capital Region

Subject: Departmental Guidelines for Transactions Between
Nonprofit Conservation Organizations and Federal
Agencies

Enclosed is a copy of the Federal Register, Vol. 48, No 155 dated August 10, 1983, subject above, for your use and information. This guideline establishes the methods which we shall employ when proposing to acquire lands or interests in lands which they will, in turn, sell to the National Park Service at a future date.

If you have any questions please call me.

Enclosure

concurrently with the Assistant Secretary for Policy Development and Research, all authority currently delegated to the Assistant Secretary for Policy Development and Research.

Authority: Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: August 4, 1983.

John J. Knapp,

Acting Secretary.

[FR Doc. 83-21744 Filed 8-9-83; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Guidelines for Transactions Between Nonprofit Conservation Organizations and Federal Agencies

AGENCY: Office of the Secretary, Interior.

ACTION: Revision of final guidelines—further opportunity to comment.

SUMMARY: The Assistant Secretary for Fish and Wildlife and Parks adopted final guidelines for transactions between nonprofit conservation organizations and Federal agencies that utilize the Land and Water Conservation Fund (LWCF). These guidelines provide broad instructions to the four Federal agencies in their use of nonprofit conservation organizations to assist in securing the natural, cultural, wildlife and recreation values in greatest need of protection. A further revision of these guidelines has now been adopted and further opportunity for comment is being provided.

The guidelines will apply to the National Park Service, Fish and Wildlife Service, and the Bureau of Land Management in the Department of the Interior and the Forest Service in the Department of Agriculture.

EFFECTIVE DATE: Comments due by September 9, 1983. Unless modified pursuant to notice in the Federal Register, these guidelines as hereby revised will be effective September 25, 1983.

FOR FURTHER INFORMATION CONTACT: William Hartwig, Acting Chairman, LWCF Policy Group, Room 3145, Department of the Interior, Washington, D.C. 20240, 343-4945.

SUPPLEMENTARY INFORMATION: The public was initially invited to comment on the proposed guidelines, that appeared in the Federal Register, January 28, 1983 (Vol. 48, No. 20, pages 4055-6). The final guidelines appeared in the Federal Register, April 22, 1983 (Vol. 48, No. 79, pages 17406-7) for 30 days of review and comment. This comment period was extended for 30 additional

days to June 23, 1983, by notification in the Federal Register, June 2, 1983 (Vol. 48, No. 107, page 24795) and is hereafter extended for 30 days of review and comment.

While not determinative, response to the draft guidelines was 31 in favor and 1 opposed. The final guidelines received 38 additional favorable comments and 50 opposed for a total of 69 in favor and 51 opposed.

These letters of opposition focused on two features of the guidelines, the letter of intent and full disclosure. Their general feeling was that these two requirements would limit the nonprofit's ability to conduct business in the free market. There were also two concerns expressed by the Department of Agriculture. First, that notions of due process and equal protection required the application of these guidelines to all corporations, individuals and entities transacting business in the manner addressed herein. Second, that these guidelines may be inconsistent with the requirements of Pub. L. 91-648, the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (84 Stat. 1894).

It has never been the intention of these guidelines to limit the effectiveness of the nonprofit organization nor their freedom to acquire land in the market place. The purpose of these guidelines is to clarify the relationships between individual nonprofit organizations and LWCF Act agencies in those cases where a nonprofit seeks prior assurance from an agency of its intentions to acquire specific lands or an agency requests the assistance of a nonprofit in accomplishing the agency's land acquisition program. Obviously, these guidelines are not intended to preclude purely private actions. Any private party can buy land within the boundaries of Federal areas without Federal permission or acquiescence. A letter of intent is only required in situations where the agency seeks the assistance of the nonprofit or the nonprofit seeks prior assurance from an agency. Language has, accordingly, been added to the guidelines to clarify the applicability of the letter of intent.

The guidelines have also been modified to address the concerns regarding the full disclosure feature. The government does not wish to compromise the confidentiality that exists between the nonprofit and the landowner by the full disclosure of all negotiation actions or financial arrangements. Full disclosure is only required in cases where the nonprofit does not possess fee title to the desired property prior to receipt of a firm

commitment to purchase the property in question from the nonprofit by a Federal agency. In these cases it is reasonable for the public to know the option price, the sale price and the appraisal data prior to the time that a decision to purchase is made by the Federal agency because the majority of financial risks arising from the transaction are being borne by the Federal agency, not the nonprofit.

