

ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 86/2

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all persons who sell prior to a judge rendering a decision as willing sellers. Obviously Congress gets the impression that things are running smoothly when 90% of all sales are handled without formal condemnation. If the Park Service and Forest Service were asked how many times they had mentioned or threatened condemnation, the numbers would be very different.

Justice Department

This agency through the U. S. Attorney's office is responsible for all condemnations but it is also the departments responsibility to protect an individuals civil rights. There appears to be a substantial conflict on interest which is not and has not been resolved.

Uniform Relocation Act (Public Law 91-646)

Relocation benefits are provided by the same land acquisition officers who are responsible for removing the people from their property, by condemnation if necessary. The result is that the relocation benefits are applied arbitrarily and often used in conjunction with offers as part of a package to entice the landowner to sell. This violates the legislative intent.

Headway is being made:

Clearly we have made great strides with the recent election of Ronald Reagan and a Republican Senate. This trend has been building for many months. For example consider the House-Senate Appropriations Conference Committee report 96-363 issued November, 1979:

"The Federal Government already owns well more than one-third of the Nation's land and the Committee believes the current drive to acquire still more should be reassessed. Too often, it seems, Federal land acquisition is seized upon as a quick fix for recreation, resource conservation, preservation, and environmental protection proposals. Meanwhile, the rush to bring more and more acreage into Federal ownership has at times trampled upon individual property rights, vastly inflated land values, and,

in some cases, fostered profiteering and corruption. Preliminary findings from a current General Accounting Office investigation have suggested widespread problems in this area and seriously questioned the real need for many land acquisition proposals and practices."

The Senate Justice Appropriations Subcommittee report #96-251 issued in July 1979 asked for a review of all condemnations:

"The Committee is extremely concerned about the number of land acquisition cases pending in the Department of Justice and has increased the funding so that expeditious action may be taken to clear the backlog of cases. However, the Committee expects the Department of Justice to utilize these funds first to insure the credibility of the 20,000 condemnations pending and in particular, the 10,100 declarations of taking before initiating further litigation." The Carter Administration has ignored this report.

The overpowering mandate of the election of the Reagan-Bush team says we must correct the injustices of the past four years. The platform approved at the Republican National Convention says:

"The widespread distribution of private property ownership is the cornerstone of American liberty. Without it neither our free enterprise system nor our republican form of government could long endure.

Under Democratic rule, the federal government has become an aggressive enemy of the human right to private property ownership. It has dissipated savings through depreciation of the dollar, enforced price controls on private exchange of goods, attempted to enforce severe land use controls, and mistreated hundreds of thousands of national park and forest inholders.

The next Republican Administration will reverse this baneful trend. It will not only protect the cherished human right of property ownership, but will also work to help millions of

Americans - particularly those from disadvantaged groups - to share in the ownership of the wealth of their nation."

On top of all these statements of concern the General Accounting Office investigation previously mentioned "The Federal Drive to Acquire Private Lands Should Be Reassessed" may be the most profound. They said:

"The Federal Government owns over one-third of all U. S. Land with authorization to acquire up to \$4 Billion of private land during the next 11 years. The National Park, Forest, and Fish and Wildlife Services had been following a general practice of acquiring as much private land as possible regardless of need, alternative land control methods, and impacts on private landowners.

GAO recommends that the Secretaries of Agriculture and Interior

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

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

We have been informed that in previous drafts of this report the GAO called for a moratorium on all land acquisition.

1A. An immediate moratorium on all condemnations should be ordered to determine if they are appropriate. Willing condemnations that are just to determine price should be allowed to continue as well as any where there is immediate threat to the resource. All others should be held up pending review.

All these reports indicate that the end is in sight if the right steps are taken. There is no way to repay the families who have been relocated or replace the communities that have been lost but we can learn from the abuses of power to the future benefit of all Americans.

Recommendations for immediate action:

1. The administration should impose a moratorium on all land acquisition by Executive Order of the President as well as the creation of new areas or expansion of old areas until:
 - A. An administration review of Federal land acquisition policies and practices is completed.
 - B. Completion of Congressional investigative oversight hearings as promised early next year in the Senate.
 - C. Completion of a study of land acquisition policies and practices by the reestablished Public Land Law Review Commission.
2. The President should reestablish the Public Land Law Review Commission to review current land acquisition policies and practices as well as:
 - A. Review the 1970 report by the Public Land Law Review Commission and its implementation.
 - B. Review all Federally managed areas to see if they could or should be better managed by states or local governments.
 - C. Review condemnation procedures and the role the Justice Department plays in both condemnation and protecting the civil rights of individuals.
 - D. Compare the Charters of all Federal land managing agencies

to see if they are still meeting their objectives and Congressional mandates.

- E. Review and try to clarify the intent of Congress with respect to the management of specific areas. During the past 20 years the intent on Congress has been clouded by internal management changes.
 - F. Retraining should be a major objective as the country fights fiscal restraints to encourage and mandate the use of alternative land control measures such as scenic easements, cooperative agreements and local zoning.
 - G. Review policy regarding the use of Declarations-of-Taking and how its use can be limited and still protect the resource.
 - H. Review the problem of disenfranchisement of inholders in areas under direct Federal management and consider ways to protect their civil and constitutional rights.
3. The administration should encourage investigative oversight hearings into the land acquisition policies and practices of the various land acquiring agencies. The new General Accounting Office reports should add considerable material for consideration.
4. The Land and Water Conservation Fund should be reviewed to consider whether it should be amended to allow funds to be used to manage and maintain existing national areas. A recent GAO investigation indicates there are billions of dollars of deferred maintenance in our National Parks alone. It won't do much good to increase the size of our park system if what we already have is falling apart.
5. The Land and Water Conservation Funds should be limited to use in willing seller situations except where resource threats

are proven in court. The use of Temporary Restraining Orders should be mandated rather than the existing system' of Declarations of-Taking.

6. The Uniform Relocation Act (PL 91-6460) should be amended to protect inholder rights as outlined in HR 8141.

7. Management oversight of areas should be tightened by the new administration with each park or area reviewed periodically to insure Congressional mandates are being followed and individual rights are being protected.

8. No land acquisitions should be allowed by any agency in an area until a land acquisition plan with true public participation has been completed.

9. Consideration should be given to redrawing the boundaries of areas to exclude as much developed property as possible. Where communities exist they should be exempted.

10. All new areas should first go through the Land Policy Group review process to make sure these areas are of national significance and to reduce the number of ego-political parks that are rammed through Congress by well intentioned but too-powerful special interest groups.

11. The administration should review the regulatory process and try to build in as many safeguards to protect historical and cultural areas and unique life styles such as exist in Alaska and Big Sur. The ability to make arbitrary decisions by Federal land managers should be severely limited.

12. We must look at the cost-benefit ratio of creating new areas and examine their life-cycle costs. For example, all costs including condemnation, inflation, relocation, tax base, U. S. Attorney's Office, Court Costs and other costs as well as maintenance should be presented to Congress when the area is considered.

Conclusion:

We must learn something from the past 20 years. If we have stopped the pendulum from its wild swing toward the protectionists, then we must make sure we swing it responsibly back to a more moderate position. If we swing it wildly back as many of us would like to do, we invite it to be swung back again when a new administration takes power.

The land management agencies have become controlled by extremists in search of environmental purity. We must build a new system with institutional safeguards so that the cycle will be difficult to repeat. As Louis A. Allen in his book "Management Profession" points out, ".....if limits are not set which reflect policy requirements then people will set their own to suit their personal preferences." These limits can and will be set.

We must not, however, allow ourselves to make the same mistakes of excessive zeal which could lead to our having fight these same fights again in the future. We must dismantle the system which allowed the excesses to occur and build in protections so that those of us that use and enjoy the public land for fun and profit and continue to do so for all time.

National



Inholder

News

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Alaska Legislation: The Forgotten People

Preservationists tell us that commercial development threatens the future of Alaska. Energy companies say it is unwise to lock up Alaska's resources in this time of oil scarcity. The arguments of these opposing factions rage on, drowning the cries of the people who live in Alaska.

While the bureaucratic wheels turn in Washington, deciding policy for a culture it does not know, an old man who's lived for sixty years in the tiny town of McCarthy, hunts for his supper and faces an uncertain future, a future that is being decided on the floor of the Senate this month.

This old man and his neighbors who also hunt or mine or live off the nearby bush are the hardy souls who settled and have taken care of the land the lower 48 calls the Last Frontier. These settlers see promises of land and security made to them years ago falling by the wayside in the name of, ironically, preservation.

Last November, President Carter and Interior Secretary Cecil Andrus closed 121 million acres to development for three years. One hundred twenty-one million acres—an area the size of the eastern seaboard states from Maine down into North Carolina. Carter and Andrus cited "emergency" conditions and used the Federal Land Policy and Management Act to lock up the land. The president also invoked the Historic Sites and Antiquities Act to set aside 56 million of the acres (roughly the size of New York state plus New England) as "national monuments." (Prior to Carter's action, 9.5 million acres had been set aside under the act since it passed in 1906.)

All of this "protection" took place, single handedly by the president but with a good strong shove by environmental lobbyists, even though most of those lands were already protected under the D-1 section of the Alaska Native Claims Settlement Act. The failure of the Senate to act last year did

not expose these lands to "rape, ruin, and run" any more than it does this year. Hordes of developers, shovels in hand, concrete mixers behind them, are not poised like vultures on the state's borders.

Today, the Senate is pressured again to act: Carter threatens to extend his three-year lockup to twenty if it doesn't. (The Antiquities Act language is so vague that no one knows for sure if it gives Carter the authority to do this.)

Carter and the preservationists, well-intentioned maybe but certainly uninformed, rush to "save" Alaska by withdrawing large amounts of land from the nation's resource base and ignoring the history and the unique way of life that exists in her small bush communities. We have too often witnessed the destruction of such life in the lower 48 not to believe it won't unravel a fabric of life generations old in Alaska as well. Can the U.S. Postal service rival the efficient system of caribou clatters that presently act as the wild country's special delivery system? Can the folks who work in the bush be forced into the city—and into neckties?

The mistakes the preservationist made in the lower 48 in Buffalo River, Cuvahoga Valley, Lake Cnelan, Mt. Rogers, Big Cypress, and myriad other areas, are being mimicked on a grander and more devastating scale in Alaska.

The National Inholders Association supports the people of Alaska in their fight to preserve their unique way of life. Clearly, most Alaskans prefer having no legislation at all affecting that life. Like most Alaskans, NIA strongly opposes the House version of D2, H.R.39. NIA is not comfortable with S.9, but in realizing the inevitability of federal involvement, NIA feels S.9 is more acceptable than the Tsongas substitute and is the least offensive to the people of the state. Of course, whichever legislation passes, NIA will continue to work with inholders in Alaska in sponsoring amendments or whatever else will help in doing so.

Whatever the outcome of the political game of musical chairs played with Alaskan legislation in Washington, the bottom line, in NIA's estimation, remains the people of Alaska. When all the yelling has exhausted itself, will the rural

folks of Alaska be able to survive? If not, then our Congress has acted irresponsibly because it has not taken care of the people who are Alaska.

The Alaskans who made the trek to Washington and witnessed the Senate floor debate are rumbling about revolution. They say that Congress is making the same mistake the King of England made in the 1700s that caused the American Revolution. While overt revolution may not be the result of the mounting anger in Alaska, the uprooting of a way of life and the wounds caused by the overreaching environmental community may well never heal. And that would be the loss of us all.

Park Superintendent Supports NIA Charges

Joel Picklener, former deputy chief of the legislative division of the National Park Service and present superintendent of Fire Island National Seashore in New York, admitted in an interview with the *Fire Island Tide* that it has been a National Park Service policy to condemn all private land within a park, forcing inholders to give up their land.

In the interview, published June 27, Picklener said "you have to realize that our (NPS) thinking was greatly influenced by an Army Corps of Engineers mentality. When the ACOE moved into an area to build a dam there was no question of anyone in the affected area remaining. Sometimes they had to remove people by gunpoint, but ultimately everyone was cleared out. The Sierra Club school of thinking is also very similar: residents within parks should be brought out.

"I have to give Charles Cushman (founder of the National Inholders Association) most of the credit for changing this approach. It was Cushman who started the hue and cry over NPS land acquisition and he kept at it until he focused public attention in that direction."

Picklener, a lawyer by training who was very much involved with the 1978 National Parks and Recreation Act, also said that Cushman's "mobilizing inholders and bringing pressure to bear on NPS," was one of the reasons the Service has "backed off" since the day NPS Deputy Director Ira Hutchison testified before a Senate subcommittee hearing that "it is anticipated that the authority to condemn would be exercised... so that the barrier island will ultimately be returned to its natural condition...."

"After listening to a great many people express their feelings against government land acquisition, there was a turnaround in high-level thinking," Picklener said.

Picklener also supported Cushman's allegations that a "good-guy-bad-guy" management policy exists within the Park Service. "Cushman's right," Picklener said, "That was an NPS policy... I'm the nice guy in the scenario and I hope there are no gorillas in after I'm gone...."

The National Inholders Association viewed Picklener's statements, as well as those made by other Park Service officials, as verification of allegations waged by NIA.

NPS Head and NIA Directors Meet

National Park Service Director Russell Dickenson met with NIA Directors Charles Cushman and Ric Davidge to discuss concerns of inholders.

At the June meeting, Davidge stressed that the new local land-acquisition plans dictating policy in parks are often not following National Park Service management plans and that

language of the plans is so general that inholders are confused. The silver-haired Dickenson said that each one of the plans is presently under review by the Washington Park Service office. He said that such documents are "not frozen. They are living documents," he said, "that are subject to review and update."

Cushman told Dickenson that NIA would like to abandon its "sledgehammer approach" in favor of a more open kind of communication, but that the association was forced to use "gorilla-in-the-woods techniques" because they were the only way to alert the former Park Service Director to social and cultural abuses, resulting in the destruction of rural communities. Cushman cited cases in Cuyahoga Valley in Ohio and Buffalo River in Arkansas as examples.

Dickenson said he was unaware of the extremity of the problems in specific cases but said that "if there's been a fault on the part of the Department in Interior, we certainly want to rectify that. We'll go back to Congress if necessary," he said.

NIA Visits Alaska

The National Inholders Association will be represented in Alaska by Chuck Cushman and other inholders. The Inholders have a booth at each fair where they will show the new film "In Condemnation—The Cuyahoga Valley," a film that illustrates how the Park Service abuses the law in the Cuyahoga Valley NRA in Ohio. The film tells of how hundreds of families were promised, by law, that they would be allowed to stay in the valley, and still the condemnation of land by the Park Service continues.

The Tanana Valley Fair in Fairbanks takes place August 13-17, the Haines Fair Southeast is August 15-17, and the Anchorage-Palmer State Fair will be held August 22-September 1.

NIA looks forward to this opportunity to meet with and discuss the concerns of all Alaskans and hear their viewpoints regarding legislation on the Alaskan Lands issue and how they feel we can help Alaska in the years to come.

Environmentalist or Protectionist?

The terms "environmentalist" and "protectionist" can be confusing. Most of us consider ourselves to be environmentalists, believing that the environment includes people. A "protectionist" protects to the point of locking up our national areas and excluding people except for a predetermined number of backpackers.

The position taken recently by the Sierra Club, National Parks and Conservation Association, Wilderness Society, and others is that the environment does not include people. NIA is working to encourage a more moderate view of this nation's remaining unspoiled areas; the association neither wants to lock these areas up forever under federal management nor open them to indiscriminate use.

The protectionist organizations and their mighty lobbies are working with Congress to have the land-acquisition funds released in order to federalize more of our land. NIA is spending more of its time with members of these groups to help educate them on the impact condemnation has on inholders as well as show them that their actions can eventually mean destruction of rural America.

It is through a wise and moderate environmentalist philosophy and not through an extremist protectionist viewpoint that mutual goals can be realized.

Mount Rogers: Saga of a National Recreation Area

In the early 1960s, the concept of National Recreation Areas came into being as a result of efforts by the Recreation Advisory Council, the Bureau of Outdoor Recreation and President John F. Kennedy. Kennedy foresaw an increased public appetite for recreation on Federal lands and, being an Easterner, realized that the majority of Americans were far removed from most of the National Parks. Therefore, National Recreation Areas were devised to increase the amount of land for recreation without the more stunning and unique features needed for the establishment of a National Park. NRAs must be relatively close to large urban centers and can fall under the management of either the National Park Service or the U.S. Forest Service.

One of the first National Recreation Areas established was the one centered around Mount Rogers, Virginia within the Jefferson National Forest. The 154,000-acre area was so designated on May 31, 1966.

There was very little opposition to NFS pronouncements regarding Mount Rogers in the early years. Most people probably believed that the certain economic boom within the NRA would outweigh any disruptions of life in this Southern Appalachian region; although, just as probably, few persons took the time to seriously consider the impact of a predicted 5,000,000 "visitor days a year", a scenic highway, or a ski lodge on the mountain. It was only after the economic future suddenly appeared clouded with doubts and the Forest Service's land acquisition plans for the Recreation Area, often calling for Declarations of Taking (DT), began hitting people quite literally where they lived, that the area's inholders began to question the agency's actions.

Having won some battles with the Forest Service, having lost others, the people of the area today face the spectre of government acquisition as defined by a map color-coded in yellow which means a "must acquisition" for the USFS and, presumably, a return to condemnations for those homeowners unwilling to leave their land for a price. Many of the inholders "in the yellow" apparently never even received a copy of the Environmental Impact Study. The reader will now meet several of those people, as well as others, and, hopefully, will discern their feelings, their fears, and their hopes for the future.

Pauline Dixon

In 1934 Pauline Dixon and her husband, Jay, opened the Iron Mountain Grill on the crest of Iron Mountain near Troutdale. Jay's family had been in the Mount Rogers area for generations and he had inherited the land for this new enterprise. They struggled hard for many years with their diner and in 1952 they were able to build their home nearby. The years following were finally profitable for the Iron Mountain Grill and the Dixons were able to rent it out to different management for the fifteen years prior to their conflict with the Forest Service in 1973-1974.

At that time the long-range plans of the National Recreation Area called for a scenic highway to be built right through the Dixon's home and business. The Dixons did not want to leave what had taken so long to build up. In late 1973 they even refused to let Forest Service personnel on their property for an appraisal and in April of the following year they were served with a Declaration of Taking and given 21 days to vacate. Pauline Dixon said at the time the Forest Service had promised to help her house-hunt in the city of Marion, but this aid was never forthcoming. Bitterly, the Dixons relocated themselves and built a new house. They also contested the

government's estimate of their land which the USFS said was \$93,000. After the subsequent trial, the Dixons were awarded \$160,000 for their approximately 150 acres, but they had already spent \$22,000 for their lawyer and \$80,000 for their new house.

In the spring of 1975 the Forest Service moved their former home from its old site to a different one and asked the Dixons whether they would like first bid for it, a fact which further enraged them because had they known that such an opportunity was going to present itself, they never would have built the second home. Finally, after the Forest Service gave up on its plans for the scenic highway, the agency proceeded to rent it back to the same person that had been renting from the Dixons. Today, the Iron Mountain Grill stands where it always has, but Pauline and Jay Dixon have lost it as a source of income. When they drive by their former business nowadays, Pauline Dixon said, "I used to cry, but I don't look that way anymore."

Robert and Helen Young

Like the Dixons, the Youngs were served a Declaration of Taking in the spring of 1974 by a Federal Marshal. This had occurred after seven years of what the Youngs called "harassment" by the Forest Service in trying to obtain their former land for part of the Fox Creek impoundment. They had lived on the land for 17 years and had raised tobacco and cattle. After they received the DT, Robert and Helen Young hired a lawyer who managed to get them a higher value for their land plus thousands of dollars in relocation funds, but as the Youngs said, "There are lots of things money doesn't compensate for." Helen Young went under a doctor's care after being forced off her land and had a nervous condition for two or three years. The Youngs do not like to go back to their former home especially since they are not under the impression the house is being lived in by Forest Service personnel in the aftermath of the cancellation of the Fox Creek impoundment.

(Continued on following page)



"It's hard to believe nature belongs to the government."

Reverend Roy Taylor

Reverend Taylor had lived 15 years in the Brush Creek area until he was told in 1978 by the Forest Service that it wanted to purchase his land for use as a ranger station. Some time later, the USFS changed its mind and said that it wanted the Taylor

property only for a scenic easement. Reverend Taylor has since moved to North Carolina to a new ministerial position, but he recalled his reaction to the proposal in a letter: "...I asked the question 'If I should take an easement and when I got older and not as much money coming in and couldn't keep it in good maintenance what would happen to me then?' the

answer 'we would give you fair market value after appraisals were made if you failed to take the offer, your place would be condemned and then a price we would offer you would have to be taken. I didn't want any part in paying for a home & someone else tell me what I could do and could not do.' Taylor's reaction exemplifies the widespread mistrust and the lack of information regarding easements among the inholders of the Mount Rogers NRA.

The three stories above are from Kent Anderson's July 1980 research study, "A Socio-Cultural Assessment of Inholders in the Mount Rogers National Recreation Area."

Annual Rally Held At Florida's Big Cypress

An old Indian canoe trail winds through the Mangrove swamp out of Big Cypress National Preserve, at the southern tip of Florida, and into the Everglades National Park. Airboat owners use this trail as access through the swamp to hunting and fishing areas. However, because airboats are not allowed in the Everglades, causing problems for inholders who have no other route through the swamp, the trail has fallen under controversy.

Big Cypress National Preserve is located just north of the Everglades National Park. As a preserve, Big Cypress has few restrictions concerning people and their use of the land; hunting, fishing, and airboat travel are allowed. The Everglades has extremely strict regulations because it is a National Park; there will never be hunting, fishing, or airboat driving unless specific permission from the Department of Interior is granted.

Ruth Wallace, President of the Coalition of Concerned Citizens for Big Cypress, whose interest in the preserve piqued



when she asked the Park Service some questions that they refused to answer, organizes annual rallies and makes sure that the National Park is aware of the specific demands of the inholders. "All inholders must band together and protect what is theirs," she says. "Only half the battle is in Washington; the other half is with the Park Superintendent. Inholders must keep the Park Service aware that there is the private sector that must be heard."

A rally by permit was held at the Headquarters of the Everglades National Park in July. Wallace says that the coalition's goal at the rally was to let the Park officials know that inholders are concerned, are voicing their opinions, and are fighting for what they want—and that they want a boundary change to include the airboat trail in the Big Cypress Preserve. As it stands now, the boundary is a cut-and-dry stair-step line. The Coalition wants this to be changed to conform to the natural boundary of the mangrove swamp.

Under present law, the Secretary of the Interior can make administrative boundary changes without actions by Congress and has done so when it meant the inclusion of more land. The Park Service states that since this boundary change would take land out of a restricted area and incorporate it in an almost unrestricted area, they are in fear of being sued by preservationist groups. Preservationists in the area are not opposed to the boundary change. Wallace, with the help of NIA, is currently working to influence the Department of the Interior toward creating an appropriate boundary change.

Big Sur Continues To Battle Panetta Bill

Congressman Leon Panetta's (D-CA) bill H.R. 7380 that would make Big Sur, California, a National Scenic Area passed the House Committee on Parks and Insular Affairs July 23.

The National Inholders Association and Friends of the Big Sur Coast testified at the three days of hearings. Both organizations maintain, as they have since the first words of federal involvement in the area were spoken, that legislation calling for federal intervention of any kind is unnecessary in the area. Both NIA and the Friends claim that the beauty of Big Sur, home for over 1,000 free-spirited Californians, is protected by natural constraints of the land (seventy percent of the land along the coast, for example, is too steep for development) and the efforts of the Local Coastal Plan, organized by the residents of the area four years ago specifically for the purpose of curbing development in the area and proven successful in doing so.

At the hearings, Congressman Panetta stated that the petition signed by 850 of the area's 1,100 residents was in response to Senator Alan Cranston's (D-CA) bill, presently stagnated in committee, and not Panetta's bill. In fact, the petitions were signed before either bill was introduced; the signatures are in opposition to federal involvement of any kind.

Panetta said that his bill is "different" from Cranston's in that "this is the first time a local council of local citizens will be set up to govern an area."

The "citizens" he refers to, however, would have, should H.R. 7380 pass the House and Senate, the power to advise and recommend only—not the power to vote and determine policy. In addition, the boardmembers would be appointed by the Secretary of Agriculture and not elected by residents of Big Sur.

The bill passed committee without mention of field hearings

that took place early summer in Monterey. At those hearings, over half of the testimony given was in opposition to the bill. Also, the Hearst Ranch was deleted from the bill, even though that area is the most in danger of becoming overdeveloped.

Although a map of the boundaries of a Big Sur National Recreation Area is referred to in Panetta's bill, that map actually exists; Panetta's aides say that it will be drafted after legislation is enacted.

The bill does not state the amount of money needed to acquire land in the area. The cost of enacting the legislation has been anticipated to run from \$100 million to hundreds of millions of dollars.

Without specified appropriations, without defined boundaries, and without local control, NIA and the Friends of the Big Sur Coast, do not support the legislation. Friends Chairman Jim Josoff stated after the hearings, "we will continue to fight."

GOP Platform Supports Inholders

The following is from the GOP platform on private property: "The widespread distribution of private property ownership is the cornerstone of American liberty. Without it neither our free enterprise system nor our republican form of government could long endure.

Under Democratic rule, the federal government has become an aggressive enemy of the human right to private property ownership. It has dissipated savings through depreciation of the dollar, enforced price controls on private exchange of goods, attempted to enforce severe land use controls, and mistreated hundreds of thousands of national park and forest inholders.

The next Republican Administration will reverse this baneful trend. It will not only protect the cherished human right of property ownership, but will also work to help millions of Americans—particularly those from disadvantaged groups—to share in the ownership of the wealth of their nation."

How You Can Influence Congress

How You Can Influence Congress by George Alderson is the best how-to book for fighting back that we have found. Senate and House staff aides agree that this is the best handbook for people working within a grass-roots organization.

The book discusses topics ranging from "How Your Congressman or Congresswoman Works," and "Organizing For Influence," to "Spreading the Word: Using the Media," and "Preparing Your Arguments."

For \$9.95 from E.P. Dutton in New York, this book is a must for anyone trying to get the attention of Congress.

Two publications—*State of the Parks—1980; A Report to Congress and Landholdings and Acquisitions of the Federal Government* concern federal land acquisition. *State of the Parks* is a survey that identifies and characterizes threats such as pollutants, visitor activities, and industrial development projects that can cause significant damage to park resources or seriously degrade park values. The publication was prepared by the Office of Science and Technology, United States Department of the Interior and is available free of charge by writing to NIA in Washington.

Landholdings and Acquisitions is a preliminary study of the holdings, acquisition, and management of lands by the federal government. Its purpose is to discuss management of public land holdings. Prepared this year by the National Forest Products Association for the Mitigation and Private Land Acquisition Task Group, it is available for \$1 from NIA.

