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WASHINGTON, D.C.



# ALTERNATIVES FOR LAND PROTECTION

A Review of Case Studies in Eight National Parks



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**ALTERNATIVES FOR LAND PROTECTION**  
A Review of Case Studies in Eight National Parks

Prepared by  
American Land Forum  
Bethesda, Maryland  
June, 1982

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### Foreword

This report, prepared at the request of the National Park Service, is a summary of internal NPS studies of alternative approaches to park protection undertaken in eight national parks in 1981 and 1982. The object was to explore alternatives for protecting units in the National Park System, without relying entirely on direct federal fee-simple purchase of private lands.

The principal author of this report is Cecily C. Kihn, Associate Director of the American Land Forum. She was assisted in this work by Carol H. Anderson and other members of the American Land Forum staff. The typescript was prepared by Philip M. Porter. A committee drawn from the board of directors of ALF reviewed the material and made many valuable suggestions. These were Malcolm F. Baldwin, Robert E. Coughlin, and Robert C. Einsweiler. Warren Brown of National Park Service was the technical project officer. We also wish to acknowledge the generous help of the superintendents of the eight parks under study and various members of the National Park Service staff in Washington and the regional offices associated with the case study effort.

Charles E. Little  
Editor-in-Chief  
American Land Forum

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## I. THE NEED FOR NEW APPROACHES

### Growing Pressures on the National Park Service

During the last twenty years, the National Park System has tripled in acreage and almost doubled in number of management units. Between 1960 and 1980 the number of units increased from 185 to 323. Acreage authorized rose from 25 million to 77 million, including 45 million acres of National Parks in Alaska. Between 1977 and 1980 alone, 32 new parks were created and almost \$800 million added to the existing backlog of claims against the Land and Water Conservation Fund for National Parks. By contrast, since fiscal year 1980, appropriations for National Parks have declined significantly, leaving a substantial discrepancy between plans for and actual ability to acquire parklands -- a discrepancy that will sharpen if land prices continue to rise. In rural areas, land prices increased 325 per cent between 1970 and 1980, and in some areas under metropolitan growth influences prices were doubling every few years.

For the National Park Service, the problem of carrying out an ambitious legislative agenda to acquire ever-costlier land with a relatively small amount of funds has been compounded by the increased complexity of many of the parks created during the late '60s and '70s -- large parks in metropolitan areas, parks in scattered pieces, parks where NPS has been instructed to share planning, management and operations responsibility with local, state and private entities.

Many more parks, both new and traditional, metropolitan and wilderness, are subject to the influences of increasing development on adjacent lands. Increased mineral leasing and residential development in the South and West are particularly serious changes affecting parks in these parts of the country. The NPS 1980 Report to Congress, The State of the Parks, documented these and other pressures on parks across the country. Since this report was made public, conservation organizations have pressed NPS to deal more effectively with these problems.

Moreover, the Park Service has been under increased attack by influential organizations made up of landowners affected by the parks. The General Accounting Office (GAO) has also sharpened its criticisms of NPS land acquisition and management practices asserting, in its most recent of several reports during the last few years, that NPS still acquires too much land and refuses to adequately consider the use of land protection strategies beyond fee simple acquisition.

### Policy Shifts

All these changes and pressures have been developing for at least three Administrations, as have limitations in appropriations for the Land and Water Conservation Fund (LWCF), the primary source of acquisition funding for the National Park System. Appropriations for LWCF began to be seriously curtailed in 1980 under the Carter Administration. These reductions continued under the Reagan Administration, which has also expressed concern about land acquisition policies and practices of the National Park Service and other agencies. By February, 1981, federal land acquisition had been put on hold, and Secretary of the Interior James Watt had proposed redirection of the LWCF from acquisition to repair and improvement of the infrastructure and facilities in existing National Parks. Within the Interior Department, a "Lands Policy Work Group" was established to redefine the federal government's role in open space conservation, including acquisition of land for National Parks. The group reported its findings on

July 12, 1981, just after a two-day "Workshop on Public Land Acquisition and Alternatives" sponsored by the Senate Committee on Energy and Natural Resources. The purpose of the workshop, according to Senator Wallop's opening statement, was "to shape... a new land and resource protection policy which would include acquisition as only one tool." At the workshop, Interior Secretary Watt remarked on the sizeable amount of land the federal government already owns and the "great strain" on the NPS imposed by the plethora of recently-authorized parks without proportionate increases in funds for staffing, restoration, operation and maintenance.

### The Case Study Effort

In response to the State of the Parks report, the Senate workshop, the GAO report, and the work group's report, NPS Director Russell Dickenson instructed that eight areas be studied to determine (1) what methods beyond fee simple could be used to carry out the intent of Congress on currently authorized areas "in which there are now large unexpended authorizations against the LWCF" and (2) what "generic legislative initiatives" would encourage greater use of land exchanges, land trusts and tax incentives to protect National Parks.

The eight areas chosen for study were the Appalachian National Scenic Trail, Biscayne National Park, Chaco Culture National Historical Park and the Chaco Culture "Archeological Protection Sites," Channel Islands National Park, Chattahoochee River National Recreation Area, Grand Teton National Park and Jackson Hole, the Barataria marsh unit and "park protection zone" of Jean Lafitte National Historical Park, and Kaloko/Honokohau National Historical Park. These areas were chosen because, together, they represent over \$300 million in authorized acquisitions as well as a cross-section of the problems involved in using alternative protection methods.

By September 1981, each of the eight areas had a study team assigned, consisting of at least four people of different disciplines and experience --including experts in management, planning, land protection and land acquisition. The case study effort was under the aegis of the Assistant Secretary for Fish, Wildlife and Parks and overseen by the NPS Washington staff.