Finally, these guidelines have also been modified to address the Department of Agriculture's concern that they apply equally to all similarly situated entities. The reference to nonprofit conservation organizations has been expanded to refer to all who seek to purchase lands within the boundaries of authorized areas in contemplation of resale to a Federal agency and that request prior assurances or a binding Federal commitment of subsequent Federal acquisition. Agriculture's additional concern about the relationship of these guidelines to the requirements of Pub. L. 91-648 does not appear to be substantial. Specialized assurances by those acquiring land for ultimate sale to the United States can clearly be conditioned upon agreement with the requirements of these guidelines if appropriate.

Office of Management and Budget and the General Accounting Office have urged that guidelines be developed. The General Accounting Office's concerns have been expressed in recent reports including *Overview of Federal Land Acquisition and Management Practices* (CED 81-135), which noted that 4.5 percent of the land acquired by the National Park Service, the Fish and Wildlife Service, and the Forest Service during the period 1965-1979 was acquired through the use of nonprofit conservation organizations, and recommended that the Department develop a written policy for dealing with these groups. Such a policy, the report stated, should provide guidance on "when to use nonprofits, what the working relationship should be, and what unique land acquisition procedures might be appropriate."

Congress, as recently as the Explanatory Statement of the Recommendations of the Senate Committee on Appropriations on the Department of the Interior and Related Agencies Appropriation Bill, 1983 (H.R. 7358), indicated its support and interest in improving the " . . . cooperation between the land acquiring agencies and the nonprofit organizations that are capable of performing a valuable service in helping acquire properties It

has always been the intent of the guidelines to create an understanding of the benefits and operating procedures of the nonprofit organizations and the Federal agencies and to foster greater cooperation.

This concern has led to several changes to the present rule and opportunity for further public comment. In addition, it has also raised questions concerning the affirmative opportunities available to the Department to assist the nonprofit community with regard to key natural resource areas not intended for Federal acquisition or management. This concern was recently expressed by the Department of the Interior to the Chairman, Committee on Merchant Marine and Fisheries, pursuant to a letter of June 22, 1983, with regard to the Department's views on H.R. 2809 as reported, the "National Fish and Wildlife Foundation Establishment Act," as follows:

In our view, the not-for-profit conservation community does an outstanding job of protecting many important natural resources. We believe that a more productive course of action than H.R. 2809 would be to consider ways in which these organizations can be strengthened. We should encourage private initiative, not displace it. Those not-for-profit organizations that are willing to work for natural resource conservation on the ground are essential. They, rather than a new legislatively created foundation, deserve Administration and Congressional support.

Accordingly, the Department also intends to consider what affirmative steps it might undertake to assist the nonprofit communities efforts to protect identified natural resource areas of national importance at the local level on a permanent basis. While the previous nonprofit guidelines have emphasized the role of the nonprofit in relationship to ultimate Federal acquisition and management, we believe that this long-term protection role of the nonprofits may be the more important issue. The ability of the nonprofits to acquire, protect and manage nationally important natural resource areas over the long term—without direct Federal participation in terms of acquisition and management—is a fundamental issue for the future. Public comment is specifically encouraged on this point.

An example will illustrate the issue. Passage of the Coastal Barrier Resources Act emphasizes and alternative role for the Federal Government for the protection of areas of national importance. A traditional approach to the need for the protection of undeveloped coastal barrier resources could have involved both Federal acquisition and Federal management. But this expensive and

preemptive approach was not adopted. The Coastal Barrier Resources Act alternative has two key components. (1) The precise identification of undeveloped coastal barriers; (2) reduction of the Federal Government's role, not expansion, by the elimination of countervailing Federal subsidies that encouraged development rather than protection.

While not ensuring protection of undeveloped coastal barriers, the steps should assist others, including the nonprofits, to establish protection of these key areas of national importance. There are two further questions, however. What additional steps can and should the Federal Government take to assist State, local, nonprofit, and private conservation efforts to protect these areas? And, what other areas of national importance, such as wetlands, merit this type of approach?