Inholders Claim Victory In Outer Banks

On December 31, 1979, Judy White, a landowner in Outer Banks, North Carolina for 12 years and a resident there for nearly two, was notified by the Fish and Wildlife Service that she no longer would be allowed to drive through the refuge between her home and business. This meant a 125-mile instead of a 30-mile trip each way to work. White's seven-month fight to obtain access drew to a close when Senator Jesse Helms's (R-N.C.) bill to allow access for White and 12 of her neighbors passed Congress.

The Back Bay Wildlife Refuge in Virginia, a protected flyway for ducks, has traditionally offered access through the area for inholders in the community of Corolla. The Department of Interior closed the access, citing "increasing damage" being done to the beach. The beach road remained open only to twenty-three families who have lived there since before the October 1976 cut-off date.

Having long and irregular work hours, the 32-year-old White continued to travel through the refuge each day to and from work when alternative routes weren't available. The result of these drives was tickets for trespassing. (The tickets were not given to her during her drives, but sent to her through the mail.) Each of the six tickets she received demanded fines and threatened a possible jail term should she not pay the fines.

White refused to pay the fines; the issue went to court. In court, the government asked for a \$500 fine and a six-month jail term for each ticket.

It was at this time that Senator Jesse Helms's bill came before Congress. In his speech on the Senate floor, Helms likened the residents of Corolla to the American hostages in Iran because of their prisonlike situation concerning access to Norfolk, Virginia. "Much of the world's attention has been focused on the American hostages in Iran," Helms said. "But there are thirteen families in the tiny community of Corolla, North Carolina, who have reached the conclusion that they, too, are hostages. These are the people who must drive 125 miles each way to work, when their neighbors can drive through the refuge, a total distance of thirty miles." In his statement, Helms spoke of Judy White's case. "She has had to hitchhike, ride in the back of a pickup truck, and even paid a permit holder to drive her across the refuge," Helms said.

"When she has been caught on the banks with no possibility of a ride and has violated access rules by driving through the refuge, she's been ticketed. She now has a hearing pending in the U.S. District Court; she vows to refuse to pay the fines, and instead, go to jail."

Helms and the National Inholders Association have been trying to negotiate reasonable access for inholders in the area without support from the Assistant Secretary of the Fish and Wildlife Service, Robert Herbst, for over a year.



NIA has argued that there is no possibility of significant damage being done to the beach if thirteen more cars travel to and fro each day—the Department of Interior based its cry of "damage" on a high volume of traffic. Experts substantiate this and add that a reasonable amount of traffic on the beach is beneficial in helping to stop the erosion process.

Helms concluded his speech by saying, "the thirteen families without permits at Corolla on the Currituck Banks are being severely penalized for no valid reason. I can see no significant harm in allowing them the same opportunities the other twenty-three families there have—the opportunity to work, buy food and clothing, and to secure medical care."

After the passage of Helms' bill granting access by law to these thirteen constituents, the White suit was thrown out of court. "Senator Helms has stood up and fought for thirteen families," White said. "We need more senators who will fight for the needs of the people and do what they were put into office to do."

Condemnation Threatens Appalachian Trail Residents

Reverend Charles Evans, inholder on the Appalachian Trail in Pinegrove, Pennsylvania, has been approached by the National Park Service for appraisal and acquisition of his thirteen acres of land.

The Appalachian Trail reaches 2,000 miles through the beautiful Appalachians and scarce Eastern wilderness through fourteen states from Maine to Georgia. Created between 1922 and 1937 through the volunteer efforts of trail clubs and interested hikers, the Trail has continued as a unique cooperative project. The National Trails System Act of 1968 and the Appalachian Trail Bill of 1978 calls for protection of the Trail under the National Scenic Trail status while retaining volunteers in their traditional role of maintaining the trail. The traversing of the Trail through many private acres has, until recently, been a satisfactory arrangement as most private landowners agree to allow hikers access to their land in order to continue on the trail.

Now many landowners along the trail are being served with notice of intent to condemn, often through Declarations of Taking. The Park Service claims it needs total land acquisition of the Appalachian Trail in order to improve and manage it.

In the case of Evans, the National Park Service wanted that he keep one acre to build on and declare the remaining twelve under Protective Easement status, which is a way of protecting the land while owning it, at the discretion of the Park Service. Evans would pay diminished taxes on the land, and his name would remain on the deed.

Negotiations between Evans and the National Park Service broke off because no specifics were decided upon concerning the boundaries or use of the land. In March, Evans received a letter from David Richie, head of the Appalachian Trail Project, which claimed that since no agreement had been reached, he was releasing the property in question for appraisal and acquisition. The appraiser called soon after to tell Evans that he would be out at the end of the week to look at the land. Evans denied him the right to do so, on the grounds that he was not interested in selling. On June 3, Evans received a letter from Joe Sprinkle of the Park Service who assured Evans that he had every right not to allow the appraiser on his land, but that if he did not change his mind within 15 days, the process of land-acquisition through eminent domain would begin immediately.

In his letter, Sprinkle also said that Evans should not take this as a threat. Evans asks how he could possibly not take this as a threat. "I am given," says Evans, "fifteen days to make up my mind—or else? That's not a threat?"

Evans says there is no reason for condemnation because he has never denied any hiker the use of his land to follow the trail. He wrote for the copies of the appropriate laws, received them, and has not heard from the Park Service since.

Residents along the trail say that this harassment commonly occurs this time of year "when the weather is nice and the Park feels like acquiring more land."

NIA suggests the development of an Appalachian Trail Coalition to protect the trail from irresponsible Park Service management and to protect the rights of landowners along the trail. If you know of a local organization concerned with this problem, please have them contact NIA in Washington, D.C., or let NIA know of the organization and we will contact them.

GAO Blazes New Trails

Several new General Accounting Office investigations are in progress. Among them are Lake Chelan (in Washington), Cuyahoga Valley (Ohio), Fire Island (New York), Buffalo River (Arkansas), and Outer Banks (North Carolina).

Charlie Cotton of GAO says the investigations will explore the question of: "have the courts addressed the issue of whether public use has been identified when the Park Service goes in and tries to acquire land?" Cotton says the reports will also explore the impact on the private owner and the cost of the federal government.

Dave Utzinger, field supervisor for nineteen past investigations says that in his experience he's found an attitude on the part of the federal agency of: "as long as the money is there and as long as the people are willing to sell or we have the power to condemn, we'll acquire the land." He says that GAO found that federal land-acquisition agencies were acquiring as much land as they could before considering alternatives and without considering the people in the areas.

Utzinger says that GAO, an agency that is part of the legislative branch of government, is not against land acquisition. "Of course," says Utzinger, "land is needed for parks. It's just that we didn't agree that federal agencies need to put a lock on an area or to acquire all the land in an area."

Our sources tell us that GAO is finding much documentation of federal abuses in the new areas it's visited. In fact, we've been told that instances at Lake Chelan National Recreation Area (part of the Cascades National Park) may constitute some of the most serious abuses of the law yet—deliberate violation of Congressional intent—by the National Park Service.

We will keep you posted on the findings of GAO. The final report, Cotton says, will be published in December of 1980.

GAO Changes Order Policy

The General Accounting Office no longer fills mail-order requests for its reports. Please obtain the reports you want on federal land-acquisition practices ("The Federal Drive to Acquire Private Lands Should Be Reassessed," #CED-80-14) or condemnation ("Federal Land Acquisition By Condemnation—Opportunities to Reduce Delays and Costs," #CED-80-5) through your congressman (U.S. House of Representatives, Washington, D.C. 20515) or NIA (510 D Street, N.E., Washington, D.C., 20002) free of charge.

The Washington Post

One Man, One Park

WHEN THE LARGEST parks bill in the Nation's history worked its way past the Senate in the closing days of the 95th Congress, there was considerable bantering about it on the Hill. Some members even wondered out loud if parks were replacing water projects as the favorite items for politicians to take home. The bill authorized spending about \$1.2 billion on more than 100 parks and preservation projects in 44 states.

The 96th Congress is showing no sign of trying to approach that record. But the House recently approved three bills authorizing about \$130 million for 22 projects in 14 states. It did so without any serious floor discussion of any of the projects and after its leaders had turned aside a request from the Interior Department for a delay on the omnibus bill that involved 20 of them. A spokesman explained that the department didn't know whether to favor or oppose these projects because it hadn't reviewed all of them.

The new units that will be added to the park system if these bills become law include two new national parks, Kalaupapa in the Hawaiian Islands and Irvine Coast in Orange County, Calif.; two historical parks, one recognizing women's rights and one Chaco culture; and four historical sites honoring James A. Garfield, Georgia O'Keeffe, Martin Luther King Jr. and Mary McLeod Bethune. Land would also be added to such existing park reserves as Harpers Ferry, Monocacy Battlefield in Maryland, Richmond (Va.) Battlefield and the Lyndon B. Johnson historical site in Texas.

In addition, the bills direct the Interior Department to recommend sites for memorials to former president Gerald R. Ford and the late George Meany, to erect a plaque or monument at Assateague Island to commemorate the late Rogers C.B. Morton, and to name the water behind Norton Dam in Kansas the Kelli Sebellius Lake. Mr. Sebellius, who is retiring from Congress in January, is the ranking Republican on the parks subcommittee.

These projects may—or may not—be individually worthy additions to the park system. But members of the House who voted for the bills almost 3 to 1 could hardly have known whether they were. The committee reports justifying the plans had not even been printed when the bills were up for debate.

The number of units under the control of the Park Service has increased so rapidly—10 percent since early 1977—that it is hard for anyone to keep up with them. The big ones, like those now in dispute in Alaska, receive close scrutiny. But many of the little

ones do not—especially if they are tucked away in omnibus bills like that passed in 1978 and the one now pending.

The national park system shouldn't be toyed with this way. Its good parks are so exceptional that the public expects near perfection wherever that Park Service sign hangs. This reputation should not be diminished by minor additions designed mainly to spread, geographically or politically, the federal dollars spent for recreation and preservation. If the Senate applies that standard when it reviews the projects proposed recently by the House, it may—or may not—approve them. But it would be nice to know that those it approved had at least been carefully screened.

—July 4, 1980

From Whence The Protectionists Come

Many of you have asked us why so many decisions have been made that curtail inholders' rights. The following list describing former occupations of a few key decision-makers in government, speaks for itself:

James Moorman: Formerly of the Sierra Club Legal Defense Fund, Moorman currently serves as Assistant Attorney General for Land and Natural Resources. It is Moorman who decides whether to condemn you home; it was Moorman who last year asked Congress to use only declarations of taking in the condemnation process because it would be faster for you.

Gus Speth, Jane Yarn, and Bob Harris: Formerly with the Natural Resources Defense Council, Nature Conservancy and the Environmental Defense Fund respectively, Speth, Yarn, and Harris all serve as members of the President's Council on Environmental Quality.

Robert Herbst: Former Executive Director of the Izaak Walton League, Herbst is Assistant Secretary of the Interior for Fish, Wildlife, and Parks. Mr. Herbst gives final approval on condemnations for the Interior Department.

Robert Cutler: Cutler, former Wilderness Society leader, is Assistant Secretary of Agriculture for Natural Resources and Environment. It is Cutler's job to recommend which areas ought to be designated as wilderness.

Clip and Mail Coupon!

I want to join forces with NIA in an effort to change national land-acquisition policies and save my home and the homes of my neighbors. Enclosed is my membership of \$25.

Please send me your monthly newsletter and other NIA publications describing impending legislation, government land-grabs, "horror stories," and news of progress being made toward changing land-acquisition policies in this country.

I am enclosing an additional contribution of:

\$10 _____ \$15 _____ \$25 _____ \$50 _____ \$100 _____ Other \$ _____

Name _____

Address _____

City _____ State _____

Phone _____

Name of federally managed area you are affected by _____

(Please make checks payable to National Inholders Association and mail to 510 D Street, NE, Washington, DC 20002. Thank you.)

Please Pass This Newsletter Along to a Neighbor!

Sound Off With a Telegram to Congress

Various types of telegrams can be sent to Congress when your area needs to react to a piece of legislation quickly. By sending telegrams, groups around the country have established a reputation of being responsive and aware of what their elected officials are doing.

A fifteen-word Public Opinion Telegram to all 535 Congressmen and Senators can be sent for \$200 and your message will be heard immediately.

The Strength of a Coalition

One of the most effective political tools local areas can use to fight federal acquisition and management is through the formation of a local coalition. A coalition is a body of local inholders, all representing different interests and organizations, but nonetheless all working toward the same end—to keep federal intervention at bay.

One of the first coalitions established was in the Big Cypress National Preserve. It brought together commercial and sports fishing industries, sportsmen, property owners, and farmers. In May, the Big Sur Coalition, with thirty members, was formed.

The joining of factions that have disagreed on fine points is a sign of strong local commitment to fight to remain free of direct federal management.

Contact NIA (202-547-7007) if you want help setting up a coalition in your area. Strength lies in working together.

Kudos to Demonstrators And Arlene Crow

Sixty inholders from Indiana Dunes picketed Senator Birch Bayh (D-IN) at a \$100-a-plate fundraiser dinner at Beverly Shores August 10. After the dinner, which was for the purpose of raising campaign funds, Bayh said he was "surprised" and "not aware" of the inholders' feelings against Indiana Dunes legislation—despite thousands of letters sent to his office.

NIA wishes to thank Mount Rogers inholder Arlene Crow who tirelessly worked to clean the association's membership lists.

Gumption and tenacity—Arlene has been doing volunteer work for NIA or battling the Forest Service to save her Virginia home.

Summer Interns Sweat It Out

Two energetic college student interned at the Inholders office this summer.

Nanny McFadden, 19, assisted in the writing and editing of the July-August newsletter and NIA's brochure, "So What's An Inholder?" The daughter of Cumberland Island, Georgia, inholders, she will attend Boston University College of Engineering this fall.

Lisa Rogers, 20, worked as NIA's legislative intern, assisting Ric Davidge. She is a junior at Smith College.

Jim Flaherty: A Loss to Inholders

We are sad to report that on June 22 Jim Flaherty, one of the original organizers of NIA, passed away in Seattle. Jim was the publisher of three weekly newspapers in Seattle and had long been a strong supporter of protecting the rights of individuals who own property inside National Parks. Jim will be sorely missed. His continued support and outspoken effort to help those both in his home area of Lake Crescent in Olympic National Park had a great impact on our effort.

Someone of Jim's caliber simply cannot be replaced, but Kay Flaherty, his wife, has agreed to take his place on the NIA Advisory Board. Kay is the daughter of one of the founders of Olympic National Park and her father was the manager of the Olympic National Forest for many years prior to it becoming a National Park.

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Charles S. Cushman, Executive Director
Ric Davidge, Managing Director
Jane Shattuck, Publications
Patricia Goetzendanner, Secretary
Nanny McFadden, Editorial Intern
Lisa Rogers, Legislative Intern

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National Inholders Association

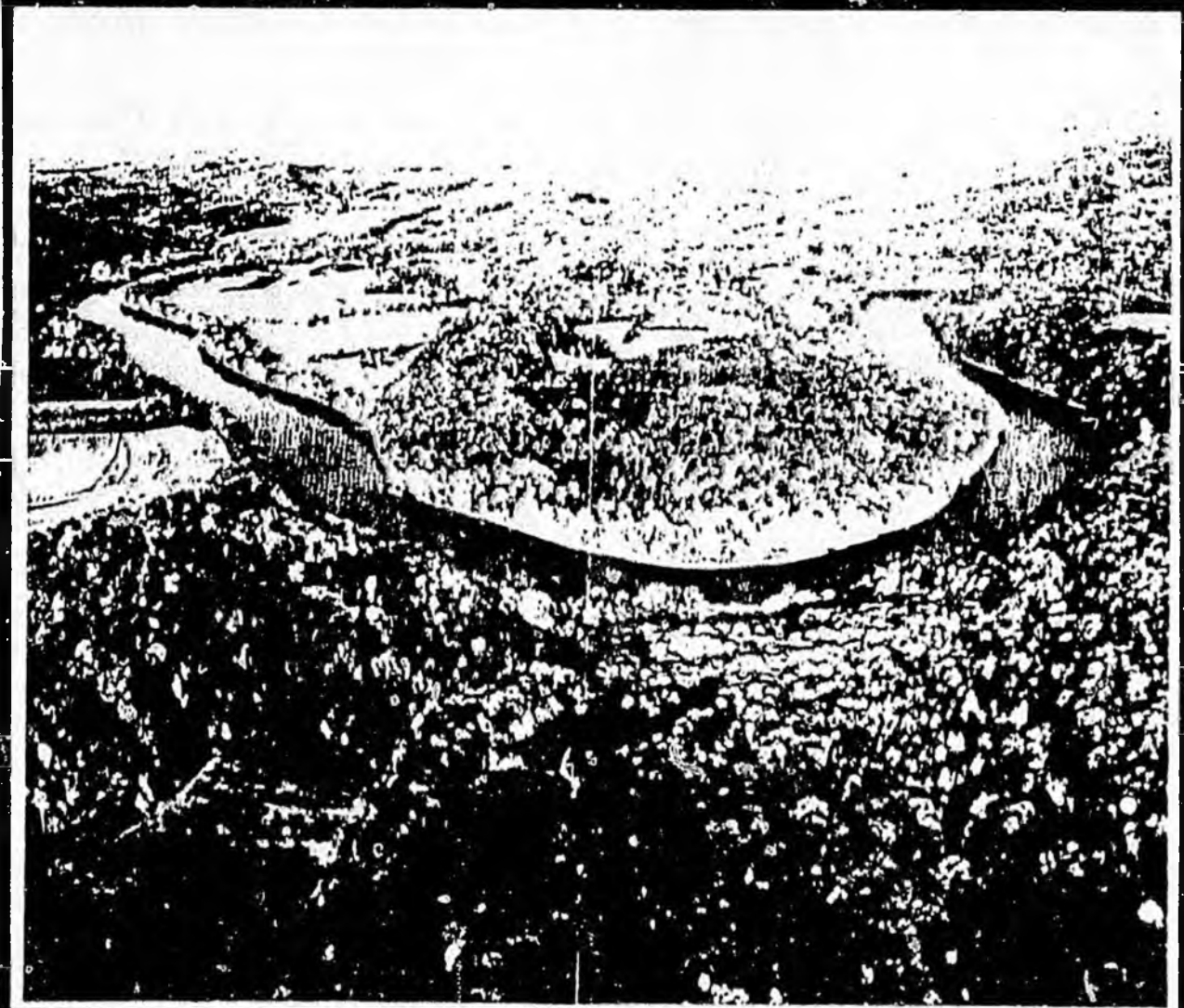
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DEATH OF A VALLEY



They wanted to build a dam here. So thousands of people were kicked out of their homes. But where's the dam?

by John Grossmann

About twelve miles upstream from the Water Gap the Delaware River traces a lazy S-curve that from the air looks much like a giant fingerprint whorl. Cartographers, canoeists, and residents of the valley know this curve as the Walpack Bend. In all probability, the name traces back to an Indian word, *wahlpeck*, meaning whirlpool. The river would have us believe otherwise: it slides by gently, brilliant blue, with hardly a riffle or a flash of current. From high above, the land, too, appears peaceful. Various hardwood trees and evergreens cover gently rolling hills. And where the watershed finally meets the river, quilted fields blanket the rich bottomland.

Come closer, though, and the bend seems prophetically named. Here, where Warren County meets Sussex County and about midway in the Delaware's 350-mile journey from its Catskill headwaters to the Atlantic . . . things are not right. In some of these fields, juniper and birch have sprouted through a tangle of weeds. The fields aren't fallow; they're abandoned. Upland a bit, along a roadway known as the Old Mine Road, lie piles of rubble where houses and barns used to stand. Elsewhere the reminders are more subtle: a gravel driveway, a flagstone walk, and in one location, a set of front steps—all without terminus. You begin to feel the *wahlpeck*.

Sandy MacDonald is one of the survivors. She lives with her husband, a union electrician, and their two children in a one-story, three-bedroom house in Sandyston. The MacDonalds' property continues behind the house a few hundred yards, steadily sloping to the Delaware. The reservoir behind the Tocks Island Dam would have risen to the apple trees in the backyard. In 1972, one week after the MacDonalds were married, the Army Corps of Engineers offered them \$24,000 for their home and one acre of property with river frontage. A few months later, the Corps

John Grossmann is a senior writer with Feature Group and has freelanced for a number of national publications.

DEATH OF A VALLEY

The Tocks Island Dam battle has produced no dam and no winners — only victims.



by John Grossmann

negotiator appeared in person and offered \$29,000. His final offer was \$32,000.

"I told him to 'stick it' . . . in as many words," Mrs. MacDonald says. She and her husband had no intention of accepting any offer. If the government wanted them out, it would have to condemn the property and take them to court—the ultimate battleground for many eminent domain cases. Mrs. MacDonald is blonde and blue-eyed, but at times she seems transfused with the blood of an alley cat. "When they tell me in court that I've lost the place, then we'll get out and find another home. But when they come with the bulldozers I'm going to greet them with a shotgun. I'm not kidding you. I would burn this house to the ground before I'd see a park ranger or anybody else move in here. And I told the guy who runs the bulldozers, 'You come here and I'll shoot the damn thing right out from under you.'

"No, I'm not a crazy lady," she adds. "I just feel that in this country it is insane to think that somebody can come into your house, offer you what they darn well please, and kick you out." A few minutes later her mood mellows a bit. "A lot of people just packed up and moved out of the area—people who had ancestry here, cultural heritage here—because they couldn't take the destruction. A lot of people won't talk about it. The valley is dying all around you. They kicked out the farmers, the houses are torn down, the fields are lying abandoned. It's like sitting here watching a funeral." She slides a bit uneasily into her next sentence. "If I hadn't committed myself so strongly all down the line, it wouldn't be hard, sometimes, to see myself leaving."

People who still live in the valley often avert their eyes when they drive past the demolished homes and the empty clearings. Some force themselves to look; it helps strengthen their resolve. Presumably, many retell the local "horror stories" for much the same reason. But they also cling to the stories out of sheer frustration and bitterness at what has happened here in the last two decades. Many people fear what is yet to come. They feel the swirling starting again.

A whirlpool forms where opposing currents clash. The clash here, in the name of

eminent domain, has been particularly controversial and tragically ironic and has swirled a bitter foam that jumbles rumors with reality. More often than not, the foam coincides with the so-called horror stories that still reverberate around the valley: allegations of threats by federal employees; bureaucratic bungling of the land acquisition process; inequalities in the leaseback program; the deterioration of historic homes; uncontrollable arson and vandalism; the ironic death of a fifth generation farm; and the suicide. The eye of this whirlpool—the vacuum around which all else has revolved—lies a couple of miles downstream from the bend: a small, uninhabited, alluvial island known as Tocks.

In the regional library of the U.S. Army Corps of Engineers in Philadelphia, documents labeled Tocks Island fill three entire bookshelves. If the Corps had had its way and if the original intentions of Congress had been fulfilled, three and one half million cubic yards of earth and rock would have stretched Tocks Island east to New Jersey and west to Pennsylvania and raised it to a height of 160 feet. This damming of the Delaware would have created a narrow reservoir thirty-seven miles long. In the eighteen years since Congress authorized the project, these are among the few undisputed numbers in which has been perhaps the most tangled and tragic controversy in recent New Jersey history.

Many New Jerseyans know the Tocks Island controversy simply as a lot of fuss about a dam. But consider the high stakes: a proposal for the country's eighth largest public works project; the threatened end to the longest free-flowing river in the East; hundreds of millions of dollars in cost-benefit analyses; and the incalculable toll on the more than 10,000 people who had the misfortune to live where all of this came together. Consider, too, the crisscrossing ironies. Thousands of people, more than nine out of ten valley residents, were told to leave their homes for a dam that was never built. The dam was stopped, but the federal government's grip on the valley is stronger than ever: for the valley is to become the largest federal recreation area east of the Mississippi. Families were uprooted so that professional craftspeople could recreate "authentic" folkways for tourists. And if the agricultural heritage of the valley is to be preserved, the National Park Service must quickly secure tenant farmers to resurrect decaying farms—farms that the original owners could have continued to operate had the recreation area not initially been tied to the Tocks Island Dam.

The idea of damming the Delaware to prevent flooding had been around since the 1920s, but it was not until August 1955, when two hurricanes struck in less than a week and produced a catastrophic deluge, that the idea took on a sense of urgency. Ninety-nine people died in the flood of '55, and properly dammed ap-

proached a billion dollars. (The toll collector on the bridge between Dingman's Ferry, Pa., and Sandyston still shows visitors two nails hammered into the corner molding of the toll booth more than forty feet above the river: one nail marks the water level in the flood of 1955; the other marks the flood of 1903.) Newspapers, public officials, and the population at large demanded action, and the Army Corps of Engineers gladly obliged. Sites were studied, plans were drafted. In 1962, Congress officially authorized the Tocks Island Dam.

The memory of the great flood faded, though, and as time went on the need for a flood-control dam seemed less pressing. So dam advocates began touting the Tocks reservoir as the potential centerpiece of a giant park. Congress bought the pitch and in 1965 created the Delaware Water Gap National Recreation Area: a saber-shaped swath of 70,000 acres—including both the reservoir and surrounding land—carved out of the valley. (Meanwhile, the mid-sixties brought a bad drought to the Northeast, providing the dam builders with another argument: Tocks would be insurance against future dry years.) The Corps began to acquire land, both on its own behalf (for the dam and its reservoir) and on behalf of the National Park Service (for the surrounding park land). But the war in Vietnam was eating up billions of federal dollars, and acquisition didn't begin to gather momentum until the early 1970s.

By that time, opposition to the dam had grown. And the inevitable resistance that arises when the government invokes the law of eminent domain to compel people to sell their land, plus a new force—the environmental movement—made the dam's opponents all the more tenacious. The critics attacked the project point by point, and they got in some pretty good licks:

- On flood control, the original impetus for the dam: Critics pointed out that by the Corps' own analysis, flood control represented only 13 percent of the projected annual benefits. And they correctly noted that none of the ninety-nine deaths in 1955 occurred on the Delaware itself—all occurred on tributaries that would have overflowed even with the dam in place.

- On the recreational value of the reservoir: Many water quality experts emphatically asserted that the reservoir would become eutrophic, a breeding ground for huge masses of algae. One expert, citing an inevitable abundance of nutrients from the runoff of New York farms upstream, testified at a public hearing that the reservoir behind the Tocks Island Dam would become "vastly" more polluted than Lake Erie.

- On generating electrical power, another supposed benefit: The critics pointed out that the "pumped storage" plan—to pipe reservoir water to holding ponds on nearby Kittatinny Ridge—would expend more energy than would be released when the water was sent back downhill.