The great variation in both park situation and each team's "personality" produced studies markedly different in outline and emphasis. Some teams spent a great deal of time developing methods to assess the cost-effectiveness of various alternative techniques, while others concentrated on solving site-specific problems in close consultation with landowners. Despite this variation, the questions the teams addressed were basically the same:

- What is the significance, nature and extent of the resource to be protected?
- What is the park's legislative mandate in terms of visitor access and services, resource protection, preferred levels and methods of acquisition?
- What degree of control or ownership ("level of estate") does NPS need to manage this resource according to this mandate?
- What uses are compatible with this mandate?



-- What are the most cost-effective techniques and strategies to acquire this estate?

-- What is the impact of these techniques and strategies likely to be on individual landowners and communities in and around the park?

By March 1982, all eight case studies had been completed. A limited number of copies have been printed and distributed.

## II. EIGHT PARKS: A SUMMARY OF FINDINGS

Although the greatest utility of the eight resource protection case studies is in building a platform for the development of new policies for the National Park System, the studies have already produced two immediate but quite important kinds of changes — in team members' attitudes towards alternatives to fee acquisition and in the planning and implementation of the eight areas themselves.

For example, as a result of their study, the Appalachian Trail project office is designing a course for realty specialists on the tax write-offs and other benefits of land donations. Meanwhile, the staff of Biscayne National Park has established a good working relationship with state and local regulatory agencies who are now more aware of the kinds of developments that may adversely affect the park. In Chaco, progress has been made in securing cooperation from representatives of the Navajo Tribe and in reaching tentative agreements on exchanges with mineral companies and the state government. Channel Island landowners, previously skeptical of NPS intentions, have now agreed to allow NPS access for appraisal and survey work and are, reportedly, optimistic about the prospect of resolving questions about acquisition.

Moreover, in Chattahoochee, the need for certain boundary adjustments was realized, giving better direction to future land protection efforts. Elsewhere, the Delta Region Preservation Commission has independently endorsed the concept of using purchase and sellback for some lands in Jean Lafitte and of identifying constructive options for the park protection zone. Several properties suitable for exchange in Kaloko/Honokohau have been identified along with practical ways to resolve previous obstacles to exchanges. And, an important exchange is being negotiated in Grand Teton.

The importance of these achievements is made quite clear when seen in the light of the difficulties of carrying out the mandates of Congress and the expectations of park proponents at a time of financial austerity. The summary table on page 6, points out the gaps between authorized acreage, funding, and needs to complete the parks.

Below are narrative summaries of the eight reports. The material from the reports has been augmented by interviews of superintendents and others in the study teams.

### Appalachian National Scenic Trail

Extending over a distance of some 2,100 miles, the Appalachian Trail passes through fourteen states from Maine to Georgia. The trail's route generally follows the crest of the Appalachian Mountains, but descends to cross pastoral valleys and the great rivers of the Eastern United States. The trail offers a diversity of topography, vegetation and animal life and traverses many sites of cultural significance.

Since 1925, with the establishment of the Appalachian Trail Conference (ATC), the level of private involvement in trail protection has been remarkable. By 1937, volunteers had blazed a continuous trail from Maine to Georgia and connecting existing trail systems. The study team estimates that the 61 member

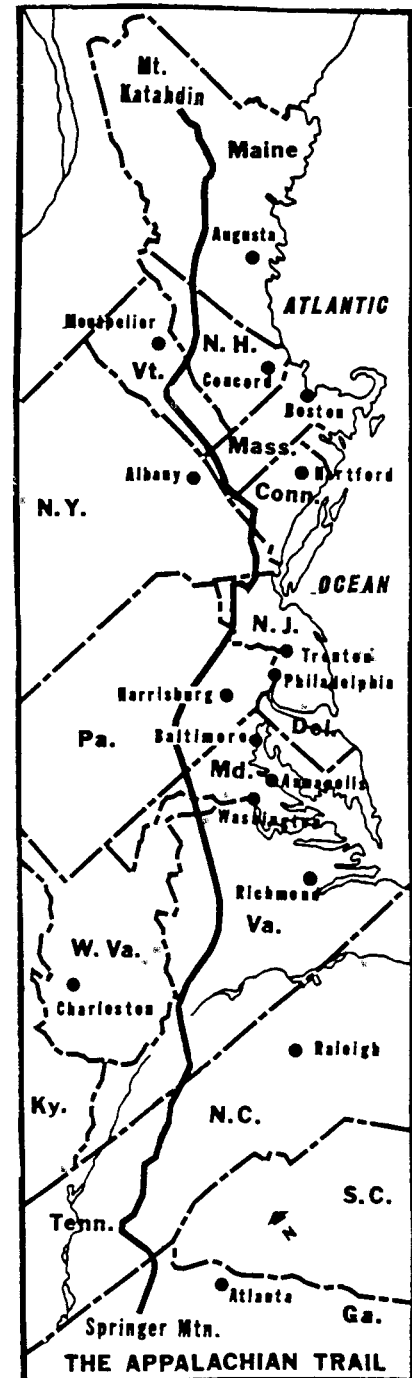
clubs of the ATC now provide operation and maintenance services on the trail worth more than \$1 million annually. In 1968 the National Trails System Act authorized NPS to administer the trail.

Of the 625 miles for which NPS is responsible, 426 have been protected to date. Of the fourteen trail states, five have major trail acquisition programs and, all told, states have protected over 380 miles of the 621 for which they are responsible.

The primary concern of those involved in preserving the Appalachian is assurance of a continuous, protected corridor because of increasing development along portions of the trail. This development has forced relocations of the trail onto roads in several instances. Trail managers also complain of the difficulty of managing some of the scattered parcels now owned by NPS which would remain unconnected if the federal trail acquisition program were to slow significantly. The study team expressed concern about the continued viability of the federal-state-private partnership that has made such tangible progress towards protection of the entire Appalachian Trail if the "driving force" of the federal land acquisition programs (including the U.S. Forest Service as well as NPS) were to disappear. The study team's belief is that this partnership will not survive several years of minimal funding from the federal government.