From the perspective of these nonprofit guidelines, we are concerned primarily with the first issue. Taking an already identified resource as an example, we wish to consider what other actions might be undertaken at the Federal level that would support protection of such an area of national importance, and assist the nonprofit land trust community, but that would not preempt private initiative nor contemplate any form of Federal acquisition or management.

The Department of the Interior has determined that this document is 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 (5 U.S.C. 601 et seq.).

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq.

These guidelines do not in themselves constitute a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969 (NEPA). NEPA concerns will be addressed at the individual unit levels on a case-by-case basis.

Nonprofit conservation organizations, like other private landowners, make their own decisions regarding the purchase and sale of real property. However, when dealing with resources to be purchased by the Federal agencies using the Land and Water Conservation Fund, some basic principles should be followed.

The Assistant Secretary for Fish and Wildlife and Parks makes notice of the following guidelines.

Guidelines for Transactions Between Nonprofit Conservation Organizations and Other Entities and Federal Agencies

Introduction

Because of the lengthy time requirements in the budgeting and appropriation process, Federal agencies are frequently unable to acquire land in response to imminent threats to critical resources or to buy needed resources under favorable terms. With the ability to act quickly in the private market and maintain flexible working relationships with landowners, nonprofit conservation organizations or other corporations, individuals, or entities (hereinafter "other entities") can assist and support the Federal land acquisition program. However, the role of nonprofit organizations and other entities in acquiring land or interests in land for ultimate Federal acquisition should be clearly and carefully defined in each transaction considering the basic principles listed below.

Basic Principles

Nonprofit conservation organizations and other entities are not in any manner agents of the Federal Government unless specifically designated by mutual consent of the parties. They are typically private independent groups who freely negotiate real estate actions anywhere and anytime they desire and at their own risk. However, in dealing with the Government agencies, because of statutory, budgetary and policy considerations, the objectives of the Federal agencies must be paramount to those of the nonprofit conservation organizations and other entities.

Lands or interests in lands proposed for acquisition through a nonprofit organization or other entity should be in accord with priorities outlined by the agency.

Lands or interests in land acquired from nonprofit organizations or other entities must be within the boundaries of authorized areas, consistent with existing acquisition authorities, and limited to tracts that the agency has determined need to be acquired.

In each case where a nonprofit organization or other entity seeks prior assurance from an agency or an agency requests the assistance of a nonprofit organization the proposal of the agency should be outlined in a letter of intent to the nonprofit organization or other entity. The letter should provide the nonprofit organization or other entity with a minimum of: (1) Land or interest in land needed; (2) the estimated value; (3) the projected time frame as to when the agency intends to acquire the

property from the nonprofit organization or other entity; and (4) a statement indicating that should the agency be unable or decline for policy reasons to purchase the land within the projected time frame, disposition of the land or interests in land by the nonprofit organization or other entity is without liability to the government.

In cases where a nonprofit conservation organization or other entity or a Federal agency has requested and received a letter of intent and the nonprofit conservation organization or other entity has secured an option to buy and does not or will not own title prior to a binding Federal commitment to purchase, the option price, the sale price to the Federal agency and appraisal data must be disclosed before a decision to purchase is made by the Federal agency.

Dated: August 3, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-21710 Filed 8-8-83; 8:45 am]

BILLING CODE 4310-10-M

Bureau of Indian Affairs

Mille Lacs Reservation in Minnesota; Plan for the Use of the Twenty (20) Percent Program Portion of the Judgment Funds Awarded to the Mille Lacs Reservation group of the Mississippi and Lake Superior Chippewa Indians in Dockets 18-C and 18-T Before the Indian Claims Commission

July 29, 1983.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

A plan for the use of certain judgment funds of the Mille Lacs Reservation group of the Mississippi and Lake Superior Chippewa Indians, pursuant to the provisions of the Act of October 19, 1973, 87 Stat. 466, as amended, became effective on February 1, 1979. Under the plan, twenty (20) percent of the group's share of the judgment funds awarded in Dockets 18-C and 18-T was set aside for the program aspect of the plan to be developed at a later date. Plan for the use of the program funds of the Mille Lacs Reservation group was submitted to the Congress by a letter dated April 6, 1983, and was received (as recorded in the Congressional Record) by the House of Representatives on April 14, 1983, and by the Senate on April 15, 1983. The plan became effective on May 14, 1983, as provided by Section 5 of the 1973 Act, as

amended, since a joint resolution disapproving it was not enacted.