In August 1975, twenty years after the

flood, the dam's opponents won a major victory. The Delaware River Basin Commission, a regional planning body that had previously supported the dam, voted 3 to 1 against the project. (New Jersey, New York, and Delaware cast the opposing votes; Pennsylvania favored the dam.) Still, efforts to deauthorize Tocks failed to win the approval of the congressional public works committees that had originally sanctioned it. So concerned congressmen tried an end-around. In 1978, they effectively blocked the dam by convincing Congress to put the middle Delaware into the Wild and Scenic Rivers system. This protected the area on environmental grounds and removed the now widely hated Corps from the scene. But it also placed the entire 70,000-acre district in the hands of the Park Service and gave that agency a legislative mandate to someday acquire the 20,000 acres not yet owned by the federal government. At first, those remaining in the valley were buoyantly hopeful. But now the collective mood has soured considerably, as some residents begin to see in the Tocks controversy an indomitable federal hydra. Cut off one head, and another rises in its place.

Sandy MacDonald was pregnant with her youngest daughter when she traveled to Washington to testify against the dam. Like others in the valley, she belongs to the Delaware Valley Conservation Association (DVCA), one of many citizens' groups dedicated to protecting the valley and the rights of its inhabitants. She joined because she is a fighter, and also, she intimates, for reasons related to the porch swing of her parents' home. That home, in Lawrenceville, sat beside Route 206, which twenty-five years ago was a two-lane country road. As a young girl, Sandy MacDonald would lie on that swing on summer afternoons and count maybe four or five cars go by. Neither her adolescence at tumultuous Trenton High School nor her early adulthood were quite so peaceful. Then she married and moved to the valley. She thought she had landed in paradise. God's country, in her words.

"I couldn't believe there was someplace like this in New Jersey. I had never been up here," she says. "I've had bear in my backyard, deer, and rabbits, and a fantastic assortment of birds. But it's more than that. It's a way of life up here, being able to turn my kids loose and not worry about them bumping into a fence or somebody else's tricycle. My kids are 3 and 5 and they know about the river. They know which way it runs and how it rises and goes down. They've fished in the river."

Her daughters have also seen and heard the splintering of wood and the crashing of window panes as a bulldozer tore through the home vacated by a neighbor. "This day," Mrs. MacDonald says, "when a piece of heavy machinery comes down the road my kids go nuts. They're scared.

"I don't make it a point of driving through



With a quiet understatement attributable perhaps to age, Mrs. Aseneth Sweet, 70, describes her move from her Layton home as "quite an upheaval." Her house, one of five on a cul-de-sac, with a right-of-way to the river, was bulldozed about five years ago, along with those of her neighbors. "They made a wilderness of the whole bit," says Mrs. Sweet, standing in what was once the living room of her home and surveying the dying maples out back, trees which she originally had planted. The Sweets summered for many years in Layton before moving there permanently twelve years ago. When the Tocks Island Dam project forced them to consider moving, Mr. Sweet was very ill and in the hospital, so the couple bought a house in nearby Hainesville. Mrs. Sweet moved there with her son. "We were fortunate we could stay so close," says Mrs. Sweet, noting, however, that most of her friends have moved away. "Everybody was so compatible," she recalls. "I'm content here," she says of Hainesville, "but it's hard to look and remember how beautiful it was. The house now is nothing like being on the river."



the valley anymore," she says. "It's a heart-ache. And it's incredibly frustrating when you think of what you're up against. All the government people you've talked with and they say, 'Yes, we'll try this, and yes, we'll try that,' and how they've never followed through and how they've lied and deceived."

"I put a lot of faith in Stanton to come through. One night he sat right there in that rocking chair. How stupid I was, though. Stanton was a troubleshooter, brought here to calm people down, to placate them. To make it easier to get them out, perhaps?"

Until January 25 of this year, Richard Stanton was director of the mid-Atlantic region of the National Park Service and the man most responsible for government policy in the 70,000-acre recreation area. I caught up with Stanton on his last day as head of the Philadelphia office before a promotion moved him to Boston. The day we spoke, fourteen months after the Wild and Scenic River designation, the Park Service was finally drafting a policy to deal with the thousand or so people still living in the valley (perhaps 60 percent of them in New Jersey). Roughly half, families like the MacDonalds, still own homes within the federal boundary. The rest had already been bought out by the government, some more than ten years earlier, but continue to live on their former property under one of two arrangements: A handful had paid the Park Service upfront for a "life estate"—the right to remain for the rest of their lives; and close to 250 former homeowners live on as tenants under a "leaseback" arrangement, a holdover from the Army Corps of Engineers days.

Throughout most of our conversation, Stanton measures his words carefully. He has talked with reporters before and he is trying to tread a delicately thin line: namely, to distinguish the behavior and policies of the Park Service from the conduct of the Corps of Engineers, without unduly incurring the Corps' wrath. "I can't speak for the Corps of Engineers, because I wasn't around then," he says. "But I feel the National Park Service has been able to get closer to the people and bring a little peace to the valley and proceed a little more slowly. When the Corps has a job to do they have to get in and buy the land and get out. But we buy land to protect it for recreation and for future generations. We don't have to move that fast. We don't need that person's property today, and so we can afford to be reasonable and come back next year if necessary."

I ask Stanton why the Corps acquired not only its own land for the reservoir but also Park Service land for the recreation area. He answers matter-of-factly, "They were directed by law." And when he is asked if the Corps could have used Park Service philosophy to acquire much of the land surrounding the reservoir, he agrees: "Could have, but didn't. Had I been there I would have insisted on it." The force of those last words starts to pull him off the line. "There is no question about it, mistakes were made. We inherited 250 tenants from the Corps. Some of those were not paying rent. Rents were inequitable. Some people had left and were

subtlety to other people. There was a whole potpourri of unusual situations."

Stanton correctly anticipates the drift of the conversation and leans back in his chair. "I have gone up there and listened to people for hours, listened to all kinds of horror stories. I've been invited into people's homes. I don't know what is true and what is not true. I've only been here two and a half years," he says. "I'm like you. If they are true, it makes me feel bad. If they are not true, it makes me feel bad that people are saying those things. But I don't worry about that. I've got too much to do. I'm not really interested in what the Corps did, because that's past. I know there were people roughed up and hurt and so forth, but rather than worry about what happened, I'd rather spend every minute thinking constructively about how we can go forward than spend one minute worrying about what happened. And I really don't know what happened."

On September 12, 1978, the morning after his 79th birthday, Isaac Dunlap got up early, left a note for his wife, and started down the steep hill behind his home in Bushkill, Pennsylvania. The Dunlap home is a modest ranch—two bedrooms, living room, kitchen, bath, basement—a retirement home, much of which Dunlap built himself. Five months earlier a Corps negotiator named John Kelleher had offered Dunlap \$32,000 for his home and one acre of property. Kelleher later upped the offer to \$35,200. Dunlap considered that a fair price and was by then a bit more resigned to the fact that had he built his home on the other side of the street, none of this would be happening. But if he had to move, he at least wanted to keep his home. As others in the valley had done, he asked the government for salvage rights. He knew that for prices ranging from several hundred dollars to several thousand dollars, many homeowners had bought their homes back from the government and then paid to have them moved to new locations. The arrangement saved the government bulldozing fees and often netted the homeowner several thousand dollars, after paying the home mover, an electrician, a plumber, and other contractors.

Dunlap, however, was denied salvage rights to his home. The news came by telephone on the evening of his 79th birthday. He could not have his home because the Park Service wanted it so a ranger could live there (something since discontinued). Members of Dunlap's family recall that he "acted all right" the rest of the evening. But when his wife woke the following morning, she found the note: I leave everything to my wife, Mabel. Signed, Isaac Dunlap. She discovered, too, that the bottom drawer of her husband's bureau was slightly open and that a .32-caliber pistol was missing from its brown leather holster.

A search party scoured the countryside until it became too dark to continue. Early the following morning Dunlap's body was found on land belonging to the government. His right hand still held the pistol, which he had fired into his mouth. He died facing a creek where he had often fished for trout.

Word reached the Dunlap household within minutes, and Dunlap's middle daughter, Leah, instinctively searched for Kelleher's business card and dialed Philadelphia. Even before she could shout that all the gold in Fort Knox wouldn't be enough to buy the home now, Kelleher was expressing his sympathy. "I already know what happened to your father. I'm very sorry." The family views that knowledge as an inadvertent expression of government guilt. Both the Corps and the Park Service are mum, declining to discuss the incident on the record except to confirm the family's story on salvage rights. The Dunlaps know only too well that they can never prove that the government drove Isaac Dunlap to suicide, but his daughter Leah speaks for more than herself when she says, "I know in my heart that this is what happened."

Back across the river, Dr. Everett Kunkel was also denied salvage rights to his home. Kunkel, a semi-retired dentist, settled with the government for what he termed "an almost fair price"—\$114,500, plus \$8,000 in relocation expenses. This, for a four-bedroom ranch house, a small guest house, a greenhouse, and an in-ground swimming pool on a bit more than twenty-six acres in Sandyston. Kunkel, too, considered moving his home. He says the government granted salvage rights to the guest house, but "they told us we couldn't take anything else—not the home, the greenhouse, the shrubs, or even the fixtures or carpeting." Kunkel had a new home built a mile and a half away, just outside the 70,000 acres.

Five years ago this summer, about six months after moving into his new home, Kunkel's daughter called him where he was vacationing. "Dad," she said. "They're tearing the house down." The government employee who negotiated with Kunkel is dead, and the Kunkel file, I'm told, is inconclusive. "I wish I had better records for most of this stuff," said a real estate specialist for the Park Service. Neither he nor anyone else could explain why Kunkel was denied salvage rights if his greenhouse and home were to be demolished. Nor could they explain what happened to the wall-to-wall carpeting and the light fixtures. As for the bulldozed shrubs, regulations don't allow the removal of trees. To this day, Kunkel is bitter.

He feels a different kind of anguish when he thinks of what happened to his father-in-law, Herman Davidson. Davidson was in his 80s and was paid \$23,500 by the government for his small home on a sparsely populated dirt road. Kunkel helped his father-in-law look for another home, and after finding nothing comparable at that price, Davidson reluctantly purchased a home for \$32,500 on a well-traveled road in the county seat of Newton. He had to dip into his savings be-



For six of the eleven years the Kirschner family lived in this 1830 farmhouse near Dingman's Ferry, they lived in limbo. They were told by the government in 1972 that they would have to sell their home to make way for the Tocks Island Dam, but they were unable to settle the sale — or find out precisely when they had to move — until 1978. Meanwhile, "we had some very lean years," says Mrs. Basia Kirschner, who recalls the year she couldn't meet mortgage payments on the house, or find a willing private buyer.

Although the Kirschners would gladly have salvaged the house — with its lead-pane windows and fieldstones — or leased it from the government, they were given only one option: sell. Last year the Kirschners finally moved to nearby Newton with the government's help. This photograph marked the first time the family revisited their former home or its surroundings. "I just couldn't bring myself to go back," says Mrs. Kirschner. "It was very melancholy, just windowless houses looking at you — a place pervaded with the memories of people no longer there."

cause the government picked up only \$3,500 of the difference. Under legislation effective at the time, the government could have made up the entire amount; Public Law 91-646 authorizes relocation and replacement benefits up to \$15,000, depending on the availability of comparable housing. "There must have been housing available for less than \$32,500," theorizes a Park Service employee. Kunkel says no, they searched "all over." Davidson, it turns out, did not live long enough to outgrow his anger. A couple of years ago he was struck and killed by a car while walking one evening on the busy road in front of his new home.


Before her family home was acquired by the government and she moved to upstate New York, Mina Hamilton traveled up and down the valley for weeks trying to get to the bottom of stories like these and trying to document examples of people mistreated at the hands of the government. She did so as president of the DVCA, and she brought many of the acquisition irregularities she discovered to congressional hearings. One story went like this. A modern, two-bedroom home on eighteen acres with "open mea-

dows rolling down to 450 feet of river frontage" was condemned by the government in 1972 for \$49,800. Five years earlier a roughly comparable home on 4.4 acres with "about 400 feet of steep inaccessible road frontage" went for \$50,000. "To say that a riverfront property with eighteen acres is worth less than a four-acre one bought five years before," she testified, "is peculiar indeed." (A local real estate broker I spoke with estimated that property values in the area increased by about 25 percent during those five years.)

Looking back on her own day in court, Mrs. Hamilton says the government "made a deliberate attempt to misrepresent the value of my family's property." She says the government officials trying the case presented the jury with out-of-focus photographs of the primary residence on the 233-acre property and emphasized deteriorating outbuildings "as a means of making it look like a Tobacco Road property." She says the government also tried to downgrade the value of the property's one mile of river frontage by showing photographs of graffiti scrawled on rocks on the opposite side of the

river. Those rocks, Mrs. Hamilton maintains, were not even visible from her property. After hearing both sides, the jury awarded \$469,000—better than \$200,000 more than the amount at which the government condemned the tract. Mrs. Hamilton's lawyer, Gordon Meyer, says that in condemnation case after condemnation case "the government played hardball." And he asks, is it any wonder people left the courtroom disillusioned?

The Assistant U.S. Attorney who handled many of the condemnation cases for the government certainly doesn't waste any words trying to correct that assessment. "In condemnation cases," says Carolyn Arch, "there is no such thing as a win. The law says we are to provide a just compensation, not replace what has been taken. The value



to me' concept is not acceptable in condemnation cases." That, she says, and the grim reality of being displaced probably account for a large percentage of the bad feelings in the valley.

I ask her about something I have picked up in conversation with a couple of people whose property was condemned. I have been told that the government's first offer was always written, but that later offers were usually verbal, and that if a final verbal offer was rejected, a government negotiator might warn: "If you turn down this latest offer we'll have to condemn the property and take you to court. Understand, though, that in court we present only the original written offer. Those other verbal offers, they don't count. A jury might end up giving you less than I just offered you and you're going to have to pay your lawyer out of that too." Several residents termed this a "slick" negotiating strategy and equated it to a verbal shell game. Assistant Attorney Arch disagrees, saying the inadmissibility of such verbal offers is "a maxim in American jurisprudence. I don't know how anyone could be surprised at that." Lawyers I spoke with agreed with at least the first half of her statement.

Although apparently not underhanded, this policy of written and verbal offers clearly bowled over a number of people, and would seem to point to another reason for many of the horror stories: confusion—confusion born of complicated legal principles and constantly changing circumstances and legislation.

"It's about the most thoroughly confusing situation—it has a most tangled history and a very tangled present," says one Park Service official. "It's almost impossible not to misunderstand." For instance: Many complain about the "hopscoching" of the acquisition process. "I thought they were supposed to start at the dam and proceed up the valley" is a common refrain, especially among the displaced who feel they were singled out because of their opposition to the dam. According to one former resident, a Corps negotiator told him: "I don't know whether you know it or not, but you've been numbered because you fought against the Tocks Island Dam. They're not going to give you any quarter." Unfortunately, there is no way to know if the negotiator really said that, but there are explanations for the "hopscoching" that may have escaped many angry residents. For one thing, many people asked the government to purchase their property—some thinking they might turn a profit, others simply anxious to leave a bad situation. The government had to act on these requests first. A much less obvious explanation involves the availability of acquisition money. Though the Corps acquired land for both the reservoir and the surrounding recreation area, the acquisition money came from separate federal sources, and because of Capitol Hill funding quirks, money was sometimes budgeted for recreation area purchases but

not for the reservoir. The fact that the reservoir tracts deserved a higher priority carried no budgetary clout.

Ironically, the way things stand now, many of the people so displaced probably could have kept their homes for the rest of their lives. So they have every right to their anger. But to direct it against the Corps and the Park Service, on this count anyway, seems largely to undershoot the target. And people clearly have needed targets for their anger. Children in the valley have pelted ranger vehicles with crabapples and rocks. Many parents hurl four-letter words. Says one woman whose family was displaced: "I wonder if a lot of it isn't just a way of fighting back the frustration. People really had no recourse and all they could do was complain."

When they do, many invoke the name of Joseph Cooke. Beginning in 1972, Cooke directed land acquisition in the valley for the Corps. He now works in a similar capacity for the Park Service out of its Bushkill headquarters for the Delaware Water Gap National Recreation Area. Cooke spent much of last summer in Philadelphia "cooling off," at the insistence of regional director Stanton. The temporary transfer followed Cooke's remarks to a *New York Times* reporter: "It's squirrels like him; [Barry Allen, the present head of the DVCA]—3 percent representing 100 percent of the people—that pushed up the cost of the Tocks Dam, made more people miserable, and complicated my work. Look, the Corps of Engineers are experts, and if they say that the dam should be built, they must know. Remember, the dam was never deauthorized. What happened is just going to make it a little harder to get it built."

I ask Cooke if he was quoted correctly. Calmly, he nods his head but adds that his words were taken out of context. He seems indeed to have cooled down and he patiently fields my questions; intentionally or not, he sheds some additional light on the acquisition process. He explains that prior to 1971 and the enactment of Public Law 91-646 (also known as the Uniform Relocation Act), "people really didn't get a fair shake." For one thing, the government paid almost no relocation expenses. "About all we did was pay mileage and cover a couple of lunches so people could look for another place to live," he says. For another, negotiators didn't have to offer fair market value for a property and in fact didn't even have to inform homeowners of the amount at which their homes were appraised.

Cooke notes that he came to the Delaware Valley after 91-646 but explains how things worked under the previous legislation. "Say I've got a \$20,000 appraisal and maybe my reviewer and I think it's liberal, a little high. There is nothing really wrong with me going in and offering him \$19,000. I'm going to pitch him and see what happens. If I buy it for \$19,000 I haven't cheated him out of anything. Maybe he'll give me a hard time and I'll get up a couple, maybe three hundred dollars. But remember, it's a liberal appraisal.

"Now one of the reasons I think they got rid of [the old law] is because I heard—we'd never done it—that these people lowballed. They thought it was smart to chisel somebody out of some money." I ask him who. He says the Department of Housing and Urban Development boys in the metropolitan areas. "But I know my people and I myself never offered anybody anything that was ridiculously low," he says. "To my knowledge we never underpaid anybody, never abused anybody, or took advantage of anybody."

At only one point in the conversation does Cooke display a bit of the emotion that others have attributed to him. When he does, his words are edged with frustration: "What really upsets me is that people must visualize that at midnight a gong goes off and here comes one of my negotiators just spitting smoke, with horns, and he goes in and kills all the babies and then throws everybody out in the yard. And I just don't think that's right. This is what upsets me."

From a seemingly unlikely source comes something of an echo. "I don't think the Corps of Engineers are the big ogres people make them out to be. I wouldn't doubt there probably were cases where there is cause for contention, and I think there were some negotiators who probably weren't as diplomatic as they should have been." The speaker is Arthur Bevans, who maintains his family had good dealings with the Corps and received a fair price for their 140-acre farm. Family history has it that the land was part of a much larger holding granted to his great-great-grandfather, Evan Bevans, for distinguished service in the Revolutionary War. In fact, until recently a tiny crossroads town in the valley bore the name of Bevans. But by the early 1970s the Park Service had acquired all the homes there and established a residential and workshop community of craftsmen as an attraction for visitors. The Park Service renamed the community Peters Valley (after an earlier name for the settlement); many outraged former residents and others refused to acknowledge that name, preferring instead "Occupied Bevans."

"I like to think of myself as reasonably broad-minded, but I'm not broad-minded about that place down there," says Joyce Bough, a resident of nearby Layton who had to find a new house for her parents after their retirement home was acquired for the craft village. "I had one of the craftspeople ask me why people don't like them. I said, 'Don't see it personally, it's just the whole deal doesn't sit well.' I deal in antiques. I like crafts. But I wouldn't go across the street to see what they've got," she says. Other valley residents bristle at the mere sight of the credit card stickers in the windows of the craft shop. Says one: "Master

Charge and Visa are not what this valley is all about."

Surprisingly, Arthur Bevans does not really mind that the whim of the federal government has stricken his family name from the map. (A cousin, however, was quite irate and quickly moved all the way to upstate New York.) His only gripe with the whole Tocks Island controversy is that the land his family had farmed steadily for five generations is now reverting to wilderness. Trees as big around as his beefy forearm have sprouted in the pasturelands. Even so, his fatalism keeps him from anger: "All our family realized there was nothing you could do about it. We might as well try and make the best of it."

"Your mother was most upset," his wife calls from the kitchen where she is preparing supper.

"Then again, she was old," Bevans says. "She was 80."

It seems safe to say that the elderly suffered the most. Many had retired to the valley, planning to live out the remainder of their lives. Ehel Angerman and her husband bought a home in Bevans in the early 1960s, winterized it, sanded six coats of paint from the floorboards, and fixed up "a darling place." Their garden out front displayed so many beautifully colored flowers that passing motorists would often stop and take pictures. The Angermans' horror story is simply this: had they lived elsewhere in the recreation area they probably would have been allowed life rights, but because the Park Service wanted the homes in Bevans for the craft village, the Angermans had to move.

Approaching her 60th birthday, Edith Hull had to quarterback the flock of contractors necessary to enable her to move her home outside the recreation area. She concedes she came out financially well—but emotionally drained. "What it cost in nerves . . . the sight of it . . ." she says. "I just wanted to get it behind me and get on with getting a good night's sleep."

Other elderly people were also affected physically. Frank Dascoll's heart condition was undoubtedly aggravated by all the turmoil, his doctor says. A retired school teacher, Dascoll spoke his mind so vehemently at many public hearings that friends worried that his red-faced and breathless speeches would trigger a heart attack. One man only agree from listening to a tape of a brief speech Dascoll made on October 15, 1975:

"This is my last night sleeping in the bed I have slept in for the last twelve years in Walpack Center. The beams come tumbling down. It is horror. I know because I have been hurt physically, emotionally. . . . I know the vile meaning of eminent domain."

Near the tailend of many conversations, even the most bitter residents and former residents mention one final irony. They concede a silver lining to the Tocks Island controversy. "Had there been no Tocks Island Reser-

voir Project and had there been no Delaware Water Gap National Recreation Area, who knows what this area would have been like," says Barry Allen, the current president of the DVCA. "You take a look at the tax maps, the land along the river is divided into quarter-acre lots. There were developments planned all over the place.

"But if this valley is going to be preserved," Allen says, "it won't be because of the Park Service, but because of average citizens getting together and saying 'You can't destroy this valley.'" Examining the present record of the Park Service, one is inclined to agree. The recreation area that Stanton says has "the greatest potential of any park in the East" is understaffed, underfunded, bedeviled by arson and vandalism, lacking a management plan, and on the threshold of instituting a new tenant policy that will unquestionably rekindle smoldering hostilities.

Last year 1.6 million people visited the eighty square miles for which the Park Service is presently responsible. Supervising these visits and patrolling that territory were thirteen rangers, not all on duty at the same time. Park Superintendent Amor Hawkins doesn't even try to put a rosy veneer on things; he admits straight out that he "doesn't have enough people to do the job." Recently, in a little more than a week, five unoccupied homes burned to the ground. Looting occurs constantly. Cars bearing Pennsylvania, New Jersey, and New York license plates often circle brazenly near a recently vacated home. In at least one instance, thieves shot off a lock to enter a home and strip it of fixtures and woodwork. Rarely is anyone caught. Furthermore, a nagging shortage of funds has slowed "site restoration," the Park Service's ironic euphemism for bulldozing buildings. Consequently, abandoned and partly burned homes dot the roadsides, defacing the recreation area and extending a dangerous invitation to the curious and seekers of old bottles and knick-knacks. Open wells pose additional hazards.

"Not only don't we have enough people to do the job," Hawkins says, "but what is the job? First we've got to have a development plan telling what we are going to make the area into. Right now we're in a holding pattern, without a plan. Without direction. We're in limbo." Hawkins punctuates that last statement by extending his arms, palms up, and casting a wistful glance at the ceiling.

The management plan for the recreation area lies becalmed in the Park Service's regional office in Philadelphia. Meanwhile, arson, vandalism, and natural decay are taking a toll on dozens of buildings either on or eligible for the National Register of Historic Places. And as the buildings fall down, many of the fields and pasturelands in the valley push up weeds and saplings. If some of these fields are not worked soon, it is doubtful they will ever again be plowed or ever again support a herd of dairy cows. The irony seems almost too obvious to mention, but had farmers not been chased out in the first place, the Park Service would not be faced with the

urgent problem of trying to halt the march of natural succession. Unless the Park Service acts soon and rejuvenates more than a few farms, the character of the valley, the picturesque mix of forest and fields, will be lost for future generations.

"I guess it's just a matter of staffing and priorities," says James Coleman Jr., acting regional director of the Park Service. "Our planners are up there already. It's just a matter of assigning a priority to it. I think the past regional director felt perhaps the time was not right to get on with the plan because when you do that you're going to stir up more people.

"I think we can get on with the planning effort. We've got some really horrendous problems up there. There are a lot of historical buildings we have to preserve. We don't have the funds for it, and probably never will get the funds for it. I'm going to assign a high priority to it, but I'm only acting regional director."

A bit later Coleman explains the policy the Park Service has drafted for dealing with the people still in the valley. Homeowners who want to sell to the government will be bought out, but barring extraordinary need for a property, those homeowners who want to remain will be allowed to do so. Then Coleman mentions what the Park Service plans for those families still renting their former homes under leaseback arrangements. My stomach tightens on behalf of some 250 families and for what lies ahead. The valley will soon learn that all leases are to be terminated within five years.

That, I know, will poke at old wounds and will come at a time when the politically active in the valley are gearing up for another attempt to get the dam deauthorized. For the first time, a state official—specifically Betty Wilson, deputy state environmental protection commissioner—has said New Jersey will seek congressional deauthorization. For, as Cooke pointed out to the *New York Times*, the Tocks Island Dam is still on the books, despite the fact that it directly contradicts the Delaware's Wild and Scenic River status. In other words, Congress at present is officially supporting two contradictory—in fact, mutually exclusive—policies for the valley. "Deauthorization is very important," says DVCA president Allen, "because it would necessitate an entirely new economic analysis to reactivate the dam, and we don't think it could stand that scrutiny."

I know, too, that many residents of the valley will not react calmly to the proposal to end all leasebacks within five years. Allen has told me, "They are talking at least twenty years before this park is really functioning, so what's the hurry to get people out. I see no benefits to removing people, but I see a lot of costs. Do they want to be in the position of calling in federal marshals to make people leave? We fought sixteen years against the Corps and we're not going to give the valley over to the Park Service and let them ruin it."

You can practically feel the swirling starting anew.

Loses Property Battle With Park - "I never had a chance!"

"All the good things you can't put a price on have been taken away from me." That is how a young Port Angeles woman describes her feelings after property near the Elwha was taken over by the Park Service. "My husband and I had planned to build a home on the property. After he died in a car accident I still planned to go ahead with our plans."

The land in question was taken over by the National Park Service. Terry Ann Severs not only had her land taken against her wishes, she was paid less for it than she originally paid.