In addition to examining the effects of three different federal funding levels, the Appalachian Trail study makes several specific recommendations. These include a continuation of policies offering landowners a choice of selling fee or easements; an NPS analysis of the cost-effectiveness of easements; training of NPS land acquisition staff on how to encourage land donations; improved coordination with local and regional land trusts; encouragement for local regulation of land adjacent to the trail corridor; and new authority to provide matching grants to the states for Trail protection.

The study team also recommends passage of H.R. 861, a bill to amend the National Trails System Act. This bill would (1) assure landowners that any donations of property interests to land trusts near the trail would be accepted by the IRS for tax deduction purposes, (2) expand NPS authority to enter into cooperative agreements, (3) authorize acquisition of lands extending outside the trail right-of-way with the funds obtained from any subsequent sales or exchanges of these lands being credited to the trail's acquisition account, thereby creating a trail revolving fund.



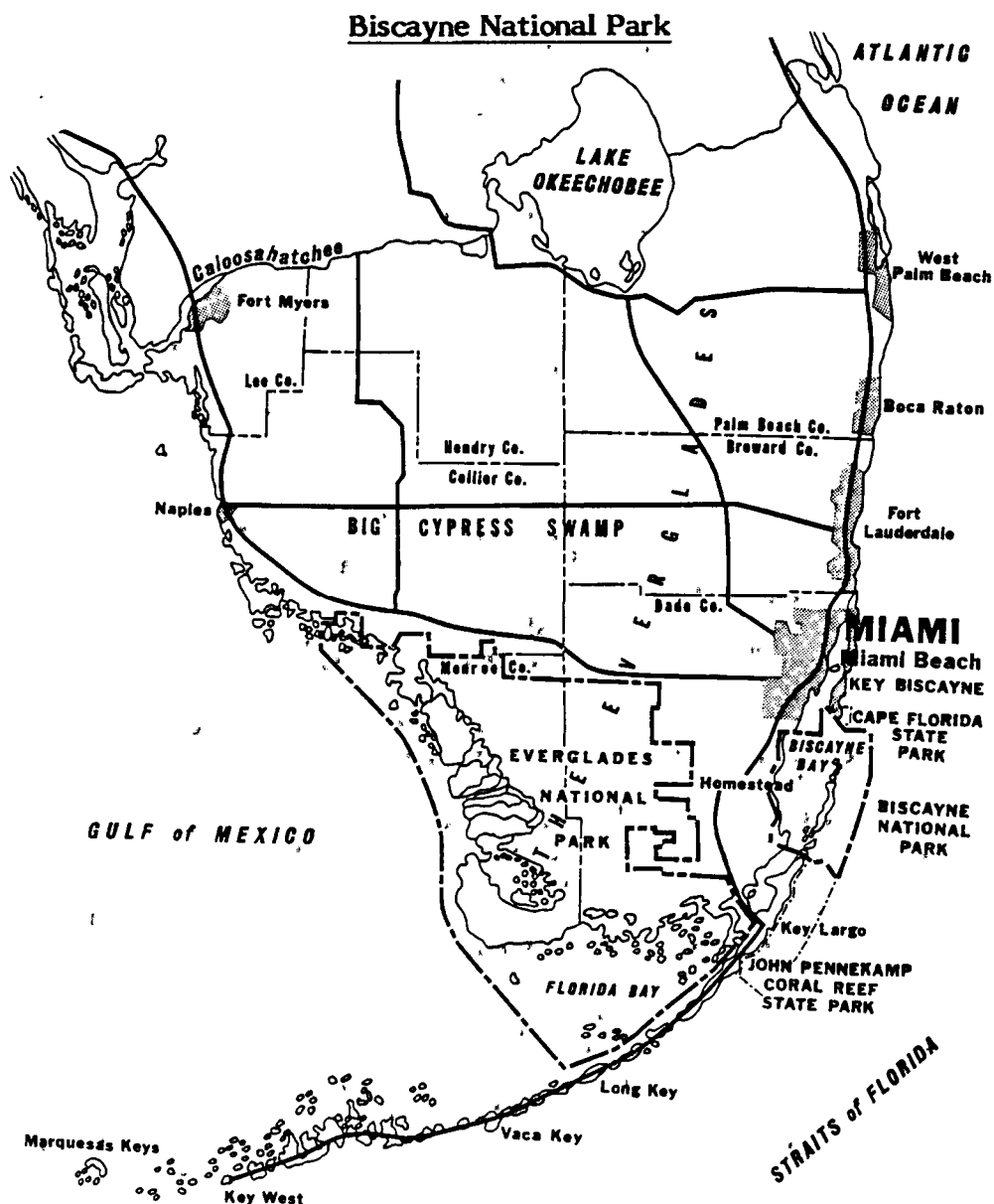
Status of the Eight Parks: Comparative Statistics

	<u>Authorized Area (000 ac.)</u>	<u>Authorized Ceiling (\$000,000)</u>	<u>Spent to Date (\$000,000)</u>	<u>Acres Acquired (000 ac.)</u>	<u>Ceiling Remaining (\$000,000)</u>	<u>Estimated<sup>1</sup> to Complete (\$000,000)</u>
APPALACHIAN TRAIL	(625.8 miles)	95.0	44.5	29.4	45.5	29.7
BISCAYNE	175.0	36.9	26.8	95.1	8.2	8.2
CHACO CULTURE NHP	34.0	11.0	0	23.4	11.0	11.0
CHANNEL ISLANDS	249.4	30.1	0.05	1.1	26.3	26.3
CHATTAHOOCHEE RIVER	6.3	72.9	66.9	2.9	6.0	6.0
GRAND TETON/JACKSON HOLE	310.5	None	21.2	271.3	NA	44.0 <sup>2</sup>
JEAN LAFITTE	20.0	50.0	11.8	5.3	38.2	38.2
KALOKO/HONOKOHAU	1.3	25.0	0.05	0	25.0	61.8 <sup>3</sup>

<sup>1</sup> Balance of statutory ceiling for all areas except Grand Teton subject to change depending on final revised land protection plan

<sup>2</sup> Estimated value September 30, 1980

<sup>3</sup> Total appraised value of tracts in fee as of December 15, 1979



Biscayne National Park is located in Dade County, Florida about ten miles south of Miami and nine miles east of Homestead. Within the park's authorized boundary, there are 175,000 acres, almost 96 percent of which are underwater. A narrow strip of mainland shoreline includes about 4,542 acres, and the barrier islands comprise the remaining 4,300 acres of dry land. Almost 60 percent of the 175,000 acres authorized has been acquired by NPS, at a cost of \$26.7 million, mostly through donation of land and water by the state.