The plan reads as follows:

"The program aspect of the plan of the Mille Lacs Reservation group, pursuant to the Act of October 19, 1973, 87 Stat. 466, which became effective February 1, 1979, provides that the twenty (20) percent program portion of the group's share of the judgment funds awarded to the Mississippi and Lake Superior Chippewa Bands in Dockets Nos. 18-C and 18-T shall be programmed as follows:

"The twenty percent (20%) program portion of the funds, including interest and investment income accrued, of the groups named in section 5 of this plan shall be deposited in separate accounts and shall be invested by the Secretary under 25 U.S.C. 162a until such time as a further plan for the use of the program funds is approved by the Secretary. The Secretary shall approve no plan for the use of the program funds of the respective groups until at least thirty days after the plan has been submitted to the Congress. The Reservation Business Committees of the Minnesota Chippewa Tribe and their respective band members represented on the reservations shall develop program plans, which may include a joint investment and use program of the funds for the bands represented on a reservation."

In accordance with Resolution No. 13-82, adopted January 6, 1982, by the Mille Lacs Reservation Business Committee, the twenty percent program funds shall be utilized in a Reservation Business Capitalization Program, with such funds apportioned among three specific programs as equally as possible, which are: (1) Capital investment to assist reservation owned enterprises in expansion development; (2) Loan fund to assist the existing tribally owned businesses on a day to day basis; (3) Loan guarantee funds to support tribally owned businesses, conventional loan packages and bonding program. There shall be established three separate program accounts for these purposes, and until such time the funds are needed in the implementation of the program plans, the funds shall continue to be invested by the Secretary of the Interior pursuant to 25 U.S.C. 162a. The Mille Lacs Reservation Business Committee shall be required to develop specific program plans for the use of the funds and tribal budgets, which shall be subject to approval by the Secretary.

Should funds set aside in any of the program accounts be determined to be in excess of needs of the respective group, appropriate adjustments from one

program account to another shall be made in the annual tribal budget, with the approval of the Secretary.

General Provision. None of the funds made available under this plan shall be subject to Federal, State or local income taxes or be considered as income or resources in determining either eligibility for or the amount of assistance under the Social Security Act or any Federal or federally assisted programs."

John W. Fritz,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 83-21783 Filed 8-8-83; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[Oregon 35951-A]

Oregon; Conveyance

Notice is hereby given that, pursuant to Section 203 of the Act of October 21, 1976 (90 Stat. 2743, 2750; 43 U.S.C. 1701, 1713), the following described public land in Gilliam County, was purchased by competitive sale and conveyed to the party shown:

Mr. Allard, Bartlett, Box 251, Hurley, NM 88043

Willamette Meridian, Oregon

T. 1 S., R. 21 E.,

Sec. 10, NE¼NE¼.

The purpose of this Notice is to inform the public and interested State and local governmental officials of the issuance of the conveyance document to Mr. Bartlett.

Dated: August 3, 1983.

Harold A. Berenda,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-21786 Filed 8-8-83; 8:45 am]

BILLING CODE 4310-04-M

[Oregon 24850 (Wa)A; 24850 (Wa)B]

Washington; Conveyance

Notice is hereby given that, pursuant to Section 203 of the Act of October 21, 1976 (90 Stat. 2743, 2750; 43 U.S.C. 1701, 1713), the following described public land in Yakima County, was purchased by competitive sale and conveyed to the parties shown:

Mr. Orville L. Luther, Route 1, box 110-A, Granger, WA 98932

Willamette Meridian, Washington

Parcel 1

T. 10 N., R. 22 E.,

Sec. 32, N¼NW¼.

Mr. Steven A. Newhouse, Route 1, Box 59 A, Outlook, WA 98938