It began in April, two years ago when Terry Ann and her husband bought two lots a mile from the Elwha campground. The couple purchased the

property on a contract agreeing to pay \$13,000. When the Park Service stepped in Terry Ann says "It was a shock...out of the blue." She recalls "I got one days notice from a Seattle Attorney, Thomas B. Russell, that my property was being taken over by the Park. "What could I do?" she reflects "Since my husband is dead and I have to work to support my two children, I'm not free to just rush off to Seattle on that short notice to defend myself."



Terry Ann Severs with her children Brad and Chris outside their Port Angeles home.

Terry Ann did the best thing she could under the circumstances. She mailed a letter of protest to U.S. Attorney Star Pitkin explaining why she wanted to keep her property. Pitkin later said the letter did not reach him on time. Terry Ann points out the letter was postmarked within the deadline and the letter got to Pitkin's building on time "But apparently it didn't get upstairs soon enough. I don't think I should be penalized for a slow mail distribution system in his (Pitkin's) office."

After taking time off work to attend the land trial in Seattle, Terry Ann returned to Port Angeles at midnight of the final day of

the trial. When she got home the attorney called from Seattle with bad news. Not only was the Park service taking her property, but she would be paid only \$11,000 for land she agreed to pay \$13,000 for. "I was stunned. I thought they'd at least pay what I'd paid...The whole thing is unbelievable...a nightmare!"

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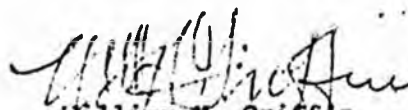
After 2 1/2 years as an uncomfortable staff appraiser in the Buffalo National River office, I resigned and accepted early retirement. Prior to being employed with the office, I was a County Supervisor and District Supervisor for FHA for 17 years.

I found the methods used by the land acquisition section a cause for concern. From the very first I advised that in my opinion the appraised market value for the better pasture and crop lands were too low. My advice was ignored and in fact, someone from the Washington and Santa Fe office was always over-viewing and expressing concern with high appraisals. I believe that some of the owners of this type of land, who were trusting in the willing seller negotiation processes, sold on appraisals that were too low. Actually it is my belief today that the local owner was willing to accept lower values than the absentee, more knowledgeable, aggressive owner.

The people who run the acquisition program will deny that below market appraisals were used, and will point out that independent fee appraisers were used to lend more credibility to the process. However, it is my observation that the condemning body is the source of vast amounts of appraisal fees. The independent appraisers, knowing this have accepted the fact that their employment may depend upon conservative appraisals.

Since leaving the office in May 1975, I have continued to have this concern. Many of my friends up and down the river have come to me with what I considered to be real problems. I refused to involve myself because of my belief that no one would be responsive. Recent events, such as Senator Bumpers becoming more directly involved with the project, Prime Time Sunday's program and the GAO reports, cause me to think that there would be more interest now in finding out the facts. That is the reason that I step forward now with my thoughts on the matter. I do feel strongly that some of our local owners may have been willing seller's at less than just compensation. I have not decided if there is anything I should attempt to do. I think that my best efforts could be in assisting you if you wish to look further to the problem. I think I could pledge to you my complete and total support.

Cordially,


William H. Griffin
11/23/80



Seeking fairness

Former ranger ^{is son} battles Park Service land policies



By John O'Connor
Staff Writer

Charles Cushman is not a raving rightist. He is the founder, executive director and chief lobbyist for the newly formed National Park Inholders Association (NPIA), an organization whose function is to inform and hopefully mobilize landowners whose property is threatened by acquisition policies of the National Park Service.

"All inholders are living ^{IN} toilets . . ."

Phillip Burton at a land acquisition seminar in Washington, June 15, 1979

Cushman is no outsider to the National Park Service — he and his father were rangers and his son is now a NPS employee. Regardless of these ties, Cushman has often leveled withering if not vitriolic charges at his family's employer. In an interview last week, Cushman said, "Despite what I say, I am not an enemy of the Park Service, but I am more than a little critical of some of their policies."

Specifically, Cushman's objections focus on the present NPS policy of obtaining land from people living on private property within the boundaries of a National Park. Nationwide, the number of people who could be affected reaches around 200,000 he said.

"I think the Park Service has been running amok, breaking laws to make their own and abusing people who made their homes years before many parks across the nation were even founded. I'm looking for checks and balances within the system," Cushman said. "I want to know where due process of law comes into the picture."

Cushman, who travels nationwide to meet with inholders and to confront park officials was in Jackson last week to meet with local landowners.

Inholders here told of "strong arm tactics" used by the NPS to push them into giving up their land. Residents living within Grand Teton National Park boundaries cited late night and abusive phone calls from park officials, refusal to remove snow from access roads leading into the town of Kelly after residents there signed a petition stating they wished to secede from the park and the intimidation by NPS personnel of local real estate brokers interested in obtaining the inholder's land at prices above those offered by the park. Cushman explained the brokers had been frightened off after park officials threatened future buyers with condemnation. If the land was for sale, reasoned the park, it was slated for improvement. If it was slated for improvement, a situation "not in keeping with the environmental interests of the park" would exist.

Also, inholders said, they could tell of being followed by NPS men in helicopters, of being watched by high powered binoculars from neighboring hillsides and of living in fear that an add-on bathroom or bedroom would bring a condemnation notice from the park.

"What our committee desires is a rule of reason to be observed by the Park Service, that it should not resort to extreme measures, either in preventing owners of inholdings from enjoying their inholdings or other extreme measures."

Congressman Sidney Yates in his debate with California Congressman Phillip Burton on the House floor June 21, 1978

Why, Cushman set out to discover, the sudden overzealousness on the part of the park service? Inholders have lived equitably within the system for many years. Over 21,000 people suddenly found themselves facing eviction from their homes. What was behind the step up of the NPS land acquisition policy, Cushman wondered.

The answer, he contends, is twofold.

"I had a phone conversation in November or December of 1978 with Phil Stewart, the man who designed the NPS land acquisition policy," Cushman said. "He had just resigned as Assistant Director of the NPS. Stewart told me that the Land and Water Conservation Act of 1965 had its funding increased from \$5 million in 1965 to over \$25 million. I was more than a little surprised when Stewart told me, 'Well, when you've got a bureaucracy and you've been given additional funding . . . you better find some way to spend the money'."

According to Cushman, this surplus of funding coupled with what he termed the "Army Corps of Engineers philosophy" of "buy the land or whatever else you have to do, but get them off" provided the Park Service with the impetus for an all-out acquisition drive. The Park Service, however, maintains this impetus came from Congress as it saw continued development within national parks.

"They wanted total control of all the land within their boundaries," Cushman said, "and heaven help the little guy."

The unified cry of the little guy reached all the way to the Senate. Ted Stevens, the senator from Alaska, argued the plight of the inholders before Congress. Armed with a NEWSWEEK magazine article outlining some of the tactics used by the NPS to force people from their land, Stevens said: "When I was out west recently I had occasion to fly over Kelly, Wyoming. Kelly, mentioned in the NEWSWEEK article, is just a small town in the Grand Teton National Park. I was shocked to learn the Park Service was acquiring 100 percent of that small town. All of the land will be acquired and put into public ownership.

"When I inquired as to why this was happening, they said, 'Well, having those homes there is incompatible with the purpose for which the park was created.'

"This seemed rather strange to me since Grand Teton is a beautiful park where one can find grazing cattle, horses being bred and raised, and concessionaires operating scenic river boat trips. There are other normal concession features as well. But a little town of 100 people was considered so obnoxious to the Park Service that they proceeded to use, and are using if they cannot buy, their condemnation authority to take the private property away from these people. . . ."

Stevens went on to point out that when he flew 20 minutes north of Kelly, he found the new Park Service residential area. He saw new homes, three and four bedrooms, with "nice circular drives and paved access roads leading to them."

The senator from Alaska summed up what he had seen this way: "So we now have the double standard that if you live within a national park and you are a private citizen living on property that you owned prior to the establishment of the park you are subject to condemnation. But if you work for the government, for the Park Service, you can depend on the use of taxpayer's funds to build a new subdivision within the park for your own use . . ."

The conflict between the managers of the Grand Teton National Park and the inholders who have made their homes within the park's boundaries has been going on for some time. Recently, most of the attention has been drawn to inholder Rob Hinchee's fight against condemnation.

Hinchee was pledged support by the Pacific Legal Foundation, a non-profit legal aid organization based in Washington.

Last week the National Park Service called off its plan for Declaration of Taking procedures against Hinchee when Senator Henry Jackson intervened on his behalf. A Declaration of Taking is the procedure used by the NPS to claim an inholder's land. According to Cushman, once an inholder has been delivered a "DT" order, the moment it touches his hand, his land is forfeited and the county signs it over to the Park Service.

"This is what we object to," said Cushman. "The Park tells the inholder that there is nothing he can do to fight a DT and the guy just gives up. His land is gone. The park gets what it wants with a minimum of trouble because the inholder is convinced that he has no legal recourse."

Cushman quoted Park Service Director Bill Whalen in summarizing the park's attitude towards inholders. "Whalen said at a meeting of inholders in Port Angeles, Washington, that, 'If we serve a man with a D.T. he has no right to fight the taking.' That simply is not true. What we're trying to do is inform people of their elementary rights. If all of this fuss we raise helps to change some things . . . so much the better."

Cushman

From page A 3

Land policies condemned

U.S. agencies irk those who live in national parks

The U.S. government now owns more than one-third of all land in the nation and will spend \$10 billion in the next 11 years to buy more acreage, the Port Angeles Chamber of Commerce was told Monday.

Chuck Cushman, founder and president of the National Inholders Association, said the government now has title to 53 percent of all the taxable land.

"And who pays for all that land?" Cushman asked, "The taxpayer, like everyone of you here."

Cushman was in Port Angeles after attending the annual meeting

of the Friends of Lake Crescent Sunday. Friends of Lake Crescent members own property within Olympic National Park; they are called inholders.

The National Park Service is the recipient of most of the federal lands acquired in the last 30 years, something Cushman said has led to abuses of private property owners who have land the park service wants.

Cushman, 36, is no stranger to the National Park Service. His father was a park ranger, his son now works for the agency and in 1959

Cushman was a member of the Youth Conservation Corps at Olympic National Park.

To illustrate how the government goes about acquiring new land for the park service, a slide presentation entitled "In Condemnation — The Cayogha Valley" was shown. It described how private property owners in an area in Ohio faced eviction from their homes when the park service decided to create a recreation area.

Cushman said the government gets the land through condemnation, often allowing the landowner no real

opportunity to fight the move other than haggling over the price to be paid.

More than 70,000 families have sold their land to the National Park Service in the last 14 years and 21,000 condemnations of private property are now under way, he said.

Cushman, who owns a lodge in Yosemite National Park, repeatedly cited a General Accounting Office report released in January that said the park service is buying too much land and spending too much money.

At Lake Crescent, the private property owners hold 43 percent of the land around the lake and are trying to regain rights they lost in 1977, Cushman said.

In 1977 the park service said private landowners could not make major modifications or do any new construction on undeveloped land. The inholders association and Friends of Lake Crescent are now working to have that changed, Cushman said.

Friends of Lake Crescent is also objecting to the classification of land as tracts at the lake. Cushman said the owners are taxed for lots and bought their property as lots and should be allowed to have control of their own land. The park service considers three lots to be one tract. No new construction can take place on a piece of land considered part of a tract.

"We're for parks. We want a

coalition to address the concerns of the park service and the landowners," Cushman said. He said the inholders are concerned about government intrusion and usurpation of individual landowners rights.

He said the scenic easement provision of government statutes, if applied to national parks, would allow inholders to own their property without the park service "being able to tell them what to do."

He said Olympic National Park service personnel are making a real effort to cooperate with the landowners at Lake Crescent. The problems come from the federal government in Washington, D.C., he said.

And many of those problems can be attributed to wilderness advocates who now are in control of the agencies often involved in land acquisition, Cushman charged.

He cited Rupert Cutler, assistant secretary of agriculture who formerly was in charge of the forest service division of the Wilderness Society, and James Moorman, a lawyer for the federal land resources bureau who used to represent the Sierra Club in court cases.

Cushman said the inholders association is now working to draft legislation that would make the government more accountable in acquiring new land and would protect the private property owner.

Letter urges federal study

The Friends of Lake Crescent has sent a letter to Washington's congressional delegation urging investigative hearings by the Senate Committee on Energy and Natural Resources to examine the policies and methods federal agencies use in acquiring new lands.

The letter was drawn up at the group's annual meeting Sunday.

In the letter, the group cites a recent General Accounting Office report critical of the National Park Service and other federal agencies which have acquired new land in recent years.

The letter said "this has been a frightening and stressful period for property owners" and said the

hearings are needed because recent bills relating to the park system have passed through the legislative process without "benefit of adequate public notice, public hearings or public input."

It went on to say the inholders at Olympic National Park are grateful for the closing of the land acquisition office in Port Angeles. The office was established to seek new land for the park service and closed last month when the Carter administration ordered a temporary halt to new land acquisitions.

The group said it wants a cooperative relationship with Russell E. Dickenson, the new

director of the National Park Service.

The letter specifically seeks clarification of several provisions of policy regarding Olympic National Park and those who own land within its boundaries.

It concludes by requesting a bill of rights for those with land inside national parks and other federal land.

"We are working, and hoping and praying for a bill of rights for inholders which will prevent the type of discrimination just described and eliminate permanently the recurring harassment we have suffered," the letter concluded.

Los Angeles Times

5-23-80

Of Hoover, the Ranger and the Call of the Wild

By AL MARTINEZ

When that vast splotch of acreage stretching north and west from my backyard in the Santa Monica Mountains was declared a state park a few years ago, I cheered. No one loves an unmolested coyote more than I. God knows, the rattlesnakes and the liquid-eyed chipmunks need their own space, too, as we say in L.A. They leave me alone, I leave them alone.

Which is why I am now upset. It happened just a few days ago in Topanga Canyon, where once the hippies roamed wild and, before them, movie producers brought their toothsome little gingersnaps to frolic among the mustard plants and the wild pearlies-everlasting.

I was walking along a fire trail with my leashed and amiable dog Hoover, enjoying the scenic beauties formerly reserved for members of the Sierra Club and other ecology-minded card-carriers when, from the other direction, came a pickup truck bearing a Park Ranger.

He stopped his truck in our path and got out, the way a motorcycle cop gets off his bike when, doing his loathsome duty, he is about to give you a ticket. The Ranger, it was clear, had taken LAPD lessons. He was a pro.

"You've got a dog," he said, stating the obvious. I looked at Hoover, and he looked at me.

"Right," I said, "I've got a dog."

The Ranger sighed and shook his head. "No dogs on the back trails," he said wearily.

"The dog's on a leash," I replied. The Ranger's training may not have acquainted him with leashes.

"No matter," he said. "Dogs aren't allowed on back trails. I could give you a citation."

I don't especially love dogs. I was walking my dog that day because it just worked out that way. Had circumstances been different, I might have been walking my mother. Mothers are no doubt allowed on the back trails.

I probably should have let it go at that. Life is easy when you follow orders. Turn around, take the damned dog home and have a martini. But I didn't.

"What's the big deal about walking dogs on the back trails?" I asked, still committed to the principles of the 1960s that cautioned against being intimidated by authority.

The Ranger hitched up his gun belt, on which was hung his Smith & Wesson .38-caliber revolver, and said, "They leave their scent."

I knew what he meant. Animals leave their scent to establish territory. I've done it myself.

"All animals leave their scent," I said, over-reaching. Then, challenging: "So what?"

"It upsets the balance of nature," he replied, toughening. "You give me a bad time, I cite you for sure."

I'm a nice little guy who avoids trouble. Everyone says that. But suddenly I am confronted with a six-foot-two Park Ranger with a badge and a gun and a pickup truck telling me that my dog Hoover on a leash is upsetting the balance of nature. It is too much even for a nice little guy who avoids trouble.

"How in the hell," I demanded, stretching to the tippy-toes of my platform shoes, "can you stand there with your damned gun and badge and pickup truck and tell me that my dog-on-a-leash is upsetting the balance of nature?"

"That's the law, fella!" he snapped. "Where would society be without laws?"

I figure the guy was at least a high-school graduate, maybe a couple years of city college. No one knows more about society and its laws than that. Not even Ed Davis.

I hollered at him about his gun and his badge and his pickup truck and their abomination to nature, and about how me and my damned leashed dog were there before the park and before him and to hell with the chipmunks.

I thought for a moment that he might shoot me. He glared and fidgeted, which, like a shark flicking its tail, is a sure sign among certain species that they are about to attack.

"Ah, the hell with it," I said. Hoover and I went one way, the Park Ranger went the other.

I've thought about our confrontation since then, and in quieter moments have decided that the Ranger was probably right in enforcing the law's evaluation of what belongs in a park and what doesn't.

And so, a day or so later when I felt like taking to the trails again, I did the only sensible, responsible thing: I took along my pet goat. There's nothing in the law about goats—yet. □

Al Martinez is a Times staff writer.

The Federal Drive to Acquire Private Lands Should Be Reassessed

Federal agencies need to acquire private lands essential to achieving the objectives of parks, forests, wild and scenic rivers, preserves, recreation areas, wildlife refuges, and other national areas established by the Congress. The chairman, Subcommittee on National Parks and Insular Affairs, asked GAO to examine the Federal government's policies and practices for purchasing title to land versus using less expensive protective methods. This report focuses on the activities of

three Federal agencies with major land management and acquisition programs—the Forest Service, Department of Agriculture, and the Fish and Wildlife Service and the National Park Service, Department of the Interior.

The three agencies generally followed the practice of acquiring as much land as possible without regard to need and alternatives to purchase specially spelled out in legislation. Consequently, lands have been purchased not essential to achieving project objectives, and before planning how the land was to be used and managed. Because of this practice, Federal agencies overlooked viable alternative land protection strategies such as easements, zoning and other Federal regulatory controls including the dredge and fill permit program for protecting wetlands administered by the Corps of Engineers, Department of the Army.

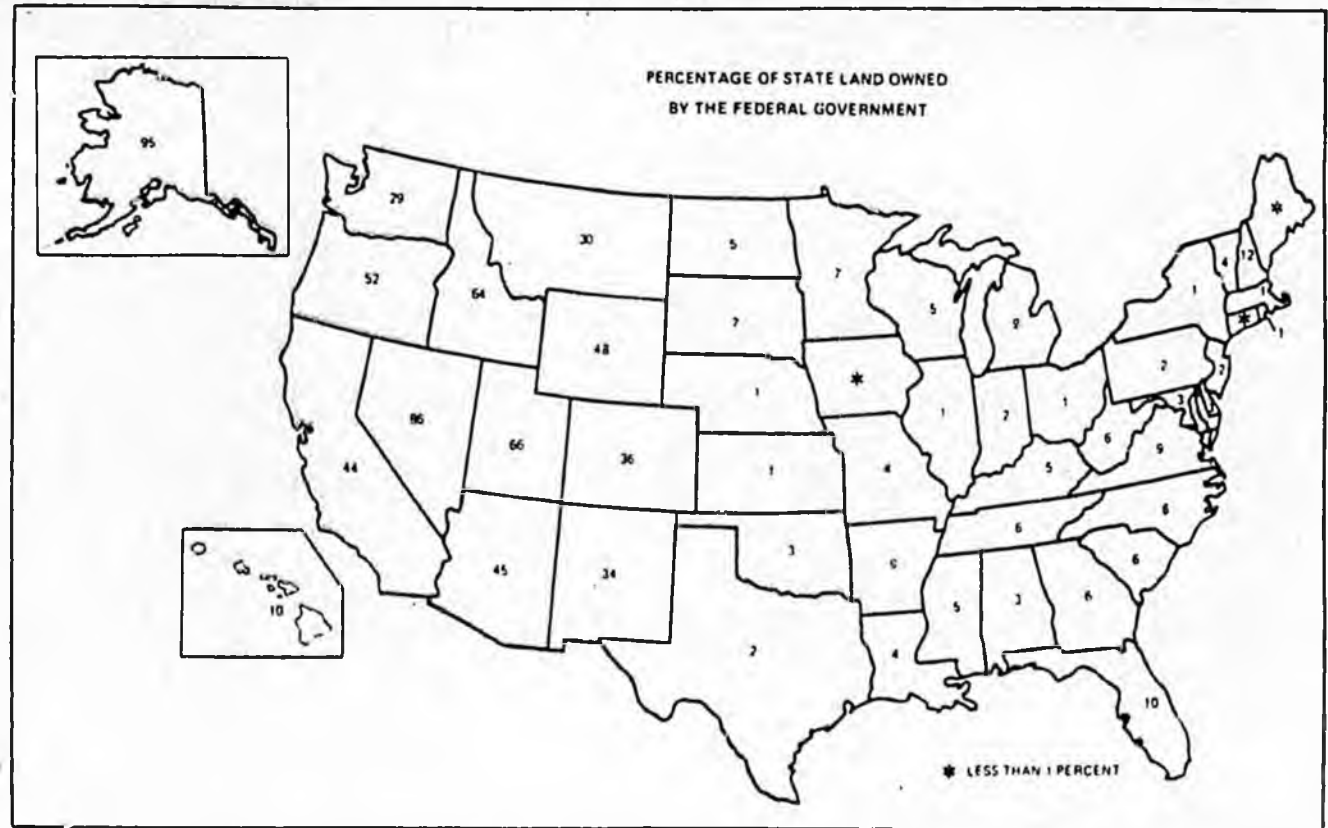
MAGNITUDE OF FEDERAL LAND OWNERSHIP AND PURCHASES

Over one-third of all the land in the United States is owned by the Federal government with local and state governments holding a small but growing share (6 percent). Additional land is held in trust for Indians, bringing total public ownership to 42 percent. Most of this was in the public domain and never owned by private individuals (700 million of the 760 million federally owned acres). Thus, some 60 million acres have been acquired.

During fiscal years 1973-77, the National Park, Forest and Fish and Wildlife Services acquired full or partial title to 2.2 million acres for \$606 million. The predominant acquisition method used was purchase of full title, accounting for 88 percent of the acreage and 95 percent of the costs. Current legislation authorizes up to \$10 billion through the Land and Water Conservation Fund—\$4 billion for federal acquisition and 16 billion for grants to states and local governments—for land acquisition and development over the next 11 years and assures that federal agencies as well as state and local governments, will continue to increase their inventories of land.

COSTS AND IMPACTS SHOULD BE CONSIDERED IN LAND PURCHASES

Government acquisition of private lands for protection, preservation and recreation is costly and usually prevents the land from being used for residential development, agriculture and family dwellings. It also removes the land from local property tax rolls, although payments are made to local governments in lieu of taxes.



viating relocation costs. Certain agricultural lands could remain in productive use, with the scenic values protected. Finally, the Federal government would be saved the cost of administering the area although there could be costs associated with enforcement and maintenance.

Opportunities also exist to work with state and local governments. For example, when a 52-mile section of the Lower St. Croix River was made a component of the Wild and Scenic River System, local zoning ordinances were changed to provide protection. The Park Service, however, viewed this as only a temporary measure until it could purchase titles and restrictive easements to all the lands in the Park Service's 27-mile section. Costs have increased from the initial legislated ceiling of \$7.3 million to the current ceiling of \$19 million.

This attitude toward zoning has antagonized local communities and landowners. On the contrary, the states of Minnesota and Wisconsin, which have responsibility for 25 miles, feel easements and zoning can adequately protect the river. Thus, neither plans any major fee-title purchases. In this and several other projects it reviewed, GAO believes the Federal agency could have relied on the local initiatives taken to protect the land until it was evident that the protective provisions would change. At that time, Federal agencies could either protest the change or, if necessary, proceed to purchase lands through negotiation or condemnation.

In summary, alternatives to full-title acquisition, such as easements, zoning and other Federal regulatory controls, are feasible and could be used by Federal agencies where appropriate. GAO recognizes that some lands must be purchased if they are essential to achieving project objectives.

RECOMMENDATIONS

GAO recommends that the Secretaries of the Departments of Agriculture and the Interior jointly establish a policy for Federal protection and acquisition of land. The secretaries should explore the various alternatives to land acquisition and provide policy guidance to land-managing agencies on when lands should be purchased or when alternatives should be used to preserve, protect and manage national parks, scenic rivers, recreation areas and others.

GAO further recommends that the secretaries evaluate the need to purchase additional lands in existing projects. This evaluation should include a detailed review of alternative ways to preserve and protect lands needed to achieve project objectives.

GAO further recommends that at every new project, before

private lands are acquired, project plans be prepared which:

- identify specifically the land needed to meet project purpose and objectives;
- consider alternative land protection strategies;
- weigh the need for the land against the costs and impacts on private landowners and state and local governments;
- show close coordination with state and local governments and maximum reliance on their existing land use controls;
- and determine minor boundary changes which could save costs, facilitate management, or minimize bad effects.

RECOMMENDATION TO THE CONGRESS

GAO is recommending that the Congress during its authorization, oversight and appropriation deliberations require the Secretaries of Agriculture and the Interior to report on the progress made in implementing GAO's recommendations. This should include a determination on the extent project plans for new and existing projects have been prepared which, as a minimum,

- evaluate the need to purchase lands essential to achieving project objectives,
- detail alternative ways to preserve and protect lands, and
- identify the impact on private landowners and others.

Congressional oversight in implementation of GAO's recommendation is needed because of the

- large sums of money available from the Land and Water Conservation Fund for acquisition of private lands;
- practice followed by Federal agencies of acquiring as much private land as possible resulting in unnecessary land purchases and adverse impacts on private landowners;
- successful use of alternatives to full-title acquisition to achieve project objectives; and

—reluctance on the part of many agency officials to use less than full-title acquisition to achieve project objectives.

APPRAISAL OF AGENCY COMMENTS

Four of the five agencies responding—Forest Service, Department of Agriculture, Fish and Wildlife Service, National Park Service and Heritage Conservation and Recreation Service, Department of the Interior—generally agreed with GAO's recommendations or said they were in compliance. The agencies sharply disagreed with some of GAO's conclusions and defended their practices as being consistent with Congressional intent.

The Heritage Conservation and Recreation Service stated that what is needed is a thorough research, analysis and training program to encourage project managers to use alternative land protection strategies. GAO agrees this is needed and should be considered during the development of a new Federal land protection and acquisition policy.

Interior's Office of the Solicitor disagreed with the conclusions and recommendations. Its major point was that the recommendations should be addressed to the Congress.

GAO believes the Secretaries of Agriculture and the Interior have the authority to implement GAO's recommendations. Further, it should be noted that the National Park, Forest and Fish and Wildlife Services have adopted separate policies requiring consideration of less than full-fee acquisition.

GAO believes the case examples included in the report and appendix I adequately support the conclusions reached. Further, GAO believes that where it is feasible to protect areas and to provide recreational opportunities to the American public by using alternatives to full-title acquisition, then the alternatives should be used. In no way is GAO against Federal full-title acquisition of land when it has been determined that acquiring such land is essential to achieving project objectives. This is the essence of the report.