Local interest in federal protection for Biscayne Bay began in the early 1960s in reaction to plans for a massive petrochemical plant and shipping facility. Following an Interior Department study in 1965, Congress enacted legislation to establish the Biscayne National Monument (up to 96,300 acres), in 1974 expanded its boundaries (to 104,000 acres), and in 1980 reclassified the area as a National Park and, again, expanded its boundaries (by 71,000 acres).

The National Park contains a number of specialized and relatively pristine estuarine and marine environments -- a natural mangrove shoreline, a shallow bay, a chain of essentially undeveloped coral keys, and the northernmost extension of a living coral reef in the United States. Biscayne's diverse natural values are threatened from a variety of sources within and outside the park because of its proximity to a major metropolitan center, industrial growth and intensive agriculture. The study team concluded that these threats cannot be eliminated solely through land acquisition by NPS.

The team looked at four different strategies for park protection: reliance on current (state, local and federal) regulations, active NPS involvement in strengthening current regulations, NPS involvement in developing new legal authorities to protect Biscayne, and reliance on various forms of acquisition (fee simple and less-than-fee) and alternative acquisition methods (donation, bargain sale and exchange).

The report's final recommendations include a mix of these approaches, with NPS seeking to reach agreement with the state and county on sharing of responsibility for land acquisition within the park. Acquisition would proceed for the 50-55 acres of newly-authorized offshore keys. NPS would work with Dade County to extend certain "transfer of development rights" programs to the park so as to encourage private owners not to develop land within the park. Federal permit requirements for dredge and fill operations would be upgraded, and NPS would seek to strengthen its relationship with regulatory agencies to gain at least interim protection for the park's mainland shoreline and adjacent wetlands. In addition, the team recommends creation of a park buffer zone (extending inland from the park's boundary to the "salinity barrier") in which uses would be restricted to maintain the wetland system which directly affects the bay's ecology; and they suggest that a bay-wide authority be established to regulate development and assure that future actions by other federal agencies are consistent with a park protection plan.

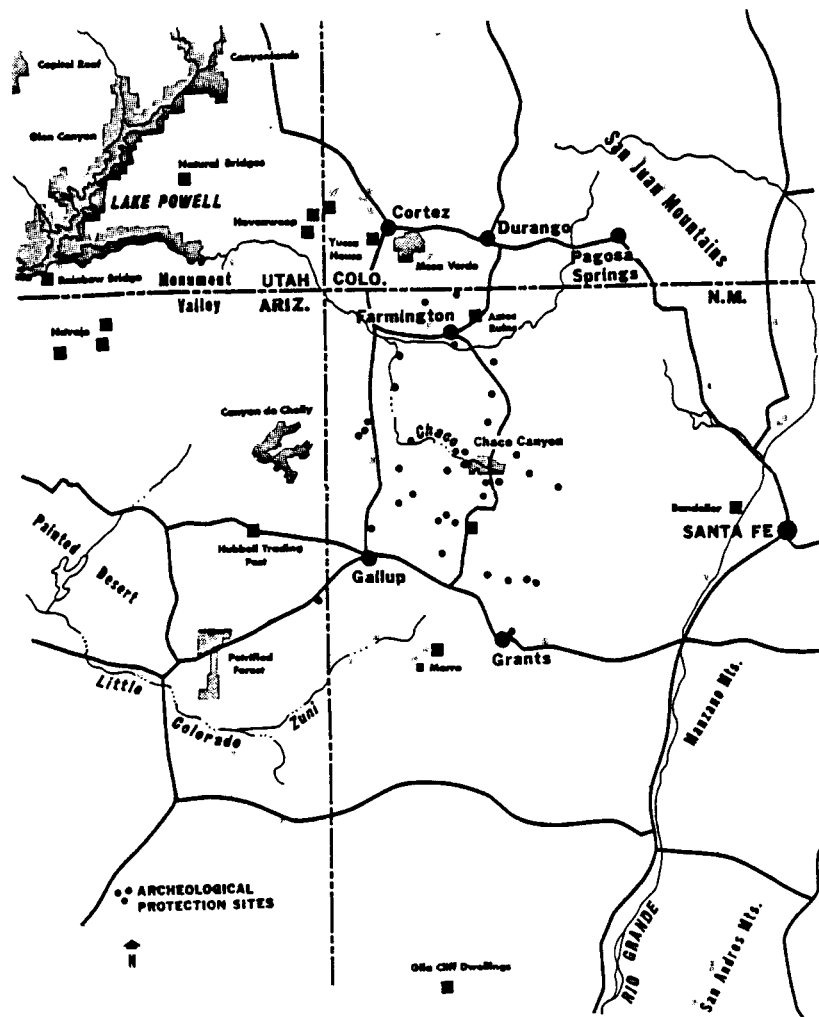
Considering recent experience in enforcement and administration, the study team found significant deficiencies in the ability of current federal, state and local regulations to assure long-term protection of the park. Even strengthened regulations may not, by themselves, achieve long-range objectives which include providing public access. Nevertheless expanded NPS involvement in regulatory proceedings was found to be necessary to protect the park from external threats and to maintain a cooperative relationship with state and local agencies.

#### Chaco Culture National Historical Park and the Chaco Culture Archeological Protection Sites

Chaco Culture National Historical Park and the Chaco Culture Archeological Protection Sites are located in the San Juan Basin (New Mexico, Colorado and Arizona), an area of major significance both in the cultural history of the Southwest and in terms of energy resources. Coal, uranium, potash, geothermal, natural gas and oil are found in the area.

Although the archeological wealth of the San Juan Basin was recognized as early as 1907, public and private archeological research, together with energy exploration in the '50s and '60s, uncovered many more Chacoan "outliers" -- archeological sites originally connected with the Chaco Canyon civilization by a prehistoric road system. These discoveries led to 1980 legislation designating the

National Park and establishing the "archeological protection site system" involving some 33 outliers.



According to this legislation, the "archeological protection sites," totalling 8,768 acres, are to be protected primarily through cooperative agreements with landowners. These sites are not actually part of the National Park System and are not to be managed by NPS, although NPS is mandated to participate in interagency planning efforts (with the Bureau of Land Management, Bureau of Indian Affairs, the state of New Mexico and Navajo tribes) to ensure that archeological values are protected.

The outliers present a difficult protection problem. Not only are they widely scattered -- some as much as 100 miles away from the Canyon proper -- but most are in multiple ownerships with surface and subsurface rights split. Almost half the archeological site acreage is subject to mineral leases, licenses or permits, with more coal leasing expected, and about the same amount of acreage is affected by mining on adjacent lands. A further problem is for NPS to gain adequate control of the 13,000 acres within the park's expanded boundary. This acreage is mostly Navajo-owned and encumbered by mineral, oil and gas leases which present significant environmental problems for the park.

The Chaço study team concentrated on alternatives to deal with these major problems and on the feasibility of land exchanges. One reason for the study's emphasis on facilitating exchanges is that the park's legislation identified exchange as the preferred method of land acquisition, if cooperative agreements could not protect the resource, and directed the Secretary of Interior to designate a pool of land at least three times the private acreage contained in the archeological protection sites for exchange purposes. To expedite exchanges, the study recommends that negotiations continue with the Navajos on protection of the archeological resources on tribal lands. The study presents a range of possible incentives for tribal management and protection of these resources and of possible funding sources to support improved resource management. These include allocation of a portion of federal mining leases in the San Juan Basin, a corporate or private endowment, a tribal energy severance tax, and additional protective legislation for archeological sites.

Finally, the study focused in on one privately-owned archeological protection site and examined a series of options for preventing further destruction of its archeological resources. These included corporate participation in an exchange of this site for BLM lands elsewhere, the site's purchase by a private conservancy, NPS purchase of salvage or development rights, and NPS encouragement of a donation of part of the site with eventual de-authorization of the rest.

### Channel Islands National Park

Channel Islands National Park, off the California coast of Santa Barbara, consists of five islands and a mainland headquarters. Two of the islands, Santa Rosa and Santa Cruz, are privately-owned, while the other three are under the jurisdiction of the U.S. Navy, Coast Guard and NPS. Of the total (land and water) acreage within the park's authorized boundary, NPS owns .4 percent and has very limited regulatory jurisdiction over only a little more.

The Channel Islands represent one of the most diversified and productive insular and marine ecosystems in the world with indigenous flora and fauna of scientific interest. Anacapa and Santa Barbara Islands were part of a National Monument as early as 1938.





In 1980, Congress added Santa Rosa, Santa Cruz and San Miguel to the boundary and established the National Park. This act expanded the park's "fast lands" alone from 1,351 to 124,115 acres.

The study team described management problems relating to protection of both the park's land and water resources. The team found that state regulations to protect submerged lands and marine resources as well as NOAA regulations to protect the Marine Sanctuary Area within six miles of the island were inadequate for park purposes. However, in developing resource protection options the team's focus was on the privately-owned islands of Santa Rosa and Santa Cruz. These islands are now used mostly for cattle ranching by three family corporations, with The Nature Conservancy holding 12,400 acres in natural condition on Santa Cruz. These landowners have, in the past, pushed Santa Barbara County to allow limited second-home development on their property. The county's original land use plan also permitted onshore drilling on the islands. The county, and indirectly the islands' landowners, have been opposed in these two kinds of development by the California Coastal Commission. Despite the Coastal Commission's record of support for island protection, the study team felt that recent actions in the state legislature suggest a weakening of the Commission's powers, and, therefore, that the Commission cannot be relied on to provide long-term protection for Santa Rosa or Santa Cruz.

Because NPS has not yet completed a general management plan for the park, the study team based its alternatives for the two islands on three or four "visitor use" scenarios. Under conditions of very limited visitor use (i.e. for scientists only or for day visitors only), the team found that less-than-fee interests held by NPS would suffice. However, if NPS were to strive to accommodate a moderate number of visitors under "wilderness" conditions or an even higher number of visitors in developed facilities, the team found that only full fee acquisition of most of both islands would be adequate to provide for such uses.

In addition to describing these site-specific alternatives, the study recommended that outer continental shelf leasing royalties be allowed as a component of land exchanges and that the exchange process in general be streamlined.

### Chattahoochee River National Recreation Area

The Chattahoochee River NRA was established to protect a prime open space and recreation resource within reach of the Atlanta metropolitan area. The 6,300 acres which have been authorized border a 48-mile segment of the river in four counties northeast of Atlanta. Taken together, the park's fifteen units contain a range of scenic and historic features -- outstanding natural areas, archeological sites and prime farmland -- in a rural setting.

By direct purchase and donation, NPS has acquired close to half the authorized acreage at a cost of about \$66 million. The resource protection study estimates that \$22-26 million would be needed to complete the NRA as originally authorized.