Honorable _____

U. S. House of Representatives

Washington, D. C. 20515

Attention: Free GAO Report on
Land Acquisition

Name _____

Address _____

Town _____ State _____ Zip _____

The GAO has changed its policy and no longer gives free copies but has stated they are available free through my Congressman.

Dear Congressman:

Please send me a copy of the new General Accounting Office Report on Federal land acquisition entitled:

"The Federal Drive To Acquire Private Lands Should Be Reassessed"

The number is CED-80-14 and the date is December 14, 1979. I understand this report is extremely critical of federal land acquisition policies and practices and found that 18 of 19 areas reviewed were poorly managed. Please rush my free copy to:

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August 24, 1978

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Harrison, Arkansas 72501

National Park Inholders Assn.
7 Hekpa Drive
P.O. Box 1349
South Lake Tahoe, California 75702

I recently heard Mr. Charles Cushman speak in Jasper, Arkansas. Normally, a Legal Services organization would not be involved in matters involving private landholders, but the Buffalo National Park is exceptional in that a substantial portion of its inholders fall below the Federal Poverty Guidelines. Newton County is the poorest county in the State of Arkansas, and one of the poorest in the nation. The average weekly income of Newton County residents is \$98.60.

The only asset Newton County residents have is their land, and with them, property rights are human rights; they cannot be divided. We are therefore, quite interested in the litigation in California mentioned in Mr. Cushman's presentation. He said that you had instituted a lawsuit against the Park Service on the theory that an Environmental Impact Study must take into consideration socio-economic factors as well as deleterious effects on the land itself.

We would like to have a copy of the pleadings in this case, as well as any other material that you may deem helpful. We will immediately remit payment for same. Also, we would like to be put on your mailing list, and in correspondence that you may have with citizens in Newton County; we would like to be mentioned as a resource for low-income citizens in the Buffalo National River Area who are being harrassed or otherwise oppressed by any governmental or regulatory agency. You cannot imagine how cowed and disheartened the people of Newton County had become. Mr. Cushman gave a very vigorous presentation which did them a great deal of good.

Very truly yours,

M. E. Reger
Harrison Branch Office

The Estes Park

TRAIL - GAZETTE

Fri., June 15, 1979

Estes Park, Colorado

Page 17



SPECIAL TRAINING...National Park rangers engaged in law enforcement work have been involved in special training or refresher activities this week including fire arms qualification which was conducted at the Estes Park Gun and Archery

Club range. Left to right are Susan Henderson, Tom Watters, Tom Kingsbury, Marty Sinclair, Ken Dwyer (Badlands National Park), and Larry Van Slyke.

Trail-Gazette Photo

Landowners group to study deals made in Sawtooth area

By LONNIE ROSENWALD
The Idaho Statesman

A national nonprofit group will study this weekend whether the U.S. Forest Service has treated unfairly some private landowners in the Stanley Basin.

The National Inholders Association will conduct a fact-finding mission to determine whether the government forced small landowners in the Sawtooth National Recreation Area to abandon their land. The group will also advise landowners in the Hell's Canyon National Recreation Area and the Birds of Prey Natural Area, both in southern Idaho.

The National Inholders Association is a Washington-based organization that protects the interests of "inholders," people who own or have an equity interest in land within national parks and other federally managed areas.

NIA Chairman Charles Cushman held a press conference in Boise Wednesday to explain the purpose of his group and to announce the group's study of possible abuse of landowners' rights in Idaho.

The press conference was sponsored by the Idaho State Grange and by Sagebrush Rebellion Inc., a nonprofit group that supports transferring federal land to state and private land ownership.

Cushman began the press conference with a film called *In Condemnation — the Cuyahoga Valley*, about the complaints of landowners in a national recreation area near Cleveland, Ohio.

He said his group does not oppose condemnation, a process by which landowners are forced to sell land within federally protected areas to the government. But in some areas of the country, he said, the government has bought more land and spent more money than necessary, has not looked at alternatives to buying the land and has failed to plan or consider the impact of its purchases on communities.

Cushman said he has no hard evidence of abuse in the Sawtooth area.

In fact, he noted that a General Accounting Office study of park and recreation-area management released last December said the SNRA was the only well-managed area among 19 federal areas surveyed.

Nevertheless, Cushman said it "appears it (condemnation authority) has been abused" in the SNRA.

"What appears happened is large landowners got substantial amounts of money in scenic easements, while small landowners got thrown off the land," he said. A scenic easement is an arrangement between the government and a landowner in which owners are paid to forfeit the right to subdivide or, in some cases, build on their land.

In the town of Obsidian, inside the SNRA, "residents say on one side of the road people were condemned, while on the other side they got scenic easements," Cushman said.

SNRA spokeswoman Sandy Brown said small landowners were not offered scenic easements because small pieces of property that cannot be developed have little value to an owner.

When the 754,000-acre SNRA was formed, there were 25,000 acres of private land inside its boundaries, including 1,288 acres of private land in eight subdivisions. The Forest Service has purchased 86 percent of the subdivision land, Brown said.

She acknowledged some of the landowners are unhappy with the purchases.

"Whether that sounds fair depends on where you are coming from," she said.

On Friday Cushman will visit the Hell's Canyon NRA, where he said his group will make an effort to protect homes and farms when the Forest Service begins acquiring land there.

In the Birds of Prey Area, south of Kuna, NIA is "interested in making sure, whatever law is passed, there is adequate protection for homeowners, and it still adequately protects the environment," he said. Congress is considering a bill to add 574,000 acres to the 26,000-acre bird refuge.

"Idaho STATESMAN"
7-31-80

Inholder warns of threat to lifestyle

The fight over Alaska's federal lands won't be over when Congress approves legislation putting more than one-quarter of the state in park status, a noted opponent of National Park Service regulations said in Fairbanks today.

Charles Cushman, the executive director of the National Inholders Association, an organization of people who own property inside national parks, predicted the passage of legislation will be just the beginning of a political fight against restrictive regulations. If Alaskans don't use all available political means to fight the coming regulations, Cushman

predicted, the rural lifestyle of thousands of residents inside park areas "will be extinct in 10 years."

Cushman, whose father was a park ranger, owns property in Yosemite National Park. He founded the organization in an attempt to mobilize landowners against the National Park Service's policy of acquiring private lands within park boundaries by condemnation and other measures.

He said it's pointless to argue about whether the national monuments created by President Carter in 1978 were right or wrong. It's also pointless to argue about whether a bill will pass Congress, he said.

Revolution is not the answer and

neither is a protracted legal battle over the future of the park lands. Instead, Alaskans should organize themselves and fight all park regulations which they consider unreasonable, he said.

"These people are angry," he said. "We want to channel their anger in a constructive way. Violence and setting fire to airplanes won't help. But it will help if people understand they can affect regulations through the political process."

Cushman said the regulatory battle is important because it's through regulations that the administrators of the park service seek to accomplish what they failed to get passed into law by Congress.

He said state Sen. Bettye Fahrenkamp is already working on a proposal to set up a state-funded committee which would counter restrictive park service regulations and

said similar groups have been successful in other states.

He said the legislation which recently passed the Senate may allow for many land uses to continue, such as hunting camps and access by boats and float planes, but unless there's a major shift in the park service, the agency will try to outlaw them through regulations.

He said it's the "second phase" of the process and "It may be more dangerous to the people of Alaska."

Cushman says he is not an enemy of the park service, he merely wants it to recognize the rights of people who live within park boundaries.

Saturday, October 25, 1980, The Anchorage Times

Park official urges miners to speak up for their rights

The keynote speaker at the Alaska Miners Association banquet said Friday he knows little about mining.

"But I'm a real expert on the National Park Service," said Charles Cushman, founder and leader of the National Inholders Association, an organization devoted to persons who own land within national park or national forest boundaries.

"You'd better become experts on the Park Service fast," he told the crowd of 400. "It's officials may have more impact on your lives than the people you elect."

Cushman said the National Park Service is out to get inholders' land, including most of it in Alaska. "This

He said citizens can fight back on the legal front.

Cushman illustrated his presentation with a slide show and video tape representing people being evicted from fine homes and farms by the National Park Service Outside.

"We don't want this to happen to Alaskans five years down the road," he said.

By claiming the right of eminent domain over private property within its boundaries, the Park Service determines if the owner can remain on the land, as well as controlling construction, water rights and access, he said.

But armed with the Freedom of Information Act rather than rifles, inholders can beat the park service, he said. The political battle is best fought with citizens' groups, a knowledge of how the federal government works and the assistance of the National Inholders Association, he said. Cushman encouraged those present to join.

No one supported by the inholders association ever has lost his land, he said.

"Don't turn it into an economic issue, or a mining issue. Make it into a human rights issue. Tell them how hard it is to make a living."

"You are a remaining breed of

those that settled this country," he said. "If we're going to preserve anything, we should preserve you."

He quoted Chief Sitting Bull: "They made us many promises, more than we can remember, but they only kept one. They promised to take our land, and they took it."

Sunday

Duluth News-Tribune

Our 110th year — Number 264

Duluth, Minnesota

*

Sunday, January 13, 1980

GAO says millions wasted in U.S. park land purchases

BY DOUG SMITH

Of the News-Tribune staff

The federal government has wasted millions of taxpayers' dollars by needlessly purchasing lands in national parks — including Minnesota's Voyageurs National Park — according to a U.S. Government General Accounting Office report to be released this week.

The report criticizes the Na-

tional Park Service and other federal agencies for acquiring public lands in national parks, refuges, recreation areas, wild and scenic rivers, forests and other areas.

It recommends the secretaries of Agriculture and Interior, who manage the federal areas, reconsider plans to purchase additional lands in existing areas, including Voyageurs.

"There is no justification for ac-

quiring all lands in Voyageurs National Park," a summary of the report states.

The accounting office examined 19 federally owned areas to draw its conclusions, which have been criticized as erroneous and biased according to an internal Park Service memo obtained by the News-Tribune. The Park Service is reviewing the final report. Release of the report, entitled

"Federal Land Acquisition — A Controversial Issue Needing Attention," comes while the Park Service is struggling to acquire the remaining 7,700 acres of privately owned land in Voyageurs through condemnation proceedings.

Land acquisition has been a hot issue since the park was established in 1976. The park encompasses 219,000 acres, of which

about 80,000 are water surface. Although the government originally planned to buy the lands for \$26 million, the General Accounting Office report says the total price tag for acquiring all privately owned lands will range from \$32 to \$45 million.

However, since the study has been done, the Park Service now estimates the final figure could reach \$58 million.

Since the first land condemnation jury award in 1976, the agency has come under fire from residents who charge the government is not offering fair value for the property. Five condemnation cases have gone to trial and juries have awarded sums greater than the original market offers. One landowner

See Purchases Page 9

Purchases

From Page 1A

ceived \$230,000 for a resort the government had appraised at \$32,000.

Meanwhile, two suits have been filed in U.S. District Court in Duluth claiming the government or their private appraisers knowingly underpaid landowners.

The Park Service originally planned to acquire the remaining 7,700 acres for about \$6 million. Because of the high awards, that figure has risen to over \$30 million.

However, the accounting office report says the Park Service should reconsider its plans. It says the agency could have controlled about 90 percent of the park by just acquiring the lands owned by Boise Cascade Corp., which owned about half the land acreage.

"According to a (Park Service) official, this would have been more than adequate . . . and would have avoided costly and time-consuming condemnations," the report said. The Park Service could have used other means to protect the lands within the park, according to the report.

"Purchases should only be made as a last resort restricted to areas needed for public access or to avert an imminent danger to the resource," the report states.

It cites the federal acquisition of four properties in Voyageurs, which it called "wasteful" spending, including a resort on 200 acres valued by the Park Service at \$185,000. A jury later awarded \$650,000 to the owner. The Park Service considered not purchasing the property, but eventually reached an agreement with the owner for \$500,000.

Said the report: "The benefit to the taxpayers for over a million dollars spent for those tracts is hard to see."

However, William Whalen, director of the Park Service, said the agency was carrying out the intent of Congress in purchasing the tracts to prevent development. Explaining the \$500,000 purchase, Whalen said, the Park Service considered the jury award "outrageous," but a settlement was reached "reluctantly" because "if we had decided not to, we would have had to pay the landowner several thousand dollars for legal expenses."

Whalen said the landowner received such a large award because he contended the 200 acres could be developed intensively. One witness at the trial presented three development plans, one being a condominium project.

Whalen points out the prime reason for acquisition is to prevent development and to "preserve, protect or enhance" areas.

The report said at many of the 19 areas examined the prime criteria for acquiring lands "appears to be the availability of funds and the opportunity to purchase, rather than a determination of need."

The report goes on to state that the federal government now controls one-third of the land in the

Although the General Accounting Office agrees some lands must be acquired, the report says the government purchased land in many areas that was not essential to the well-being of the area, didn't consider other alternatives and often didn't coordinate the protection program with state and local governments.

However, Whalen's internal memo disagrees.

"Regretfully, we continue to fault the report for its factual inaccuracies, for its reliance on vague assertions of opinion by unidentified officials and for the evident bias against the programs and objectives of the National Park Service and other federal land management agencies," the memo said.

The director said in some cases the report unfairly criticizes the agency for carrying out the will of Congress. "In other instances, opinions are presented as facts," Whalen said.

In his memo, Whalen shrugs off the report's criticism that there is no overall policy on how much land should eventually be protected and owned by the government. Whalen said this is a matter of national policy that has been addressed by Congress.

"Each proposed park stands on its own merits in terms of significance or need," Whalen said. "We doubt that any finite number can be agreed upon."

Whalen said the Park Service does have study procedures for new areas and land acquisition plans have been developed for each area.

The accounting office also criticizes the Park Service for not having an approved master plan for the park. The report says all plans for the areas should be developed before land acquisition begins.

Voyageurs' master plan was released last spring, but it failed to deal with several of the most critical management issues.

A year ago, they said 'he's crazy'

But he kept fighting
for landowners' rights

By Buzz Eggleston
Times Tribune Staff

The story goes that a year ago, the people in Washington, D.C., thought Chuck Cushman was crazy.

He went around the nation's capital, badgering bureaucrats and politicians with his concerns about the treatment certain citizens were receiving from federal agencies. He had formed what is called the National Park Inholders Association to work for their rights.

And as foremost spokesman for the group he came to be characterized as a hard-hitting, "roughshod lobbyist" who speaks fast and loud and who prefers a buckskin jacket to a Brooks Brothers covering.

A few Washington diehards might still think of Cushman as crazy, but their numbers must surely be on the decline. He has become a central figure in a battle of private landowners' rights against expanding public land acquisitions.

He expects to have a major role this year in an effort to force Congress to deal with the touchy issues involved in setting a national land acquisition policy, one that the General Accounting Office, its investigating arm, says is urgently needed and long overdue.

The 36-year-old Cushman is the son of a former Yosemite National Park ranger. He is, by profession, a life insurance salesman, and he gets no money from being the executive director of the inholders association. He still owns a home in Wawona, an island of private residences and rental cabins just inside Yosemite's southern boundary.

Yet he angrily criticizes the tactics of the National Park Service and other federal agencies in taking private land into the public sector. Those tactics, he said, are too often insensitive and sometimes downright unlawful.

He came to that realization just about three years ago.

"I got active in the property owners association and then I began to see what was happening on an overall basis," he said.

"The director of the National Park Service on Sept. 14, 1977, said that henceforth you may not modify your property in any significant way or build on undeveloped lots," Cushman said. "The first evidence



Times Tribune Staff Photo by Gene Tupper

Chuck Cushman angrily criticizes the tactics of the National Park Service in taking private land into the public sector.

he built a bathroom on his house that it would be condemned, that it was an 'incompatible act.' It was incompatible for the purposes for which the park was established.

"Then they came back to him two weeks later and said 'tell you what, you go ahead and build your bathroom, then we'll buy your house and lease it back to you for the rest of your life.'

"He was so scared and rattled by the whole thing that he did exactly that. He sold it to them and then he went ahead and built his bathroom. They scared the hell out of him."

Other, similar incidents convinced Cushman that something was wrong. He began to hear unsettling reports from other private land owners in parks around the nation. But when he tried to find out just how many private holdings there were, he ran up against a stone wall.

The National Park Service, telling him there were only a few such holdings, declined to provide him with the names of private owners. He then used the Freedom of Information Act to force the park service to disclose the names. The list tallied more than 34,000.

The final stroke, he said, was legislation proposed by Rep. Phil Burton, D-San Francisco, in 1977 to wipe out private landholdings in national parks within four years.

has been organizing those landholders into an association which aims to protect their rights.

"An inholder," Cushman said, "is any person who owns property or an equity interest within a federally managed area or who is impacted by the management or access of that area."

His association's objectives, he said, "are to protect the civil rights of our people, to make sure they get fair value, and to protect their homes consistent with quality management of the parks. We don't want to intrude upon the parks."

The issues go beyond the treatment of inholders, however, Cushman said.

For one thing, tremendous sums of taxpayers' monies are being spent, much of it inefficiently, even wastefully, according to both Cushman and a GAO study on the subject.

Beyond that, Cushman has an uneasy feeling about the way government conducts itself in its dealings with inholders, a feeling that basic rights of citizens are being abused and their pleas for justice ignored.

"The American citizen has a very vested interest in the way people are treated who live within the parks," he said. "There are tremendous civil rights violations all over the United States by the park service and if the park service is allowed

COSTLY

Continued from A-1

the access could be designed. All three would involve relocation of Harbor Boulevard about 1,800 feet to the east, opening up land between the old and new roads for port-related activities. The plan is strictly conceptual, according to the city traffic engineer, and depends on the state's supplying access for relocation.

The first alternative would parallel the Bayshore Freeway along the southerly edge of the Leslie salt ponds with a short north-south connection to the relocated Harbor Boulevard. It would cost \$16.6 million.

The plan would probably require the purchase of 62 mobile homes and could cost up to \$5 million to buy replacement housing, the report says.

The second alternative — the one DiPietro favors — would be a four-lane roadway within the salt ponds, beginning near the Marsh Road interchange. The road would then run northwest on a curving alignment into the salt ponds, before straightening and becoming more or less parallel with the freeway. The road would connect to the relocated Harbor Boulevard and to the Woodside Road interchange.

The third alternative, at \$32.8 million, would probably be prohibitively expensive, the report suggests. It would include an extensive system of connecting elevated ramps at the Bayshore-Woodside Road interchange.

The fourth alternative is to build nothing. According to the study, that does not mean the port could not continue to grow, although improved roads would allow it to grow faster. The report claims that there are approvals and utilities available now to provide a 50% increase in developed land area.

The study says 550 jobs could be generated, with a 28% increase in traffic, which would not result in a "significant impact." The report goes on to say that sewer capacity is a further constraint to growth, even if better roads are built. Water supply is not a problem, though.

Although from an engineering standpoint a road could be built, getting it approved by the tangle of regional, state and federal agencies is another matter.

LAND

Continued from A-1

The source asked not to be identified.

The GAO visited 19 sites. It also accused federal agencies of failing to heed the intent of Congress, of failing to evaluate the costs and impacts of federal land purchases on states, local governments and private landowners, and of failing "in most cases, (to) seriously consider using alternatives to purchases."

Briefly, here is a sampling of other points made in the GAO report:

— The federal government now owns more than one-third of all the land in the United States, with local and state governments holding an additional 6%, plus additional lands that are held in trust for Indians.

— Between 1973 and 1977, the national park, forest, and fish and wildlife services bought 2.2 million acres for \$608 million, predominantly through what is called "full title" acquisition, the purchase of all the rights of land ownership.

— Recent legislation authorizes up to \$10 billion over the next 11 years and "assures that federal agencies, as well as state and local governments, will continue to increase their inventory of land."

The GAO said agency officials agreed that some purchases were unnecessary.

"When federal agencies attempt to acquire all lands within the boundaries of parks, forests, wild and scenic rivers, or wildlife refuges, the costs of acquiring the land or the impact on the community and private owners is ignored. Generally, the agencies first acquire parcels that are easily negotiated from willing sellers," the GAO said.

The impact of such actions are costly "and usually prevent the land from being used for resource development, agriculture and family dwellings," the GAO said. "It also removes the land from local property tax rolls, although payments are made to local governments in lieu of taxes.

"Agencies have regularly exceeded original cost estimates for purchasing land. The cost of many projects has doubled, tripled, even quadrupled from original estimates and authorizations."

Elsewhere, the report stated that large government land purchases contribute to escalating prices of adjacent lands, "thereby contributing to the spiraling inflation of land values."

Although federal agencies have policies encouraging consideration of alternatives, in practice there appears to be reluctance to actually use them, the GAO said, arguing that scenic easements can be considerably cheaper than full purchase.

Still other methods include "purchase sellback," where an agency buys the land, sets conditions on its use in the deed, and then resells it, "purchase leaseback," and various taxation strategies.

"In some cases, there is clearly no substitute for conventional acquisition approaches," the GAO said. "But alternative arrangements may be entirely adequate to control access, to buffer natural or recreational areas, or to ensure reasonable control while permitting compatible development."

Although the purchasing agencies are skeptical about alternatives, the GAO argues that "easements might be used advantageously for forest holdings, scenic vistas or agricultural tracts adjacent to public forests. All available evidence shows they can work."

The Peninsula Times Tribune

20 Cents

Thursday, January 10, 1980

★ San Mateo County Edition

'Millions misspent to purchase land'

GAO criticizes National Park Service, federal agencies

By Buzz Eggleston
Times Tribune Staff

The National Park Service and other federal agencies have misspent millions of dollars on poorly planned or needless land purchases, the General Accounting Office said in a report scheduled to be released next week.

The GAO said at present "no overall federal land acquisition standards, guidelines, or policies are in effect" and that at many of the sites visited "the prime criteria for acquiring land appeared to be the availability of funds and the opportunity to purchase, rather than a critical determination of need."

Among the projects the GAO criticized are five in California, including the San Francisco Bay National Wildlife Refuge and the Golden Gate National Recreation Area.

The GAO report advises Congress to hold oversight hearings on the issue of federal land-buying practices and to adopt corrective legislation amounting to a whole-

sale reform of how the federal government goes about planning for and carrying out land acquisitions.

The Times Tribune has obtained a copy of the report along with related documents.

The GAO itself placed no total dollar figure on the alleged misspending, but in case after case criticized federal agencies for misspending funds by making costly land purchases, often in the millions of dollars.

Money could have been saved or used more wisely, the GAO said, if the agencies planned purchases in advance and, where possible, used alternate land controls such as scenic easements or local zoning.

"Federal officials appear to have a 'mind-set' against alternative controls," it said. "So strong is their opposition that they have disregarded opportunities to work with state and local governments to protect land effectively without acquisition."

Some of the GAO proposals already are being adopted by the individual government agencies, the

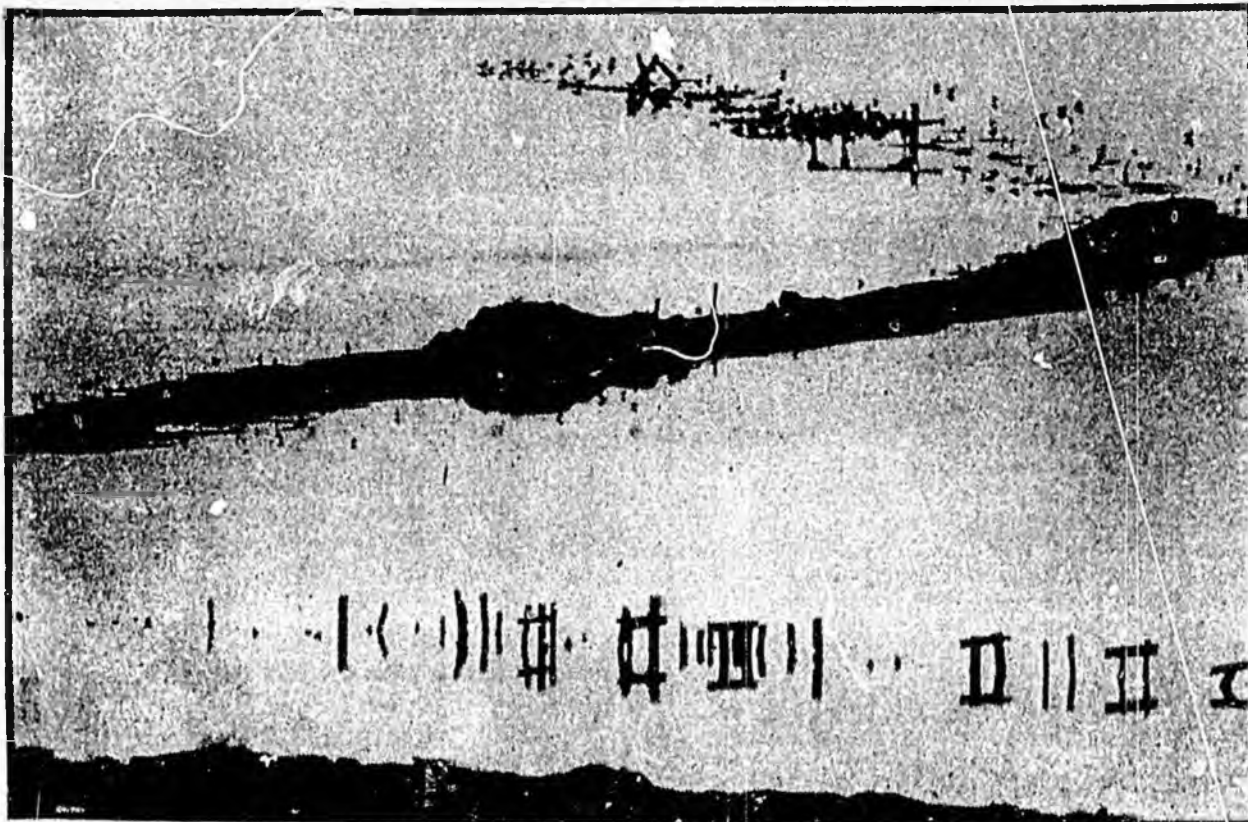
GAO said, but a uniform national policy is needed along with a decision on just how much land government ultimately should own.

At stake, according to the report, is an estimated \$10 billion spent in the next decade on acquisition, park, wildlife preservation and other lands by state and federal agencies.

A battle over control of the money — with the GAO report at its center — is expected to erupt in a Congressional committee hearing as early as March.

An informed congressional source said the matter goes well beyond monetary issues, however.

"It's not a development or environment issue. It's an issue of civil rights and the basic condition of the American government," the source said, alleging that many private landowners have been wrongfully deprived of their lands by federal agencies and their pleas for redress ignored.



Times Tribune Staff Photo by Ken Yimm

Many of the federal land purchases made for the San Francisco Bay National Wildlife Refuge south of Redwood City appear to be unnecessary, according to a General Accounting Office report.