Congress envisioned the NRA as a unique kind of partnership of state, local and federal government, in which the state and local governments would plan for and regulate the river corridor, while the federal government would acquire sites for permanent resource protection and recreational use. Although plans, policies and regulations at the state level now provide some protection for water quality,

neither the state nor the four counties involved provide the regulatory protection for the corridor's scenic, recreational and cultural elements needed to carry out the park's legislative mandate to provide diverse recreational activities for large numbers of users. In view of the growth pressures on the Chattahoochee corridor (still considerable despite the recession), the lack of local and state resource protection may have serious implications for the long-term viability of the NRA.



Resource protection therefore focuses on these three elements, according to the study team:

- four large-scale boundary and mangement alternatives, one of which includes possible deletion of land from within the park boundary.

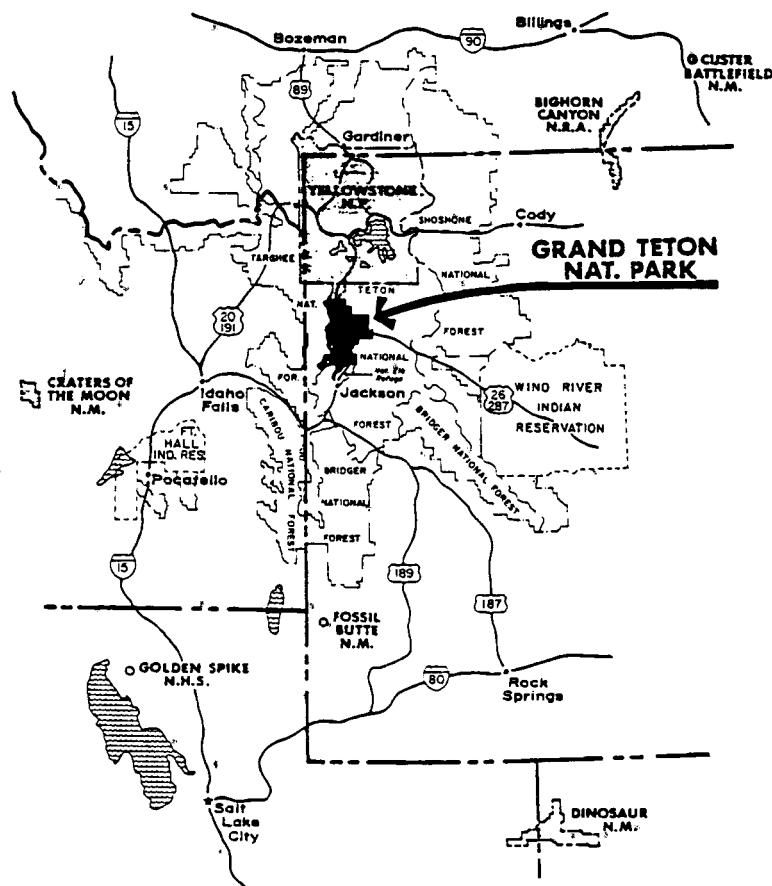
- protection alternatives for five significant sites which are not now included in the park boundary but which could be traded for certain sites NPS now owns but are not considered essential for park purposes

- analytical frameworks to guide decisions about which protection techniques or boundary alternatives are likely to be the most cost-effective in terms of protecting significant resources, enhancing the visitor's experience, permitting efficient management and minimizing any adverse social or economic impacts the NRA might have on people now living in and around it.

For the five sites, the study team examined about thirty protection techniques, including full fee acquisition. Although full fee acquisition consistently ranked the highest for accomplishing the park's stated management objectives, purchase and sellback with deed restrictions (or leaseback) and purchase of easements were seen as workable on certain of the sites.

Of the eight studies, the Chattahoochee's delves deepest into the factors that should be weighed in making major park decisions about land protection and visitor access. These analytical frameworks for assessing costs and benefits of alternatives could form the basis for future resource protection studies.

### Grand Teton National Park/Jackson Hole



Grand Teton National Park includes 310,516 acres within its authorized boundary in Teton County, Wyoming, and is part of the Jackson Hole area. Of the park's authorized acreage, the great majority is under federal jurisdiction, with 4,903 acres of inholdings by the state and various private owners. The cost to acquire these inholdings is now estimated at \$52 million.

Grand Teton National Park provides scenic grandeur and great natural diversity -- dramatic mountains, wide deep valleys, morainal lakes, wild canyons and forests, historic ranch sites, highly visible wildlife, and the winding Snake River. As part of the Yellowstone ecosystem, Grand Teton and Jackson Hole provide critical habitat for many endangered species.

Teton National Park was established in 1929. The legislation included 95,360 acres of federally-owned land but left aside the rest of Jackson Hole valley which many considered an integral part of the Teton landscape. In 1943, and again in 1950, federal action included some of the Jackson Hole valley area in the National Park. An NPS-led study in 1976 recommended establishment of a Jackson Hole National Scenic Area as a means of protecting the entire valley. A bill to establish the scenic area was introduced, but not passed, in 1977. Because of increasing recreation-related development in and around Jackson Hole, protection of this area remains a major issue affecting the National Park. The study team has recommended designation of the area as a National Scenic Area with reliance on intergovernmental coordination and on a variety of land use protection measures. For other areas directly adjacent to the park, the study recommends a similar range of protection measures.

The study deals quite specifically with 14 park inholding ownerships and recommends some for protection through easements, some for fee acquisition, and one to remain in private commercial ownership as long as uses remain compatible with park management objectives. These acquisitions are to be on a willing-seller basis whenever possible. Use of various methods of acquisition (donation, bargain sale, land exchange) and the use of multiple funding sources (LWCF, allocation of mineral leasing revenues) are recommended.

The single most controversial park inholding is the 61-acre town of Kelly. The study team recommends that Kelly be declared a developed area within the park and that appropriate federal and/or county development standards be adopted to ensure that the town's growth does not detract from the park.

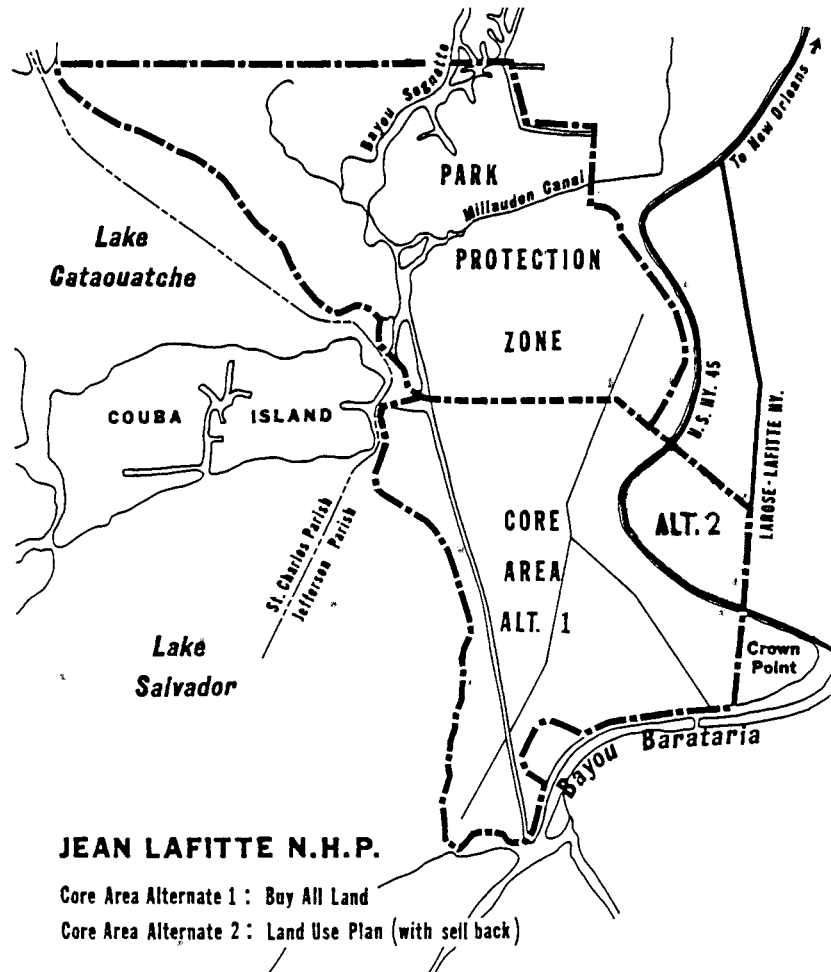
As for other inholdings, while acquisition in fee or easement may be a long-term goal, the team recognized that some of them might well remain in private ownership for generations before an owner decides to sell.

Finally, the study team recommends two "partnership" alternatives: the first is an interagency or intergovernmental coordinating council to deal with matters of mutual concern to federal, state and local agencies in the Grand Teton/Jackson Hole area. The second involves coordination of future land exchange efforts between federal landmanaging agencies within the Jackson Hole Area, including the U.S. Forest Service, NPS, the U.S. Fish and Wildlife Service and the Bureau of Land Management. The result of this coordination would be "exchange packages" including private or other lands that would be exchanged for BLM or other lands or lease values. Such interagency cooperation, according to the study, would also eliminate existing competition between agencies for exchange lands.

### Jean Lafitte National Historical Park

The Barataria Marsh "core area" which is the focus of the NPS case study is actually one of five units within Jean Lafitte National Historical Park whose purpose is to preserve and interpret the natural and historic resources of the

Mississippi Delta. The 1978 legislation establishing the National Park authorized acquisition of up to 8,600 acres of Barataria Marsh and, to assure maintenance of certain natural resources in the marsh, directed that NPS in partnership with the state of Louisiana and affected localities develop a plan for an 11,400-acre "park protection zone," also within the park's authorized boundary.



Other park units of Jean Lafitte include the former Chalmette National Historical Park, Big Oak Island and an undefined number of units (some in the French Quarter and Garden Districts of New Orleans) to be managed through cooperative agreements with private owners and groups.

Abutting a prosperous metropolitan area, the units of Jean Lafitte which illustrate the Delta landscape, Barataria in particular, are threatened by pollution and development of various kinds which cannot be eliminated by federal land acquisition within the park boundaries, including the park protection zone. In fact, the Jean Lafitte case study questions whether this in-park buffer zone is even potentially effective in protecting the Barataria Marsh unit and recommends another look at this zone -- its shape, size and basic utility. This questioning of the "purpose" of the park protection zone follows years of negotiations between the Interior Department, the State of Louisiana, and affected localities as to what level of regulation is needed in the zone and who should bear the brunt of enforcing such regulation.

The study team presented a total of twelve alternatives, the present core-plus-regulated-buffer zone approach: four relate to the Barataria "core area" and eight concern the park protection zone. Alternatives for the core area ranged from acquisition of full surface rights of the 3,409 acres still in private-ownership to de-authorization of lands within the core area which are the most expensive, have the most development potential and are least representative of the marsh landscape. One "in-between" alternative is to buy the remaining private acreage, place certain development restrictions on it, and then sell certain sections back to developers. Another is to shift certain "core area" lands into the somewhat less restrictive park protection zone.