Please see LAN

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PRICE:

Beating the bushes for park inholders

By JEANNE ABBOTT
Daily News Staff Writer

"We're the Indians of 1979," Charles Cushman is fond of saying. "Except we're being kicked off the reservation instead of being moved from one reservation to another."

Cushman is the founder, executive director and chief lobbyist for an organization called the National Park Inholders Association. He travels and lectures widely, trying to mobilize people threatened by acquisitions of the National Park Service.

IN ALASKA, where the land has been the premiere issue, Cushman found an audience ripe for his message.

He claims there are 30,000 to 50,000 people, most of them land owners, who could be affected by the d-2 designations. Nationwide, the number rises to 200,000, he says.

In beating the bushes to ferret out these folks, Cushman has been telling them how to deal with the federal government and protect their rights.

SAYS HE, "Despite what I say, I am not an enemy of the Park Service. But I am strongly critical of its policies."

His message is a strong one: "I think the Park Service has been running amuck, breaking the laws of this country, making their own laws, abusing people.

"Unfortunately, there apparently no longer are any checks and balances in relation to the Park Service as there are in the American government. They have leaned over backwards to accommodate the environmentalists and have become arrogant and cavalier in their dealings with the inholders."

CUSHMAN says he has found hundreds of outraged landowners here who are fighting government efforts to absorb their land. But his approach is a nonviolent one.

"I can show them the way to beat the federal government, the Park Service, without violence," he says. "I'm concerned that somebody might go so far as to blow away a ranger here."

"I was warned there were people here ready to kill to protect their rights, but actually found them much more flexible."

CUSHMAN explains to various inholders about condemnation guidelines and other property regulations.

He says some 60 villages and 11 mining towns in the state face possible absorption into a federally managed area. Communities like Cantwell, Healy and McCarthy could be affected. Many residents have received letters explaining that if they modify any existing property, it may be condemned, Cushman reports.

"I think the Park Service has been running amuck," says Cushman, "breaking the laws of this country, making their own laws, abusing people... there are no longer any checks and balances."

"I think I can save the communities," he declares. "The federal government won't permit building on undeveloped land in these areas, but we can protect people and represent their interests. If a guy is there, he ought to be able to stay there."

CUSHMAN'S 18-day visit here, which he calls a "fact-finding mission," was sponsored by the Real Alaskan Coalition, Alaskans for Alaska, Alaskans United and Alaskans Unite. Most of their mem-

bers are inholders, he estimates, either as property owners or as businessmen with interests there.

Cushman, of course, is also an inholder. He has partial interest in two log cabins within the boundaries of Yosemite National Park. "The Park Service told me they'd have the cabins within five years, and that was six years ago."

His father was a park ranger, and Cushman's son now works for the Park Service, which represent some pretty close ties. Still, it is the lobbyist's position that the park service "feels specially anointed to make decisions, and that's the way they treat us... People living within national parks should receive as much consideration as the environmentalists."

HE LEFT the insurance business to take this non-salaried position. The organization, he claims, has 2,500 members throughout the nation. Its greatest strength is in his home state of California and other western states, and he hopes to develop a base here.

The Park Service has defended its constitutional right of eminent domain to buy out private landowners in the public interest of creating more parks. In a recent issue of Newsweek entitled "Land Grab by the Parks," the Park Service's assistant director, Phillip Stewart, was quoted as saying, "The government offers fantastic benefits to landowners," including deals whereby property owners can sell to the government and stay on as renters for 25 years, or until they die.



National Inholders Association

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NEWS RELEASE

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PARK SUPERINTENDENT SUPPORTS NIA CHARGES

Joel Picklener, former deputy chief of the legislative division of the National Park Service and present superintendent of Fire Island National Seashore in New York, admitted in an interview with the Fire Island Tide that it has been a National Park Service policy to condemn all private land within a park, forcing inholders to give up their land.

In the interview, published June 27, Picklener said "you have to realize that our (NPS) thinking was greatly influenced by an Army Corps of Engineers mentality. When the ACOE moved into an area to build a dam there was no question of anyone in the affected area remaining. Sometimes they had to remove people by gunpoint, but ultimately everyone was cleared out. The Sierra Club school of thinking is also very similar: residents within parks should be brought out.

"I have to give Charles Cushman (founder of the National Inholders Association) most of the credit for changing this approach. It was Cushman who started the hue and cry over NPS land acquisition and he kept at it until he focused public attention in that direction."

Picklener, a lawyer by training who was very much involved with the 1978 National Parks and Recreation Act, also said that Cushman's "mobilizing inholders and bringing pressure to bear on NPS," was one of the reasons the Service has "backed off" since the day NPS Deputy Director Ira Hutchison testified before a Senate subcommittee hearing that "it is anticipated that the authority to condemn would be exercised . . . so that the barrier island will ultimately be returned to its natural condition"

"After listening to a great many people express their feelings against government land acquisition, there was a turnaround in high-level thinking," Picklener said.

Picklener also supported Cushman's allegations that a "good-guy-bad-guy" management policy exists within the Park Service. "Cushman's right," Picklener said. "That was an NPS policy . . . I'm the nice guy in the scenario and I hope there are no gorillas in after I'm gone"



ILLEGALS—Jim and Kathy Craine, with son Jimmy, III, live in house year-round. Forest Service says the residence is illegal.



THE WAY HOME—Helen Bilbruck and her dog hiking up Trail Canyon Creek. She and her family have had to make the trek since February, 1978, when a flood washed out road bin. The U.S. Forest Service says it doesn't want to r

Times photos by

Homes in Angeles National Forest

Continued from First Page

bins prior to 1970, such as Reynolds, Dresser says they could stay, though if they sold the next owner could only use it as a second home. This has prompted many residents who have purchased cabins within the last 10 years to use a mailing address elsewhere while living year-round in the forest.

One such resident in Big Tujunga is Jim Craine, the big, bushy bearded resident of the cabin owners association. He argues the policy is a farce and that, if anything, year-round residents such as himself are needed in the forest.

"We're the ones that report the fires, fight the fires, help out when floods hit, look for lost hikers, clean up the trash left by the weekenders," says Craine, an engineer with General Telephone. "We care for the forest." His pregnant wife, Kathy, nods in agreement.

While helping themselves to a pot-luck lunch and a keg of beer at the meeting, cabin owners talked of their love of the forest and their life style. "We're an old-fashioned, pioneer-like community where everyone takes care of everyone else," says Virginia Reynolds, Rollin Reynolds' mother.

Mrs. Reynolds lives about a mile from her son in a section of the canyon known as La Paloma, which lost a bridge and was cut off from the main road in the last flood. "We had a tow line strung across the creek so they could send us stuff," she adds.



Rollin Reynolds

1945 and not related to Virginia. She says at that time everyone, residents and rangers, pitched in to help one another. But she adds that over the years "each ranger has got more and more demanding. One is worse than the other."

"Yes, but the only things they wanted were booze, cigarettes and dog food," adds her son with a laugh.

"Well, what else does anybody need?" quips a neighbor.

Remembering the good old days when the Forest Service rangers were very happy to have cabin owners in the canyon was Joan Reynolds, a resident since

"Rangers just don't like the public," adds Ann Baumann, a resident since 1949. "I know" because my son is a ranger.

Reynolds and Craine contend that the permittees complicate the rangers' lives, that they seem to prefer having the forest to themselves and that "the public be damned." The Service says it is the public it is concerned with and that the cabin owners are "a privileged few" who want the canyon to themselves.

The ill feeling between the Forest Service and the permittees appears to have been aggravated by the Trail Canyon Creek disaster. In February, 1978, heavy rains flooded the creek and a dam constructed by the Service over cabin owners' protests broke. A road serving the canyon and two cabins were washed away, killing a resident.

The cabin owners blame the disaster on the dam, which they say before breaking built up a wall of water that did the heaviest damage. The Forest Service denies the charge, citing high water marks upstream from the dam. "The dam was topped, then broke," says Dresser.

After an environmental survey, the Forest Service decided not to rebuild the road and declined to issue new permits for six cabins along the creek, on the grounds that the sites are in a flood plain and dangerous. The decision is being appealed by the cabin owners association.

A Difficult Hike
Meanwhile, with no road up the canyon family of Bill, Helen and daughter for the have had to hike from a parking lot up makeshift trail for about one mile to the survived the flood. It is a difficult hike, es

backpack of staples, but the Bilbrucks are moving.

"We've lived up here 17 years," says 48- as she bounds from rock to rock up the creek. "It's been terrific, especially for the friends. We love it up here and we've really lost hikers and some rangers, too. It's our h

The Bilbrucks started to rebuild the road but were stopped by the Forest Service. The road, on government land, would be too expensive to maintain, especially just for one there are other permittees elsewhere in also have to hike distances to their homes.

As for the Bilbrucks, the supervising ranger up the canyon is their choice since they are permit. But he adds their way of life was the Forest Service was not going to encour

Angeles National Forest:

Few Homes on the Range



ENDANGERED SPECIES?

Cabin owners in Big Tujunga Canyon listen to neighbor Rollin Reynolds at annual meeting. They fear that U.S. Forest Service wants to evict them.

Times photos by Gary Friedman

Residents Battle Forest Service

By SAM KAPLAN

Times Staff Writer

Forest fires, floods, vandalism and burglaries have not deterred the residents of Big Tujunga from the love of the land and their rough-hewn homes. The owners cling to the canyon like chaparral.

But as sure as the 50 or so families living in the scruffy cut of the Angeles National Forest can sniff a faint scent of a fire five miles away, they are sensing these troubled days a new threat to their way of life.

The enemy, they say, is not a natural disaster, marauding motorcyclists or slovenly day campers, though all are a constant concern. It is the U.S. Forest Service, which the residents petulantly personalize as "Smokey the Bear."

Spreading Oak Tree

The residents contend the Service wants them out of the forest. The Service warily answers that its general policy is to discourage private residences in the forest and to make all the land accessible to the public.

"We're the public, too, and 'Smokey' is harassing the hell out of us," says Rollin Reynolds, past president of the Big Tujunga and Pacoima Tract Cabin Owners Assoc. A bear of a man,

Reynolds has lived in the canyon for 12 years with his wife, Pearl, guns and a succession of children and dogs.

The privately built cabins are on government land for which the residents have an annual permit from the Forest Service to use. They pay a nominal permit fee as well as property taxes. Most of the cabins are modest with improved improvements and, before the "trouble" with the Service put them in doubt sold for up to \$50,000.

National
Forest
CAMPGROUND
Vogel Flat

MEETING SITE—Many owners live nearby

At a meeting of the association recently under two spreading oaks on Vogel Flat, cabin owners litany of what they consider of their property rights by the Service. They vowed to fight for their homes in the courts and, if necessary, the canyon.

Though invited to the meeting by one from the forest Service, they appeared. "They don't come too often and never by the way says a cabin owner. "They

Belongs to the Government

Among the cabin owners' complaints was the Forest Service's biting any new permits for round residences, mapping a plan recommending that all cabins be removed from the canyon, refusing to let six cabins in a 1978 flood be rebuilt to maintain roads and bridge permits.

In response, William Dresser, supervisor of the Angeles National Forest, says that "they (the cabin owners) don't seem to recognize that the land they have their cabins on is public land."

Dresser adds that the Forest Service policy since 1970 discourages year-round use of cabins not only in Big Tujunga, but in other national forests. About half of the cabins in the canyon are used as residences.

As for owners who bought

Tight for their land

By PETER ALMOND

Like their neighbors to the west in Hinckley, scores of Peninsula area homeowners are boiling mad about government agencies taking their land for public park use.

In Hinckley the enemy is the Metroparks Board. In Boston Township and Peninsula it is the National Park Service, administrator of the new Cuyahoga Valley National Recreation Area.

Last night in Peninsula, heart of the park, residents criticized the Park Service's method of acquiring park property and labeled Park Service employees "small-minded bureaucrats."

No representatives of the Park Service were there to respond. But Rep. John Seiberling, D-Akron, a major sponsor of the bill creating the national park in 1974, attended and took the brunt of the emotional and heated criticism. Seiberling's district includes the southern end of the park, which extends from Independence to Akron.

Residents charged that the Park Service is forcibly buying land without any demonstrated need, destroying the community in an overzealous desire to create open land and grab it before prices go any higher.

"None of us is against the park. This is a beautiful area and we want to preserve it," said Leonard Stein-Sapir, president of the Cuyahoga Valley Homeowners and Residents Association. "But what the Park Service is doing to us is to kill any respect we have for them."

He said the main problem is that during the past three years the Park

Service has been directly acquiring outright — by fee simple — 301 properties in the 32,000-acre park. Seventy-three acquisition cases are pending in court.

Stein-Sapir proposed that the Park Service increase its use of scenic easements, of which there have been 380 so far.

Such easements allow private landowners to keep their land but permit them to make major changes on the property only with government permission. Most residents would accept that, he said.

One of the properties scheduled for outright acquisition is a florist shop which Bob and Natalie Volcanoff have owned for 27 years. Now they have been told their property is condemned. Volcanoff is prepared to move, but he said with the appraisal offered by the Park Service he can never replace what he has now.

Another property is a lumber yard. Another is a small auto repair shop.

Seiberling said such businesses just cannot be allowed in a national park.

"Why not?" asked a man whose father owns a lumber yard under government condemnation order. "My father is 70 years old. He's a fixture there. One of the things a national park is supposed to do is to preserve historic landmarks. My father and his place are landmarks."

The homeowners association has a case pending in Federal Court here which it hopes will stop further acquisitions by fee simple.

... "what the Park Service is doing to us is to kill respect we have for them." — Leonard Stein-Sapir

The Cleveland Press • Friday, January 18, 1980

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PAGE C5
STUBBINS



PROTESTS 'LAND GRAB' — Leonard Stein-Sapir (right), chairman of a homeowners association in the Cuyahoga Valley National Recreation Area, emphasizes the group's complaint that the National Park Service is being overzealous in acquiring property for the park. Rep. John Seiberling (left), a major sponsor of the bill that created the park, took the brunt of criticism at a meeting in Peninsula last night.

Park Service a vulture in valley

Editor's note: The following letter, written by Leonard R. Stein-Sapir, the president of the Cuyahoga Valley Homeowners and Residents Association, is in response to a column by James S. Jackson, retired associate editor of the Beacon Journal, published Jan. 5.

Mr. Stein-Sapir is also involved in a court suit against the National Park Service over land acquisition policies in the Cuyahoga Valley National Recreation Area.

WITH GREAT dismay, I read James Jackson's article "Now comes hard part in Valley Park land acquisition." The tenor of the piece was that the Park Service is a benevolent organization pitted against "unjustly inflamed residents" and a biased national television program aired by NBC Dec. 16. The facts show the Park Service for what it really is, a wolf in sheep's clothing.

Like many other Good Samaritans who fail to take the time to research their subject, Mr. Jackson does more to harm the cause of justice and understanding than to foster it.

He evidently has not reviewed the legislative history of the park act.

He evidently has not analyzed the over 200 pages of sophisticated legal briefs filed by the homeowners' association in Cleveland Federal District Court.

He evidently has not personally investigated the actual land-buying activities of the Park Service.

He evidently has made no attempt whatsoever to read the recent General Accounting Office report on the National Park Service's land acquisition practices. That report, as discussed by the national news media, exposes the same abusive and illegal land acquisition practices by the National Park Service that now sting Mr. Jackson's neighbors in the Cuyahoga Valley.

Very few of the "dissatisfied people with whom the service must deal" are against the creation of a recreation area in the Cuyahoga Valley. What these good people are against is the wanton, needless destruction of a community by an insensitive bureaucracy that is grossly exceeding its legislative authority.

In 1974 Rep. John Seiberling told the House Interior and Insular Affairs Committee that based upon National Park Service studies, only "between 26 and 30 residences in the entire valley" would be taken "by acquisition purchase."

"Unlike most national parks," he said, "it would not be wholly federal owned, as much of it would be protected from development through scenic easements and local zoning." He added:

"A park, after all, is not just a place. It is an experience. So, when we talk about the proposed Cuyahoga Valley Park, we are not just talking about conservation of a piece of land. We are talking about conservation of people as well. In planning the park, the people must be considered as a resource, as well as the trees and flowers and birds and waterfalls."

In light of Rep. Seiberling's testimony as the drafter of the park act, it seems strange that the Park Service would proceed by eliminating over 300 homes by fee purchase and currently litigating 73 additional condemnation actions out of the 500 single-family homes originally included in the park.



Leonard Stein-Sapir

Sen. Howard Metzenbaum has expressed concern. His office is examining legislation, drafted by the homeowners' association, which would require the Park Service to re-establish the community it has effectively destroyed.

Mr. Jackson recites, with seeming approval, the Park Service justification for forcing people to sell: It is "necessary to fulfill the purposes outlined in the general management plan."

What Mr. Jackson does not say is that the original "detailed plan," which according to Section 3a of the park act was to "indicate the lands and areas which the secretary of the Interior deems essential to the protection and public enjoyment of this recreation," was never filed by the government.

In 1977, one year late, the government filed the "general management plan" to which Mr. Jackson refers. However, that plan is so vague and general that in almost every case of single-family residential land acquisition it is impossible to justify the acquisition by any statement in the plan. Furthermore, according to sworn testimony of the park superintendent, the general management plan is not "final," but merely a working document.

In other words, people are being forced to sell their family and ancestral homesteads to the Park Service in the name of a plan that is neither related to the acquisition nor considered by the government to be definitive.

Mr. Jackson asserts, with approval, that homeowners whose residential properties are wrenched from them can retain a right of occupancy for a stated number of years up to life.

Imagine yourself forced to decide where you will live the rest of your life — with the requirement that you pay for this privilege immediately, and no likelihood you will get anything back if circumstances later force you to move.

Mr. Jackson also fails to comment on the very significant difference between being the owner of your own residence and being a tenant of the government. Evidently, he has not considered the systematic degradation of community life inherent in a situation where most of the community's residents must leave

The government's systematic conversion of homeowners to government term-of-years tenants tragically injures each resident. As stated in the Homeowners' brief currently on file in the Cleveland Federal District Court:

The plaintiff association's membership have desperately, and somewhat fearfully, banded together for the purpose of retaining fee title to their homes, so that they can rear their children and enjoy all of the other attributes of the constitutional right of familial privacy without becoming the functional equivalent of involuntary tenants of Uncle Sam.

Part of this needless devastation of the community is reflected in Roger Edwards's March 16, 1979, letter to the park superintendent stating:

As mentioned to you earlier in the week in our phone conversation, Woodridge Board of Education discusses regularly the impact the CVRA is having and has had on our school district. Because of our declining enrollment this concern has intensified. The Board of Education, consequently, unanimously passed the following resolution at its meeting on March 15, 1979:

Whereas, the fee acquisitions made by the National Park Service have had a significant effect on the enrollment and tax duplicate within the Woodridge Local School District, the Woodridge Board of Education, therefore, strongly recommends to the National Park Service that fee acquisitions of any property be made only when absolutely necessary.

To put the matter in perspective, Mr. Jackson must understand that the recreation area encompasses over 30,000 acres, with only 500 single family residences originally scattered through this vast area, using less than 2 percent of the total area. For some inexplicable reason, the Park Service feels that these individual residences must be permanently removed from private hands so that, as Mr. Jackson states with approval, "the public has a right of access."

For a moment, imagine yourself approached by a government agency with the full power and authority of the U. S. attorney's office behind it and told you are required to convey ownership of your home to them.

They will not point out to you a specific reason why they need your residence; they do not need your home to erect a facility such as a highway, school or hospital.

If you spend the money to hire a lawyer and pay the court reporter fees you will learn that in the mind of the bureaucratic head of the agency "open space" is preferable to the permanent maintenance of your family unit.

Remember, too, that if you intend to fight, it will cost you \$20,000 to \$30,000 to do so properly, but it doesn't cost your bureaucratic opponent one penny out of his pocket to oppose you.

Interestingly, if you elect to "accept" the government's determination under these circumstances you are classified as a "willing" seller.

The travails of our neighbors in the Cuyahoga Valley have been brushed aside by people like Mr. Jackson who parrot pretty phrases such as "It's for the common good." Perhaps those people need reminding that the beauty of America lies in strengthening individual liberties, not in their denigration.

Mr. Jackson's hollow rhetoric saddens me deeply. Crushed between his pious Park Service platitudes and unfounded accusations of public "misunder-

GAO Blasts Park Service Purchasing

Report Suggests Agency Sell Land Back for Private Use

By ROBERT A. JONES, *Times Staff Writer*

A draft report from the General Accounting Office harshly criticizes the land purchase practices of the National Park Service in northern Washington state and recommends that the agency sell back the land to private interests.

The report, which is due to be released in final form next month, says many of the land acquisitions in the Lake Chelan National Recreation Area "appear to be inconsistent with congressional intent."

The Lake Chelan dispute is one of several in which the Park Service has been accused of using improper tactics to purchase national park land now in private ownership.

\$2.4 Million Spent

Since 1968, when the recreation area was established by Congress, the National Park Service has spent about \$2.4 million to buy 1,730 acres of private land inside the boundaries of the area, which is located along an edge of the Northern Cascades National Park.

Although Congress clearly authorized the Park Service to make land purchases, the report said it did not intend the agency to force residents from their homes or encourage sales of businesses by threatening the business owners with commercial restrictions.

These and other practices occurred at Lake Chelan, the reports claimed, including the purchase of lands not threatened by any form of development. The report noted that the Park Service has requested another \$3 million to continue its acquisition program.

To correct the alleged abuses, the GAO recommended that the Park Service be directed to develop a land acquisition policy based on limitations contained in federal legislation, and, in addition, sell back properties that were purchased outside the agency's authority.

Previous Criticism

The GAO, which is the investigative arm of Congress, has criticized the Park Service's land practices in previous reports, but this is the first time that it has recommended that the agency be forced to reverse the sale process.

Gale Brommer, a spokesman for the Park Service's Northwest Regional Office, said the agency had not received a copy of the draft report but noted that the privately held areas of Lake Chelan are threatened with numerous subdivision projects.

"We feel we have an obligation to keep the area the same as it was when Congress established it in 1968," he said. "There is a limit on how many homes and busi-

nesses the region can support without degradation."

Critics of the Park Service's treatment of persons owning land inside National Park units—such people are known as "inholders"—have attempted for several years to have Congress initiate reforms of the agency's lands policies. Thus far, such attempts have been without success, but the GAO report is expected to lend support to their claims that change is necessary.

Service's New Director

Conceivably, the report could also cause trouble for the Park Service's new director, Russel Dickenson, who was the director of the northwest region during the time the alleged abuses took place.

But a spokesman for the Wilderness Society, which has supported the Park Service, claimed that in the past most such charges evaporated when full investigation of the land purchases were made. "The GAO is not totally wrong, but they have overstated the problem," said Ronald Tipton.

A separate study on Lake Chelan, done by graduate students at the University of California, Santa Cruz, came to opposite conclusions, Tipton said. That report, he said, recommended more zealous action by the Park Service.

Nonetheless, he said congressional hearings on the matter could well take place in the next session, given the GAO's strong position and the arrival of conservative leadership in Congress.

Weather
Showers.
High low to mid-50s; low, 40s.
Details, D 12.

Land acquisition by Park Service hit in G.A.O. report

The National Park Service violated congressional intent in acquiring private lands around the community of Stehekin in the Lake Chelan National Recreation Area and the lands ought to be sold back into private ownership, according to a draft study by the General Accounting Office.

The Times obtained a copy of the draft report prepared by the G.A.O., Congress' fiscal watchdog. The agency's final report is expected soon.

The draft, strongly critical of the Park Service, says that when the Lake Chelan National Recreation Area was established in 1968, Congress intended "that land-acquisition costs should be minimal, the private community of Stehekin . . . should continue to exist, existing commercial development should not be eliminated, and additional compatible development should be permitted to accommodate increased visitor use."

But since then, the draft says, the National Park Service "has spent about \$2.4 million to acquire over half of the 1,730 acres of privately owned land in the recreation area. Many of these acquisitions appear to be inconsistent with congressional intent."

Daniel J. (Jim) Tobin, Park Service regional director, said his agency disputes the G.A.O.'s findings and believes its activities conformed with Congress' intent.

The G.A.O. said the Park Service had "encouraged" sales of private land by "imposing restrictions on businesses which are so prohibitive that a reasonable return on investment could not be realized" and by "making promises to private landowners concerning the (Park) Service's development plans for the area which were not fulfilled."

The Park Service also "spent about \$357,000 to acquire the three private lodges and the only restaurant in the recreation area" with the result that "lodging accommodations have decreased about 50 per cent," the draft says.

Another \$508,000 was spent to acquire "42 tracts of land each less than 2 acres in size." The tracts contained small, single-family homes that were "compatible with the purposes of the enabling legislation" or were so small "they could not have been subdivided under the existing zoning ordinance or developed in a way which would make them incompatible with the recreation area," the draft says.

"Many of these tracts did not have to be acquired," it says.

Private landowners never were offered scenic easements as an alternative to having the Park Service buy their land, the G.A.O. says.

The report notes that the Park Service has requested \$3 million more to acquire more property. But among other recommendations, it says Congress should not increase acquisition funds above levels already approved.

The draft also recommends that the Park Service "sell back to the highest bidder, including previous owners or other private individuals, all lands compatible with the purposes of the recreation area."

That would include "the modest homes, lodges and restaurant," the report says.

Scenic and development restrictions could be included in the deeds to the properties sold so that the recreation area would be protected, the G.A.O. says.

The report also urges that the Park Service be directed to develop a land-acquisition plan consistent with congressional intent. The service never has defined incompatible uses in the area, it said.

"We disagree with the general conclusions (of the report) and certainly feel that congressional action asked for the area to have protection, including the acquisition of properties," Tobin said.

He said some of the private property was acquired from commercial enterprises that were having financial difficulties. The property then was leased back to the former owners. By acquiring the property, the Park Service was able to improve sanitary facilities such as sewage-disposal systems, he said.

Robert Byrd, a Stehekin landowner who formerly was the Park Service's concessioner in operating the restaurant and lodge at Stehekin, has been a leader in landowners' battles with the Park Service over land acquisition. An inspector from the G.A.O. visited Stehekin earlier this year.

Washington's largest newspaper
The Seattle Times
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December

LIPTON,
MILTON

3-9-81

Alaska State Legislature

BETTYE FAHRENKAMP, CHAIRMAN
VIC FISCHER, VICE-CHAIRMAN
BRAD BRADLEY
DICK ELIASON
DON GILMAN
BOB MULCAHY
ARLISS STURGULEWSKI



POUCH V
STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Senate

Committee on Resources

March 9, 1981
1:30 p.m.

Senate Finance
5th Floor - Capitol

SENATE MEMBERS PRESENT

SENATOR FAHRENKAMP
SENATOR FISCHER
SENATOR MULCAHY
SENATOR STURGULEWSKI
SENATOR GILMAN

HOUSE MEMBERS PRESENT

REPRESENTATIVE GARDINER
REPRESENTATIVE ZHAROFF
REPRESENTATIVE BETTSWORTH
REPRESENTATIVE BARNES
REPRESENTATIVE HALFORD
REPRESENTATIVE GRUSSENDORF
REPRESENTATIVE HURLBERT
REPRESENTATIVE SURCLIFFE
REPRESENTATIVE SMITH
REPRESENTATIVE VASKA

The Committees were briefed by Milton Lipton, President, and Richard Kilgore, Vice President and Director of Research, of W. J. Levy Consultants. They are consultants to the Legislature on oil and gas issues.

Mr. Lipton discussed external factors effecting the market for Alaskan crude oil. He stated that there had been a striking swing in the recent past from imminent shortages to a surplus of worldwide oil supplies. This was due to growing conservation and a decline in economic growth in the face of rising costs, which led to a lower level of consumption of all forms of energy, particularly the most expensive, oil.

Mr. Lipton stated that the short term prospects for world oil supplies is impossible to predict. The key factors for the next two years are: (1) political developments in the Middle East, and (2) the psychological/emotional perceptions of the oil importing nations and oil purchasing companies of the future of oil supplies in the face of that political uncertainty.

He outlined two extreme scenarios of possible development. There could be either a glut or a crisis in the world oil supply, depending on the political and psychological factors. However, he believes the odds are that the situation will fall somewhere in between. The unpredictability of events in the Middle East and African oil-producing countries will lead to the oil purchasers maintaining high inventories, thus supporting the market price.

Mr. Lipton stated that long-term predictions are safer than short-term ones. Alaska's concern is with the future of the world oil market. The price of U.S. domestic crude is linked to the average or "support" price of OPEC oil, now at \$36 per barrel. The odds are that there will be a modest rising trend. It is the business of OPEC to maintain the price of their oil. Surpluses notwithstanding, the support price will rise to about \$40 per barrel by the end of 1982. It is expected that the bulk of Alaskan crude oil prices will be determined by the import price of foreign oil.

He stated that in the long view there is no question that there will be a rising trend in the real price. Despite any other factors or set of assumptions, there will be an increasing demand for energy and oil on the world resource base. The price of replacing a barrel of oil will rise, and the value of remaining reserves will appreciate.

MINERS -
INFORMAL
MEETING

1-23-81

10

Alaska State Legislature

BETTYE FAHRENKAMP, CHAIRMAN
VIC FISCHER, VICE-CHAIRMAN
BRAD BRADLEY
DICK ELIASON
DON GILMAN
BOB MULCAHY
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JUNEAU, ALASKA 99811
(907) 465-3834
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Senate

Committee on Resources

January 23, 1981

Anchorage, Alaska

Informal meeting between members of the Senate Resources Committee and members of the Alaska Miners Association. Attending: Senators Fischer (presiding), Bradley, Eliason, Gilman, Mulcahy and Sturgulewski. Paul Glavinovich, Dick Swainback, E. O. Bracken, David Hedderly-Smith, C. C. Hawley, Phil Holdsworth, Howard McWilliams, Ron Sheardown, Roger Jenkins, and Joanne McMaster.

The first concern was that the Senators be aware of the situation in the state. There are several locations for lode mining: Western Brooks Range, Ambler (although there is currently an access problem - would employ between 1500-2000); Eagle (asbestos - employs about 3-400); Green Creek (Juneau area); Quartz Hill (7-800 eventual employment); Lost River; Mount Prindle, and Yakobi Island. Placer mining is being conducted in the Seward Peninsula, Yakataga; Tulaska River (Lower Kuskokwim); Livengood; and smaller operations at 40 Mile, Circle, Manly, McGrath. Mining can be accomplished but miners need a favorable regulatory and economic climate.

Senator Sturgulewski requested a map outlining the areas and the numbers of people employed. Phil Holdsworth suggested that long range transportation corridors be added to the map.

The second area of concern was taxation. A study has recently been completed with regards to the economic spinoffs of mining. It will be sent to the committee members. Senator Eliason asked if the current tax structure had held up production. The answer was no.

The third area of concern was leasing and the content of the draft Attorney General's opinion on the subject. The Association is concerned that the findings would prohibit staking of mining claims. There are two systems for prospecting. One is mine location, the present system, and the second is leasing, similar to that used in oil exploration. The Association fears that a leasing system would add 60-80 people to the bureaucracy, prevent discovery and put the small miner out of business. They feel the catalyst is the fact that some people in the Department of Natural Resources,

are not interested in developing mining, want to use the leasing mechanism as a means of control for keeping tabs on mining. Under the draft Attorney General's opinion all current mining claims would be invalidated. In negotiations between the Attorney General's office and the Association's attorney seven of the twelve original findings have been found incorrect.

The fourth concern was the miners revolving loan program. The requirement for the owner to have five years prospecting experience has been harmful in some situations where an Alaska resident, without five years mining experience, but with an employee with that experience, has been unable to use the loan program. An amendment to the law was suggested.

The fifth concern was to make the Committee aware of some of the problems the smaller operators are having. New Fish and Game regulations cite over 200 different statutes. The individual just does not have time to research each of those citations. The regulations were hand delivered to the miners on January 21, 1981 when the deadline for comments was December 29, 1980. Fish and Game was last year going to identify all anadromous streams and allow mining on the other streams. New regulations apply to all streams frequented by fish and include all the flood plains. This would eliminate almost all placer mining.

Senator Fischer stated that a large part of the problem arose from the fact that the state has no mineral policy.

The sixth concern was on withdrawals. They would like to get some specific exchanges, but will be working on that.

The last concern was on the Mining Safety section of the U. S. Department of Labor. The regulations on training and employment safety are very stringent. All mines must meet tight requirements and there is currently no budget in the state to help. It is possible that the training sessions could be held in conjunction with the Community Colleges.

DRAFT minutes of Fairbanks Miners' Meeting

3/21/61
FAIRBANKS

Joe Vogler stated that 6(i) was the most important issue since statehood. The Attorney General's opinion would probably be upheld in the courts. Provisions of the Statehood Act are more stringent than other federal mining laws. Those provisions were not well known when territorial Alaskans voted on statehood.

Bill Waugaman (Chairman, Legislative Affairs Committee, Alaska Miners' Association) testified that other legal opinions might differ with the AG's draft opinion on 6(i). 6(i) is just one item of many of the miners' problems, including Coastal Zone Management, the proposed Fairbanks state forest, and the proposed Fish & Game habitat protection regulations.

Roger Burgraff stated that the AG's opinion was influenced by Administration policy on habitat protection. Alaska has little mining law because of government policy. The state has strategic minerals. The federal government will step in if the state does not. Fish & Game is not oriented towards resource development. Alaska needs departments of mining and energy.

Don Stein (President, Fairbanks Branch, Alaska Miners' Association) reviewed the history of mineral leasing. He pointed out that the federal government can take over land if the state blocks mineral development.

Dick Jackson (Area Forester, Division of [?]Parks, Department of Natural Resources) stated that miners have very cooperative ~~with his Division~~.

Fred Heflinger _____ ?

John Gataly testified that he is opposed to a leasing system. He expressed concern over HD 136 _____ ?

Jim Regan _____ ?

Don Mby spoke in support of Joe Vogler's testimony, and expressed a desire to stop meeting and put the land to work.

Walt Wigger (Alaska Miners' Association) stated that the draft opinion on 6(i) makes miners 'second-class citizens'.

Robert Burgess testified that he disagrees with the AG's draft c , which would only help the large mining companies.

Paul Barrelka stated that he had been a miner for thirty years. He said that before th environmentalists came along the miners had respect for the land.

John Schilling testified that the proposed habitat regulations would close down the mining and timber industries.

Mrs. Scott Haskins stated that the proposed habitat regulations would shut down their family mining operation.

Vince Guzzardi testified that a new mining license process was needed. Beginning in 1980, he has filed applications with nine different departments, and still has not received his license. He is opposed to further regulation; we already have enough.

Barry Donellan stat that miners do not want a leasing system. The AG's opinion was directed towards a given conclusion. He said that people do not want the habitat regulations.

David Paxton testified that he was worried about further mining taking place. He does not want to work at Mac Donald's.

Lyle Morrow spoke of problems with the Corp of Engineers in Montana _____ ?

~~Robert Ault stated that he was tired of hearings on federal and state regulations. Alaska needs a department of mining. the Department of Natural Resources should be directed to classify land for mineral development, which has been secondary~~

Robert Ault stated that he was tired of hearings on federal and state regulations. Alaska needs a department of mining. the Department of Natural Resources should be directed to classify land for mineral development, which has been secondary to everything else thus far.

Jack Herron testified that the 'claim and location' system had been greatly beneficial to Alaska, especially as a form of resource evaluation.

John Sims (Director, Office of Mineral Development) stated that the Office of Mineral Development has devoted much time to the 6(i) issue, and has offerer a draft statement on a possible solution. The AG's opinion is correct, however a lease system_____?

MINING
BRIEFING

1-14-81



Alaska State Legislature
Senate

JUNEAU, ALASKA

SENATE RESOURCES COMMITTEE

January 14, 1981
1:30 p.m.

Beltz Room
Capitol 211

MEMBERS PRESENT

SENATOR FAHRENKAMP
SENATOR ELIASON
SENATOR FISCHER
SENATOR GILMAN
SENATOR MULCAHY
SENATOR STURGULEWSKI

MEMBERS ABSENT

SENATOR BRADLEY

Phil Holdsworth (former Commissioner of DNR, Consultant and lobbyist) briefed the Committee on mining in the State.

During 1980 the mining industry: employed approximately 3-4,000 people; \$65-75 million was spent on exploration; gold production was 70,000 ounces figured at \$500.00 per ounce - \$35 million; and, coal production, with only one operator in the state was 700,000 tons - \$10 million.

He expects mineral exploration and other mining activities to increase because of a higher degree of certainty within the industry over the status of land in Alaska following the passage of the Alaska Lands Act. Hardrock and placer gold claim staking doubled in 1980 over the two previous years. Some 19,500 claims were staked last year, roughly half of them on placer gold prospects and the other half on hardrock mineral claims.

Mining Loan Program: The \$10 million revolving loan fund established last year has made loans totaling \$4.6 million; another \$3.7 million is expected to be committed for pending applications, leaving a balance of approximately \$1.6 million. He suggested that perhaps another \$10 million be appropriated to handle the additional applications anticipated.

Surface Mining Control & Reclamation Act of 1977: this took the power to regulate coal and other surface mining away from all of the states, but it provides a mechanism by which this power can be partially restored to the states upon approval by the federal Office of Surface Mining (OSM) provided the state program incorporates minimum federal management standards. The deadline to submit a state plan

was March 3, 1980 and OSM has stated that programs that were not approved would require a Federal program. The state has argued that since section 708 of the Act required a special study by the National Academy of Science-National Academy of Engineering thus dictating a different time frame for Alaska. This study was turned in only a couple of weeks ago.

He would like to see the state help miners by providing transportation by establishing a long range transportation program because there are some mineral areas that are economically viable but do not have transportation to market. .

J.P. Tangen: Past President of the Alaska Miners Association and an attorney for mining companies. OSM and the Surface Mining Control and Reclamation Act are quite a problem. The law is one of the greatest sources of litigation and a portion of it is before the Supreme Court. He stated that the state and federal government lack the personnel and expertise to enforce it.

Jeff Haynes .. Department of Natural Resources. The OSM wanted uniform regulations which were not in the best interest of the state. The study by the Academy had to be done before the state could submit its plan. The last reading was that the federal government was to acquire jurisdiction in late February or early March. The tone of the Academy study will officially and scientifically back the suggestions of the state.



Alaska State Legislature
Senate

JUNEAU, ALASKA

MEMORANDUM

TO: SENATE RESOURCES COMMITTEE MEMBERS

FROM: SENATOR BETTYE FAHRENKAMP
CHAIRMAN

RE: ATTACHED MATERIALS

DATE: JANUARY 16, 1981

I would like to bring to your attention the attached memorandum prepared by the House of Representatives' Research Agency. The memorandum deals with the feasibility of using State royalty gas in the Beluga and Cook Inlet Region to generate electricity for the Fairbanks area.



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

January 12, 1981

MEMORANDUM

TO: Senator Pat Rodey
Attn: Jim Kelly

FROM: Jack Kreinheder *JK*
Issues Analyst

RE: Production of Fairbanks Electric Power from Cook Inlet Natural Gas
Research Request No. 171

You requested that we explore the feasibility of using State royalty gas in the Beluga and Cook Inlet region to generate electricity for the Fairbanks area, and that we provide information on the volumes of proven gas reserves and committed and uncommitted State royalty gas in the area.

Summary of Findings

- The feasibility of providing Fairbanks power from the Cook Inlet area appears to depend primarily on the economics of the Anchorage - Fairbanks transmission intertie, rather than the availability of royalty gas. Although the sale of royalty gas at subsidized or below-market prices could enhance the viability of the intertie, it does not appear to be a deciding factor.
- A 1979 study by Retherford Associates, Inc. estimated that Anchorage power could be delivered to Fairbanks through a 138 kilovolt intertie at a cost of about 3 cents per kilowatt hour less than Fairbanks power rates. This intertie system could provide about 47 percent of Fairbanks current power needs, thus reducing residential power rates by about 1.4 cents per kilowatt hour, or 15 percent. An update of this analysis by Commonwealth Associates will be available in the coming week.
- The remaining recoverable gas reserves in Cook Inlet total about 3,766 billion cubic feet (BCF). Of this volume, approximately 2,358 BCF are currently committed under contract, leaving 1,408 BCF in uncommitted reserves. About 251 BCF of remaining recoverable reserves of State royalty gas are estimated to exist in the Cook Inlet area¹. No estimate of the portion of this royalty gas which is committed is available at this time. Table 1, attached, provides a breakdown of remaining reserves by field.

¹ Estimate of total reserves by the Oil and Gas Conservation Commission, as of January 1, 1980. New estimates for reserves as of January 1, 1981 will be prepared by March. Estimate of committed and uncommitted reserves and of State royalty reserves by Division of Minerals and Energy Management, as of January 1, 1980.

The key question with respect to the feasibility of generating power for Fairbanks with Cook Inlet gas does not appear to be the availability or price of royalty gas, but rather the economic feasibility of an electric transmission intertie between Anchorage and Fairbanks. Although the State could conceivably enhance the viability of the intertie by selling royalty gas to Anchorage utilities at below-market prices, the effect of such an action on the intertie would be limited, for two reasons. First, the State's royalty share of total Cook Inlet gas production is relatively small, so the benefit of any price advantage for royalty gas would be diminished by the higher cost of the much larger quantities of gas needed by Anchorage utilities. Even if the royalty gas were provided free, the total cost of gas for Anchorage utilities would decline only moderately. Second, most of the benefit of reduced gas prices for Anchorage utilities would go to Anchorage consumers, because only a small percentage of the power generated would be transmitted to Fairbanks.

The possibility of interconnecting the power systems of Anchorage and Fairbanks has been discussed and studied for a number of years. Because of the relatively small size of the two populations, the distance between them, and the low cost of fossil fuels before the OPEC embargo of 1973, an intertie of this type had not been found to be economically feasible. However, the rapid increase in the price of fuels during the mid-1970's significantly improved the viability of an intertie between the two communities, and in 1978 the Alaska Power Authority (APA) undertook a new intertie study.

The APA selected Robert W. Retherford Associates as the principal consultant for the study. The primary focus of this study was on the feasibility of building an intertie line large enough to accommodate future power production from the proposed Susitna hydroelectric facility. The study looked at two line sizes: 345 kilovolts (kV) and 230-kV. The Retherford study found that the 345-kV line was not feasible, but that the smaller 230-kV line was economically feasible if built by 1984.

The study indicated only marginal feasibility for the 230-kV intertie line. The railbelt utilities then suggested that the APA consider a smaller intertie which would utilize existing transmission lines that now end at Willow on the south and Healy on the north. Retherford Associates also conducted this second analysis, which concluded that an intertie of 138kV from Willow to Healy was feasible, based on the transfer of surplus Anchorage power to the Fairbanks area. The study estimated that because of the lower price of Cook Inlet gas relative to the cost of oil and coal burned by Fairbanks utilities, this surplus Anchorage power could be delivered in Fairbanks at a cost approximately 3 cents per kilowatt hour lower than the prevailing power rates in Fairbanks.

An update of this analysis is now being prepared by Commonwealth Associates, Inc. for the APA. In 1980, the legislature passed three bills

which appropriated money for the Anchorage-Fairbanks transmission intertie and directed the APA to proceed with preliminary design, route selection, and development of a financing plan. In late August, 1980 the APA selected Commonwealth to do this work and also to complete an updated feasibility study which considered the benefits of both reserve sharing and the transfer of economy energy, as explained below. The Retherford study had considered only the latter benefit. The results of this updated analysis are expected to be available by mid-January and we will convey these findings to you as soon as we receive them. The transmission intertie offers two types of potential benefits to railbelt residents: reserve sharing and the transfer of economy energy. Reserve sharing would benefit primarily Anchorage, but also Fairbanks, by:

(1) allowing Anchorage utilities to take advantage of the greater generating capacity reserves in Fairbanks, thus reducing the need for construction of new generating capacity in Anchorage during the coming years; and

(2) providing greater reliability for the power system as a whole through the linking of generation capacity in the two cities. This improved reliability would reduce generation reserve requirements, thereby reducing the operating and construction costs of new generating capacity for both Anchorage and Fairbanks.

Power generation reserves are necessary to enable utilities to cope with failure of generating units, unanticipated loads such as those caused by unusually cold weather, rapid population growth, and so on. This reserve or excess capacity usually averages between 20 and 25 percent of the peak or heaviest demand for utilities in the contiguous United States. In other words, utilities usually maintain enough generation capacity to generate 1.2 to 1.25 times more power than is actually demanded by its customers. For a number of reasons, including slowed economic growth following completion of the Trans-Alaska pipeline, Fairbanks has a reserve of nearly 56 percent, compared to the Anchorage reserve of about 33 percent². The transmission intertie would allow the greater Fairbanks reserves to be shared with Anchorage, and would permit utilities in both cities to maintain a lower level of reserve capacity in the future than would otherwise be needed in the absence of the intertie. Although power consumers would receive no immediate benefits from reserve sharing, electricity costs in future years would be significantly lower than without the intertie.

²These figures and much of the intertie information in this memorandum prepared by David Wozniak, Intertie Project Manager for the APA.

Anchorage rates average about 4.0 cents per kWh. (rates vary significantly between utilities in each city, but these figures are approximate averages for the cities as a whole). Anchorage power rates are therefore about 5.2 cents per kWh lower than those of Fairbanks. Of course,

Fairbanks consumers would not see their power bills drop by the full 5.2 cents per kWh cost differential if the intertie were built, because the cost of building and maintaining the intertie would have to be added to the cost of the delivered power. As mentioned earlier, Retherford Associates estimated in their 1979 study that the delivered cost of Anchorage power in Fairbanks, including intertie expenses, would be approximately 3 cents per kWh less than power generated in Fairbanks. The delivered power cost would therefore be about 6.2 cents per kWh at present rates, or about one third less than the current Fairbanks average.

The 138 kV intertie line on which the Retherford analysis was based would be capable of transferring up to 35 megawatts of power from Anchorage to Fairbanks. This figure compares to the existing Fairbanks generation capacity of approximately 271 megawatts (excluding military and University of Alaska facilities). Although the transmission capacity of the 138 kV intertie would be only 13 percent of Fairbanks generation capacity, less than half of the Fairbanks capacity is usually producing power at any given time, so the potential contribution of the intertie to Fairbanks power needs is larger than the capacity figures alone would indicate.

Retherford estimated that on an annual basis, the 138 kV intertie would be able to transmit at least 200 million kWh from Anchorage to Fairbanks. To put this figure in context, the two Fairbanks electric utilities generated a total of about 400 million kWh during 1979. Therefore, this intertie system would be capable of supplying about 47 percent of Fairbanks power needs. If the Retherford estimates of the delivered cost of Anchorage power are accurate, consumer power costs in the Fairbanks area could be expected to drop by about 1.4 cents per kWh, or 15 percent (3 cents per kWh x .47).

Although the benefits of reserve sharing could allow Anchorage utilities to provide more than 47 percent of Fairbanks power needs, at least in the short run, the economic feasibility of transmitting this additional power to Fairbanks is doubtful. The feasibility of the 138 kV intertie discussed above is largely dependent on the use of existing transmission facilities from Anchorage to Willow and Fairbanks to Healy. Increasing the 35 megawatt capacity of this intertie system would require a substantial upgrading of the existing power lines, thus increasing the cost of delivered power in Fairbanks. The marginal feasibility of the larger 230 kV line analyzed by Retherford Associates suggests that the economies of using the existing power lines would outweigh the advantages of providing a larger percentage of Fairbanks power needs from Anchorage. Another factor is that even with reserve sharing, the amount of surplus

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power which would be available from Anchorage would decline as Anchorage continues to grow and need more power for its own needs. In the long run, Anchorage utilities might not be able to spare more power than the 138 kV line could carry. These questions should be addressed in more detail by the Commonwealth Associates study.

I hope this information is useful. We should be able to provide you with an update of this memorandum based on the Commonwealth study by the week of January 19. Please let us know if you have any questions or would like additional research in this area.

JK/bf

TABLE 1
 Remaining Proven Recoverable Natural
 Gas Reserves in Cook Inlet
 (Billions of Cubic Feet)

Field	Total Reserves	State Royalty Reserves
Albert Kaloa	0	0
Beaver Creek	240	0
Beluga River	767	61
Birch Hill	11	0
Falls Creek	13	0
Ivan River	101	0
Kenai	1,313	43
Lewis River	90	0
McArthur River	78	10
Moquawkie	0	0
Nicolaï Creek	17	2
North Cook Inlet	1,074	134
North Fork	12	0
North Middle Ground Shoal	0	0
Sterling	23	1
Swanson River	0	0
West Foreland	20	0
West Fork	<u>7</u>	<u>0</u>
TOT	3,766	251

SOURCE: Oil and Gas Conservation Commission and Division of Minerals and Energy Management, as of 1/1/80.

NATURAL GAS
TRANSPORTA-
TION SYSTEM

3-31-82

(KIDDER PEABODY
FINAL REPORT)

Hearing - Juneau
February 17, 1982

Betty Fahrenkamp: I would like to call this overview to order, and first thing off thank those of you who have agreed to participate today on such short notice, we really appreciate it. As most of you know, today's overview hearings are co-chaired by the Senate Resources Committee, and by the House Oil and Gas Committee, and the charge before us today is to gain an insight to be brought up to speed with regard to the progress and movement towards the possible financing of the construction of the Alaska National Gas Transportation System.

We approach today's hearing with a sensitivity that at this point negotiations are ongoing between Northwest Alaskan Pipeline, the national and international banking community and the North Slope producers. Today's focus is on information and education within those constraints, both of which are necessary for all parties to understand their roles and actions in ultimate completion of the project. This hearing, in nature of an overview, will be followed by additional hearings dealing with broader questions of policy and mechanics of the financing participation of the State, and the financing of the project.

As a point of background, in late November Governor Hammond recognized the need for the State to seriously consider its position vis-a-vis the construction of the Alaska National Gas Transportation System. The Governor organized a task force to specifically look at the general questions of the advisability of State participation in the financing of the System. The task force was constituted of Commissioners from the Department of Natural Resources, Revenue, the Attorney General, a couple of the Representatives from the House, representatives of Alaskans, and myself.

Our first witness today will be Commissioner Katz, and it is my understanding that he will be giving us overview of the task force basic charge and outline the task force activities to date in approaching the issue of State participation in the financing of the Alaska National Gas Pipeline. We also have with us representatives of Northwest to give us an overview of their efforts to secure a financing package and an update of their progress inasmuch as possible under their negotiation constraint. Representatives of the North Slope producers will address, from their perspective, just where the financing package is, as well as address technical questions related to the question of the effect of continuing re-injection of natural gas to the Prudhoe Bay field, and finally, we'll have interim report from the representatives of Kidder Peabody, an investment banking firm retained by the State to address the questions of financial feasibility of the project, and general questions of how the State's interests may be best served in the participation. With that out of the way, Rick, do you have anything to add?

Rick: I think I would just reiterate that we do understand the negotiating position that most of the participants are in, and I think it's important that we maintain a sensitivity to that negotiating position. I would hope that we get an adequate update of where we are and

maybe we can define some of the alternatives without prejudicing any future options that may be presented at a later date in the future reports.

Fahrenkamp: I think the procedure we'll follow is to have each group make their presentation, then we'll have questioning after each presentation, and we hope to be finished by 4:30 since the majority of my committee, I know, are catching planes for the coal conference in Anchorage and need to have me to be gone. Commissioner Katz?

Katz: Thank you, Madame Chairman.to the current efforts is a letter that President John McMillianGovernor in late November asking that the State reconsider its position on participating in the financing of the gas pipeline project. As a product of that letter the Governor, as you have already indicated, is the forming of a task force of the three Commissioners you mentioned and asked that the President of the Senate, the Speaker of the House, to make acquaintance as well, which was accomplished. We then went back to Washington for two principal purposes. First was to interview a number of possible investment counselors to the State on the pipeline issue. And out of that investigation we chose the firm of Kidder, Peabody for the State, on contract since that period of time. We also met for the first time with Northwest and its bankers in an effort to start the that is necessary to investigate all the alternatives. In the midst of those discussions of the gas pipeline waiver package passed the United States Congress. That package provided a number of waivers deemed very important to the financing of waivers of President Carter's original decision, and I think it was the general consensus of all concerned that while that waiver package was a necessary prerequisite to financing, it was not necessarily the only factor. The State examined the waiver package and felt comfortable with it and expressed strong support for during the congressional deliberations. We're responding in advance to questions which I think are likely to come. The waiver package is now the subject of litigation that has been filed by Senator Metzenbaum of Ohio and some other congressmen-senators. The principal allegations relate to the alleged violation of rules of the Congress and certain other technical aspects. We are advised by our lawyers that the lawsuit is pretty frivolous on the merits. It is pending in the Court of Appeals, there's an expedited review procedure there, but that any decision of the Court of Appeals can be appealed to the United States Supreme Court and there's at least some there will be more delay incident in that process.

As a product of our discussions in Washington we came back and formulated a work plan to govern the remainder of our activities. That work plan addresses two principal questions. Should the State participate in gas pipeline financing, and the second question - if so, how? The perspective that I think all of the participants in the task force have brought to those deliberations is one of hard-headed business people. We feel that we must look at all the same factors that the investment banking houses are looking at in their decision to participate in the financing, and then, in addition, look at certain other factors which are unique to Alaska as a State government, including the

impact on royalties, severance taxes, and secondary and tertiary benefits in the State's economy. We have formulated a number of subsidiary questions in an effort to respond to those two principal questions. They range from questions relating to the marketability of Prudhoe Bay gas to alternative investment opportunities that are available to the State of Alaska, and the impact of any particular proposal on the State's credit rating. Since the formulation of that work plan which we made available to both legislators and the media, we have been proceeding on two parallel tracks in an effort to answer those questions. On the one track, Kidder, Peabody, as they will indicate later, has been pursuing a number of questions. They have met on several occasions and exchanged information with Northwest and its financiers, and they are branching out beyond those discussions to interview other people with perspectives on the pipeline.

Secondarily, we have formulated an interagency task force of technical people and experts in particular disciplines to answer certain other questions which we felt were more appropriate for State's scrutiny and response than they were for the help of outside advisors. Those two parallel tracks will come together in early March in the form of initial findings and recommendations to the legislature and the Governor. At this point in time we're not certain exactly what form those findings and recommendations will take. We have condensed what might otherwise have been a very lengthy process into a relatively short period of time. I do think that the report will hit all of the major considerations in determinants that will influence subsequent decision-making and at that point in time we may also identify any other areas that might require further scrutiny in the future.

Fahrenkamp: Thank you, Commissioner. Before I open this with questions, I want to clarify the record. I think everybody knows this is Representative Halford, and not we'll get that out of the way right now. Sometimes I don't even know my own name. Are there questions from anyone? Go right ahead, Sam.

Sam: Thank you, Madam Chairman. I guess I had a couple questions, I wasn't sure how definitive you were on the advice that Kidder, Peabody has offered to us so far. That's one question, and secondly, you mentioned and I think most of us appreciate that the waiver package wasn't all that was necessary as far as the hurdles that the builders of the pipeline had to get over. How significant was that, would you say that was half the battle, more than half, less than half, and can you define the other significant hurdles that still loom in front of us?

Katz: I would be interested in the perspectives of the others too, but it is hard to quantify in percentage terms, I would say that its failure to pass would have been a determinative point in the process that the project would not have proceeded beyond that point. It does lay a good basis for future reference to formulate the financing package because it resolves a number of important concerns to financiers, particularly the issue of pre-billing. There is an allowance in their pre-billing prior to completion of the whole system. I would say that it would be risky to put it in percentage terms, the really key events

now, I think, are involved in Northwest's negotiations with the producers and with the other pipeline companies, another aspect of the waiver package was to permit producers to participate more in the equity financing, and that is an unfolding process where I don't think any one event is determinative but there is an effort to achieve sort of a critical mass of financing which Northwest hopes to do in the reasonably near future.

With respect to your first question, we originally felt that because of the short timeframes involved, Kidder would not have had the time to really to formulate any substantive conclusions that they could share today with respect to the financing issue and whether the State ought to participate. We have met with them this morning and I think thanks to their diligence and the real cooperation they have received from Northwest and others, they are going to be in a position to go beyond merely stating what sorts of activities they have undertaken so far and will be presenting at least some tentative conclusions on the basis of the work they have done so far.

Sam: Commissioner, do you expect them to, which questions do you expect them to get involved with? Should the State participate, or do you expect them to get involved with the second question, if so, how?

Katz: Well, each of those questions involves a series of subsidiary questions. Should the State participate does involve certain questions which we have asked them to express opinions on, the marketability of Prudhoe Bay gas, other concerns of that kind. Also, the question of if so, how, very much involves them, at least initially there were a number of competing possibilities or alternatives for financing, but in each of those questions, some of the questions are being answered by them, the subsidiary questions some by the State task force, for example, a question we felt, two questions that we felt we have better expertise on than any outside counselor might, would be, one, what legal constraints, constitutional, statutory, or others, might exist with respect to any particular option, and the second one is what alternative investment opportunities might there be for the State. But both questions as your question implies involved the major policy decisions and of course Kidder and I in my capacity as chairman of this task force, view ourselves only as advisors to you and the Governor, who will be making the ultimate policy decisions.

Representative Randolph: Yes, a follow-up on those questions, what timeframe do you see this all developing in? At what point are we going to have the answers to those questions and be able to consider them.

Katz: We think that we are going to have firm enough answers to give you advice that we feel is creditable in early March. Exactly when the financing package may come together is anybody's guess, but Northwest is making a real effort to do it in the first half of this year, and one of the options at least would be available for the legislature to consider given the fact that you may adjourn before the package has totally crystallized, might be some sort of a statement of principle in which you would identify those conditions and stipulations that might govern

any State participation, should you get over the initial question of should the State participate at all.

Fahrenkamp: Are there other questions? Representative Cotton.

Cotton: I didn't want to take more turns than was due me, but Commissioner, you mentioned that there might be an impact on taxes, severance taxes, depending upon what kind of a decision the State makes on participation, I wonder if you could expand on that a little bit.

Katz: Well, the crucial question is, who does the value to the State if the natural gas remains in the ground, I guess there's some who believe that that might in itself be a prudent investment. There are many others that feel that that's not the case, that the most prudent utilization of that resource would be for the State as a one-eighth royalty owner would be to market it. Certainly it is only at the time of production and transportation that our one-eighth royalty interest would quantify itself in terms of dollars and it is only at that point in time that the State's severance tax would become operative, so in addition to the factors that the banks are looking at, like the marketability of Prudhoe Bay, etc., that seemed to be a concern that was sort of uniquely Alaska's that we ought to try and quantify and address in a report to you.

Cotton: Thank you very much.

Fahrenkamp: Other questions? Representative Rogers.

Rogers: Commissioner, you said perhaps adoption of some sort of statement of principles setting conditions might be appropriate, would that be the kind of statement that was contained in the gas pipeline financing authority legislation in 1979?

Katz: Yes sir, something like that, I'm not trying to prejudge the answer to the first question, which is whether we should, but we have tried to sort of predict that in our effort to create a logical sequence leading towards State decision-making, and it probably will be the case that the financial package despite Northwest's best efforts will not crystallize within a 100 or 120 days, the deadline for adjournment, and it seemed to us that if you chose to go that route that that might be a good way of sort of signalling Alaska's interest, the State will participate if, or the State will not participate unless an actual (?) listing, a series of conditions, and it is my understanding that most of the major commercial banks that will be participating will probably participate on essentially the same sort of basis for the letter of commitment in which announced to a statement of principles that identifies those conditions under which we might participate. One advantage to that is that the State then if the State makes a decision to participate, would be a key player in the process and then in our judgment could influence other decisions that very much relate to State interests, for example the wellhead price, etc.

Rogers: At the time you said by early March you should have some firm answers, at that time would you be suggesting to us what conditions you think we might want to consider, again if the decision to the first question is yes at that time or if your suggestion is yes, would you be suggesting conditions to us?

Katz: Yes, the answer to your question yes, I've asked Kidder, Peabody to look at that from their informed expertise, and of course there'll be other issues that may well be of concern to the State government including the legislature which would not occur to outside advisors, and we would probably also at least propose those as options for your consideration.

Rogers: Thank you.

Fahrenkamp: Thank you Rogers, further questions so we can move on?

Q.: I'm sorry, I think, Madame Chairman, that Representative Rogers raised a very significant point there, I think, in that what instrument, are you suggesting that the legislature should pass a conceptual conditional statement of principle that would later be able to be negotiated as part of the financing package?

Katz: I don't want to get out ahead of the process and my raising this at all was an effort to respond to an earlier question about what sort of sequence from here to the end of the process and at least one option that may not be the only option, it is not one that I am suggesting now because we haven't gotten there yet. I can't honestly represent to you from the State's point of view this would be a good deal or not a good deal, from at least my personal point of view, because we haven't been exposed to the whole analysis and we're about three weeks away from that, but if we were to get over all those very important preliminary questions one method for the State to express its collective voice that would be cognizable in the financial community and would actually be of value in determining what the State's role would be, would be perhaps a resolution that embodied a statement of principles together with conditions and stipulations.

Fahrenkamp: Perhaps I can help there too, Representative Cotton, in that I may not stressed enough that this is strictly an interim report and those decisions are down the road, even though he's looking at early March, there's a lot of work to be done between now and then. Is that not correct, Commissioner?

Katz: That's right, and I think too, Representative Cotton, we're all in agreement that even if the process will ultimately lead to financing, probably that final decision will not be known, therefore at least known in March or April, therefore I don't think anybody would want to suggest that the State take some final action like appropriating x amount of money, or establishing a fund, or whatever at that point in time, and it isn't necessary, the financial community is not asking for that, Northwest is not. Some lesser alternative is the one we were discussing would suffice for this interim period.

Cotton: Thank you for your indulgence, Commissioner.

Q. Madame Chairman, I'm sorry but it seems to me that talking about the process, there may be further problems, obviously this legislature can't bind the next legislature into any action and again, if we were to pass something saying these are the conditions this legislature would accept or would want, the actual appropriation decision wouldn't be able to be made until after, since what you're saying after financing agreement were reached, would that mean waiting and presenting that to the next legislature, or would a special session to consider the issue, or how would you make the transition from if you didn't do it by special session, how would?

Katz: Well, you're obviously correct about the capacity of one legislature to bind another, that is a course known to all concerned in this process, Northwest, the financial community, et cetera. That is really not a determinative problem, I don't think, the financial community and particularly its public financing experts are used to dealing with that in all governmental situations in a number of contexts, and at some point further down the line, the quote moral obligation of the State might arise depending on what course of action the State had chosen to adopt up until that point, but I don't think that's a problem now and judging from what we've heard and you'll judge independently for yourself when you hear Kidder, Peabody, I don't think that there'll be the necessity for something like a special session. I'm hopeful that if we do our homework and you all deliberate carefully that we'll come up with a work product that we can answer the first preliminary question at all, a work product that's creditable enough to carry the State forward and be a reasonable game plan for a subsequent legislature.

Fahrenkamp: Further questions. Thank you very much. Darrell MacKay from Northwest Alaska Pipeline Company. Darrell, we appreciate you're being here, you know it was short notice, and I want to say thank you again.

Darrell MacKay: Thank you. Madame Chairman and Gentlemen, we're glad to spend some time this afternoon to tell you where we are on the project. I appreciate your admonition at the beginning, Madame Chairman, on the sensitivity of some of the negotiations that I'm not able to get into in any great detail, on the other hand I think I can shed some light on the process we're going through that might help remove some uncertainties. I know it seems like we don't hear what's happening and what progress is being made, from your standpoint, and I think I can help to some extent there.

1981 was truly a banner year in respect to progress toward completion of the Alaska Natural Gas Transportation System, and I would like to review a couple of the major accomplishments we felt were critical in 1981. Before I do that, though, I would like to pause and just remind ourselves of the objective that we mutually are trying to achieve and particular in light of some of the current world events which sure affect the progress we made and how rapid that progress is made. I just mention three things that has some impact on what we're trying to

do. One, is the extreme testing period we're involved in in the economic situation in our country, and that is certainly affecting us in our ability to put our financing together, and I'll enlarge a little bit on that later as to how we see it particularly, perhaps embellish on the question that Representative Cotton asked about what does the waiver package mean in terms of that omen financing. Secondly, there is an apparent, and I use that word advisedly, an apparent world oil surplus and declining real oil prices. There's also arguably a surplus of natural gas in the lower 48 states, and again I want to emphasize that the critical thing to keep our eye on in that respect is the long-term versus the short-term, and I'll try to enlarge on that more.

In addition we have some strained foreign relations in the U.S.-Soviet confrontation that's currently going on over a natural gas pipeline from serving Western Europe from Siberia. In spite of all of these difficulties and uncertainties there are nine major U.S. natural gas companies, of which we're one, three major U.S. oil companies that you're very familiar with here in Alaska, three major Canadian natural gas companies, the Administrations of both Canada and the United States, and the Congress of the United States, and the Parliament of Canada, and we assume as well, the State of Alaska, who all believe that connecting of these frontier far north reserves is in the best interest of the United States and to do it as quickly as we can. Often, those of us who are in the trees lose sight of the forest, that there is a tremendous weight of support for this project in both of these countries and while it may not be in flashy evidence to you from day to day, this whole group has devoted considerable time and resources to companies, particularly money, and I'll bring you up to date on that, to pursue the project, and that's still going on. There's no basic change in the expectation that natural gas will be in short supply, particularly later in this decade. Just an aside on marketability in light of this short-term situation as we see it, and certainly the consultant that we have employed to look at this issue, believes Alaska gas is marketable, even in light of the current oil situation. And that occurs in several ways. One way is that with any potential upset in the Mideast there certainly could be dramatically rising oil prices. Again, we tend to get lulled into a sense of complacency when there's a period of surplus and price reduction. Secondly, there is the aspect of what we call roll-in capacity, that is the ability to average the cost of Alaskan gas which we expect probably will be higher than the market clearing price when we first come on stream, but we can average that in with other lower 48 supplies and still market Alaskan gas. Thirdly, we recently completed some very interesting work on what we call a concept of cost levelization, and that is recognizing the real cost of Alaskan gas will decline, forgetting inflation, because the transportation systems being amortized over time and it's such a huge part of the cost, if we can move some of the earlier costs into the back years, we can compete very aggressively with low clearing prices, and so a combination of all of these things lead us to believe that Alaskan gas continues to be marketable.

It's incomprehensible to us as well, that Western Europe would be willing to rely on natural gas supplies from the frontier area of Russia while here in the United States we could not connect the largest

domestic gas field ever discovered in the United States to our own markets. While as I mention it it does take a lot of dedication, it takes a lot of willingness to accept risk to pursue the project in spite of the delays and obstacles that we've had starting back in 1976, and these delays and obstacles seem to continually pop up, but we believe we're periodically taking care of those as they occur, and we're moving forward. And I'm pleased to be able to say to you today that the commitment is still present and was considerably strengthened in 1981 by all of these companies and parties that are trying to bring this project to fruition.

Let me just pause to give you a few facts from the Company's standpoint. We will have spent, including the cost of money, or have spent, including the cost of money, at the end of '81 over 600 million dollars, in engineering work and all of the other things that have gone into firming the project to the point it is. In terms of the pipeline, we have accomplished about 35% of the detailed engineering, and that's very significant level of engineering. We have not encountered surprises from the geotechnical-standpoint in terms of our ability to construct the pipeline, and within the cost estimate that was made in 1980. So we're pleased that the engineering work is proceeding well and that we have not encountered these surprises. About roughly a little less than 30% of that money has been spent in Alaska, which is going on every day and is again something I'm sure you are not aware of all of the time. Last year we had a peak employment of about 1800 people, an average of about 1400 during the course of the year, and somewhere around 25% to a third of those people are located in Alaska, and of that share that's located in Alaska, somewhere in the neighborhood of 75 - 80% were hired Alaskans to do the work. So we think we've done a good job in recognizing the needs of the State and the community in pursuing the project. The Canadians have been doing a similar thing with the people they have working on their aspect of the project, and while prior to 1981 the Canadians were generally ahead of us in terms of their progress, we believe we have now caught up and we're proceeding about on an equal pace. But this doesn't mean we're home free by any means, we're now in the midst of this extremely critical period of putting the project financing together, and that is a private financing plan with private capital. There's often been a misunderstanding that we've gone to the financial community and they have turned us down, and that is a misconception. The first time we went to the financial community represented by four of the largest U.S. banks was last summer after we had reached agreement with the producers on the concepts of a financing plan, and in working with the banks we've since modified that plan and are working very well together and the banks are very positive on our ability to put this together if everyone is motivated to do the job.

Now, let me just pause here for a moment to talk about two areas of accomplishment in 1981 that are important. One is the pre-bill project that I'm sure you have heard about previously which is the concept of building a portion of the system early to transport Canadian gas until the rest is completed for the connection of the Alaska gas. The ground-breaking ceremony for the Western Leg prebuild was held in February, and the Eastern Leg in May last year. The Western Leg

which is some 300 miles of pipeline in Canada and United States was completed and put in service October 1st, and we're now moving gas from Canada through those facilities to California. The Eastern Leg which is over 800 miles long plus another 400 in Canada, about 1200 miles total, is somewhere about three-quarters completed with the remaining construction to be done next spring and summer, aiming to put that in service in the fall of 1982, to move the rest of the Canadian gas to market. So in total, we will have built by this fall 1500 miles or about a third of the total pipeline system for the Alaska gas. An extremely important step forward and it has ramifications for you in Alaska as well, in that it's been a time of trial to see how the Government-Company interface works in this oversight responsibility, the Federal Inspector, and we think it's working well in those things that we are uncovering that need to be improved we can apply in the case of the Alaska part of the facility, so it's a good testing ground and it'll be helpful to all of us to achieve coming in on schedule and on budget. I might add that those facilities on the Western Leg did come in slightly under budget and were on schedule. We expect the same on the Eastern Leg as we now see it. So we are not experiencing the types of cost overruns. Agreeably, these facilities are less difficult, the Alaska facilities being the more difficult, but again we're learning from this whole experience and expect to apply that.

The next key event in 1981 that deserves some attention is the so-called waiver package, or the waiver of law that Congress approved in December and was signed by the President which removes certain obstacles that permit us to take this very vigorous hard run at private financing of this project. The first step was the agreement we reached with the producers on the concepts of a financing plan, and then in June we submitted to the President our version of what we thought was needed in terms of a waiver of law to permit us to privately finance. Thereafter followed numerous discussions with Senate and House committee people and the Administration people who were going to be involved in the ultimate decision-making of that package, and a lot of revisions were made, and I'd be kidding you not to say that the package as it came out was a lot less than what we went in with. However we think that it's still adequate subject to the final test of our ability to put all the financing together. The President then sent the waiver package to Congress in mid-October and that was followed by committee hearings--a committee in the Senate, two committees in the House, holding substantial hearings and then the vote of both the Senate and the House, and that was finally signed by the President in December.

Basically, what the waiver package did in three critical areas was this. First, it permitted the producers to own equity in the pipeline system which prior to that was prohibited. It was prohibited, however, in the original President's Decision that selected this route for the project, and so as the financing development came to fruition, it became clear that to do it privately we had to have producer assistance and so as it's now structured the producers can own equity in the system. Its subject later to Department of Justice review upon the structure to make sure that the producers don't have control of the system, but

that is the key problem, not whether they should own equity per se. So that was a very critical item to permit us to go forward.

Secondly, the Conditioning Plant was made part of the Alaska Transportation System. Prior to that it was a separate system and the costs of the system were to be handled separately, now the Plant is part of the system and we're structuring a tariff which would reflect the cost of that Plant in the delivered cost of the gas.

Thirdly, a change in again the President's Decision was permitted to allow the Federal Energy Regulatory Commission to establish a tariff which would provide assurance that debt lenders would receive payment when a segment of the system that they were investing in was completed. This was the pre-billing concept that Commissioner Katz referred to. From a lender's standpoint this was extremely critical to permit us to go forward, even though we don't expect this event to ever occur, and we're disappointed that it was taken so out of context down in the lower 48 and all kinds of misconceptions as what it meant, but we think the risk of it occurring is very slight, but, bankers are not in the business of taking any risks and we had to accommodate those concerns as best we could.

Those were the two key activities in 1981 that have really helped move us forward substantially, the pre-built project, its status, and the waiver package. But where are we now and perhaps I need to embellish a little on the background from a financing standpoint because I know that's what you're most interested in. I mentioned the Producer Pipeline Plan that was agreed to in last spring was used. Basically, that plan provided for what we call "project financing", that is, that there would be no independent credit underlying the debt and the equity would be supplied by the participants. The producers in their part would have been responsible under that plan for 30% of both the debt and the equity of the project, and the course of conditions precedent to the whole thing working was that the Plant was going to be part of the system, which ultimately was done through the waiver package. There were other terms and conditions surrounding the plan but that was essentially some of the key features.

We then went to the banks to say, "look here's our plan, help us structure what needs to be changed in the law, (which ultimately came out as the waiver package) to make this thing work." Because of the early nature of the work, they were unable to say that they could assure that we could privately finance if the changes were made but they were able to say that without the waiver package as it was passed, they knew we could not probably finance it, and that's the posture we took at the time and have taken and now are working on trying to implement that. Now the banks in addition said, "you're going to have to make some changes to your original plan. The concept that you don't have to have credit, particularly during construction, will not work. In order to pull this off the sponsors involved, both the pipeline companies and the producers, are going to have to put their existing company credit behind the debt, or let's say most of the debt, in order to make this work." They also said that there's enough money worldwide in order to finance this project, which was a very

positive thing in their report, and this is critical because even with participation of say, the 100 largest U.S. banks, lending ...

... was very critical that, once construction is completed, we go into operation, then the tariff under which the charges are made and the ultimate gas consumer pays those charges, is enough that credit for the project to move ahead successfully, so it's only during this period of construction, or what we call the completion risk, that the banks were saying you've got to have more credit behind the project. Well, we got busy behind that situation and our companies were very disappointed of course, that the concept of project financing as we had originally proposed, was not going to fly. But, we regrouped ourselves and these companies have agreed that they're willing to support some portion of this project debt with company credit in a way that so long as it does not impinge on their other activities to do business in their regions and in a way that the banks can live with, and we are sure because of the experience on the Eastern Leg, which had similar problems, that this can be done. Well, the waiver passed and during that process I think it's important for you to know that in terms of not only the difficulties we had with some of the concepts in the waiver package, another continually nagging question we faced when we visited congressmen and senators and the committees that addressed the issue, was where's the State of Alaska, is the State supporting this, how are they going to support it, what meaning is there to attach that the State's not supporting it, and we're very concerned about that, hopefully, the Governor came down and helped support the waiver package, testified before the committees and Congress in a positive way, although there had been nothing, of course, put together at that point. I might just read one brief illustration of what I'm speaking about and this is in the House Energy and Commerce Committee report following all of the hearings, and so on. "The committee encourages the State of Alaska to examine the benefits of this project to its citizens as well as to the rest of the nation, to recognize the enormous positive effect that any contribution of capital or of credit security would have on the chances of the project to be financed, (and I would add privately which is our charge deal, and nothing's changed in that regard) and to act as promptly as possible in accordance with the conclusions of such an investigation."

I'll come up again back to the State's role and its importance to us, but this is very critical aspect, as a result we're pleased that the Governor established this task force and that the progress that Commissioner Katz just described has been made and is proceeding expeditiously. Following the passage of the waiver package then as Commissioner Katz described to you, there's been a court suit filed. We agree, as well, that this suit will not prevail, our lawyers are in the middle of this right now, but the grounds that have been raised are not, in our view, substantial enough to result in any change. However, we are concerned about the potential of delay and particularly in relation to the possibility of an appeal to the Supreme Court.

That is the background in terms of financing, now what's going on right now -- there's several things on simultaneous fronts that are moving forward, one is that the pipeline companies, and there are nine

U.S. companies, and one Canadian company, by the way, the nine U.S. companies transport 40% of the gas handled in the lower 48, so if we're marketing roughly 20 trillion cubic feet a year, these companies are handling directly about 8 trillion cubic feet a year of that, and their sales to their customers either directly or indirectly will go to all of the lower 48 states except Vermont in some manner. The percentage of Alaskan gas varies but it's spread very widely which is a very helpful thing to us again in terms of marketability. But these companies are determining and have determined and we now have in writing individually the commitments they're willing to make both in terms of equity and the amount of debt support that they're willing to stand behind. Now the four banks that are working with us to develop this plan, those banks being the Bank of America, Citibank, Chase Manhattan, and Morgan, are evaluating each of those companies to satisfy themselves that they can make that commitment. The banks are very concerned that, as the companies are, that they're able to carry out their obligations and still meet this commitment. So that process is going on right now. We're also working with the producers and will be as this pipeline work is completed on their commitment and how high that could be. We're also working with the banks to determine what portion of the debt would not have to be supported by the credit of the sponsors. We know there's some amount, the banks have told us that most of the debt will have to be supported, but there is some portion, particularly the monies spent late in the project when certain conditions have been met, such as being on schedule, on budget, those sorts of things. Late in the project we expect the banks could put a substantial amount of funds in on a non-recourse basis. But they're examining that and we're working with them. That involves a lot of schedule and engineering review to review that. The banks are also addressing the overall viability of the financing and how to structure it to best assure the chance of success, and so in a short period of time they'll be giving us their view of the terms and conditions they would attach to their commitment as banks to loan money to the project. All those things are going on right now and as you can appreciate there are going to be several knotty negotiation problems that will grow out of that, that we're pleased and I can tell you that there is a strong move on the sponsors' part, the pipeline sponsors, the producers, and the banks to get this job done and to get it done as quickly as possible.

How does the State fit into all of this? I was pleased to hear Commissioner Katz's description of how the State is going about its work and we certainly support that approach. We have tried to respond as quickly as we can to provide information to Kidder, Peabody that's necessary for them to make their analysis, and we believe we've been responsive in that area and will continue to be in as open a way as we can, again within the constraints of the negotiations that are going on. We think that this is the best way for the State to determine its role, and it's not better for us to be coming in and pushing some particular plan--we think it's better for you to address the question of should the State invest, and if so how, and for us to be responsive to be sure we supply everything that's necessary.

Now, I should clarify because it may come to your attention anyway, we're proceeding in our planning on the assumptions that the State might not participate, that it may be somewhat difficult, whether the State's participation was critical or not, we're really not phasing (?) on until we put the whole thing together, but we think that really begs the question. We believe that the correct approach is to answer this key question of should the State be an investor, as any business venture. We're confident we can demonstrate that it is an attractive investment, and that we can make it attractive to the State to do that. In that way the State's participation will grow naturally and we think would grow in the right way in such that the important psychological impact of the State being part of this will have been accomplished in the best way possible. But we're working hard to finalize this final financing plan and then to get the final regulatory approvals that are necessary in order to start construction. We hope that you participating with the Administration will decide that the State should be a part of this and that this would be an important piece of your realizing the huge benefits that will accrue in the connection of transportation, sale of Alaskan gas.

Let me close and describe very generally what kind of help we think would be the most beneficial to the project, without in any way trying to usurp because it's not appropriate for us, presumptuous of us to in any way try to tell the State what the best thing to do is, but from strictly a project's standpoint, the type of assistance that we think would be most helpful would be some appropriate guarantee of a sure, of project debt, either during the construction period which would be a shorter time period or State funding of a sure of long-term debt, which could go on for any period of time that could be worked out. There are ways that such a guarantee might not have to be drawn upon and I'm very interested to hear what some of the work Kidder Peabody is doing in this area, and further we think that the State could be paid an attractive and appropriate return on any problems without committing to the project to make it an attractive business deal. All of those things however are best left to the State with our providing information to determine.

Madame Chairman, that completes my remarks, and I'd be glad to try and answer any questions you might have. I might say I brought along our last Alaskan Newslines which has some pretty good summary material and goes through all of the things that occurred in 1981, and I'll leave copies of this with you. Some of you may have it but I'll leave that with you.

Fahrenkamp: Thank you very much Mr. MacKay. Are there questions on the part of?

Q.: Yes, Mr. MacKay. I have something I would like to have clarified in my own mind. This is marketability situation, and maybe a brief description from you on just what the pre-billing entails for consumers outside and how serious that is, and how significant that is in total value.

MacKay: Okay.