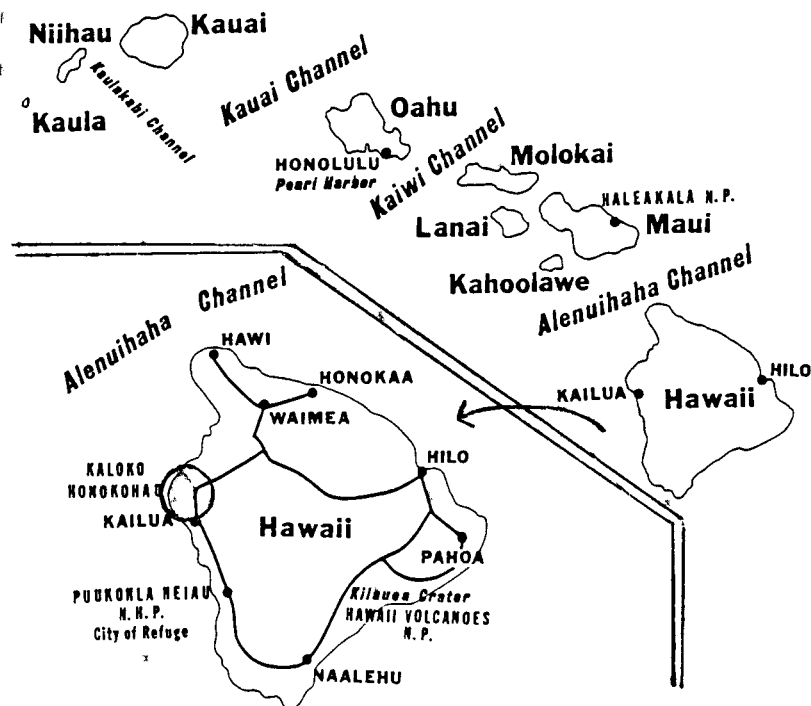
The two "last resort" options for the park protection zone are total NPS acquisition or total de-authorization, options which might be pursued if state and local authorities fail to enact and enforce regulations adequate to protect certain aspects of the protection zone and the core area. Other alternatives include continuation of NPS efforts to develop adequate guidelines and regulations in cooperation with local authorities, federal assumption of regulatory authority within the zone, working with IRS and local landowners to encourage donations of conservation easements, and reduction in the zone's size.

### Kaloko/Honokohau National Historical Park

Kaloko/Honokohau was authorized as a National Historical Park in 1978. Of the eight case study parks, this is the only one where there has, as yet, been no NPS land acquisition. The park is located on the island of Hawaii and includes about 1,250 acres of land and water in five tracts.

The purpose of the park is to preserve the historic Hawaiian lifestyle, demonstrating traditional land use patterns and culture. The park contains 234 known archeological sites including temples, graves, house sites, altars and petroglyphs. The site's significant natural resources include varied geological formations and water bodies important to endangered wildlife. The area as a whole has a special spiritual importance to the Hawaiian people.

Half of the 1,250 acres within the boundary are privately-owned. The State of Hawaii owns the rest, including a small parcel at the southern end of the park near a newly-expanded small boat harbor, the offshore areas, and the shoreline itself up to about 200 feet inland. The park's private acreage is very valuable because of its undeveloped, beautiful shoreline and location near the island's



airport and best harbor. Despite some drop in tourism, a shortage of development money and tightening of state and local regulations, most resort industry officials believe that this section of West Hawaii will eventually be one of the state's major resorts. In the absence of federal protection, the study team reports that landowners will proceed with resort development, and that Hawaii County is expected to allow such development.

The current appropriations ceiling for the park was set in 1978 at \$25 million. A private appraisal a year later set the value of the privately-owned tracts at close to \$62 million. Responding to the problem of an ambitious congressional mandate for park protection and authorizations insufficient to carry out this mandate, 1980 legislation authorized exchange of federal surplus lands for lands within the park.

The study team focused on coming up with exchange possibilities within the state of Hawaii and actually located ten federal properties suitable for exchange. The study identifies a variety of steps necessary to overcome obstacles to exchange and recommends new legislative and administrative actions needed to ease such transactions.

In addition, the study team considered ten boundary alternatives for the park, recommending finally only a minor change in the southern boundary around the boat harbor "to clarify continuing operations by the state." The team concluded that fee interests were needed for all privately-owned land in the park because (1) landowners had no interest in easements or other less-than-fee arrangements, (2) the land was needed for visitor use, and (3) no private economic uses were compatible with the purposes of the park. Special emphasis was placed on the spiritual importance of the park to the Hawaiian people and the need to maintain a unique complex of cultural sites.

### III. PRINCIPAL APPROACHES DESCRIBED IN THE STUDY REPORTS

#### Comparison of Techniques

As the foregoing summaries reveal, brief as they are, the study teams were able to evaluate a wide range of approaches for dealing with contemporary acquisition, protection and management problems. The approaches involve land acquisition, regulation by various levels of government, new "partnership" efforts to pool the authorities of government agencies, and lastly, tax incentives.

The table following arrays these techniques, showing how they were approached by the study teams in the eight areas. It would be inappropriate to subject the table to close analysis. The case studies write-ups used terms variously, and in specialized contexts, so ascribing general conclusions is highly speculative and requires interpretation. Moreover, reading the table as definitive in terms of each of the study areas would also be a mistake. The evaluation of the techniques probably represents the make up of the study team and its general level of familiarity with some of the more technical approaches such as transfer of development rights, or newly emerging methods in other fields, such as agricultural zoning. Even so, the table does show that a wide range of approaches were considered if the studies are taken as a whole.

#### Explanation of Terms

The following explanation of terms used on the table can also serve as a general glossary for the report as a whole.

Fee acquisition via appropriation. Fee or fee simple purchase of land denotes the purchase of land outright - that is, all the interests in land. Appropriation refers to funds appropriated by Congress for the purpose. In general the term describes the traditional means by which federal park land has been acquired.

Fee acquisition via land exchange. This involves traditional acquisition of land in fee simple, but by means of exchanging federally-owned land which is surplus or could be designated as such for land needed for a National Park unit. There has been much enthusiasm for this method of acquiring land for parks, but application is limited by complex procedures and current emphasis on selling surplus properties rather than exchanging them.

Fee acquisition via donation or bargain sale. This approach would, again, produce land owned outright by NPS, but tax-deductible donation of acreage by individuals or corporations would be sought. A great deal of land has been donated to the National Park Service. Notably, for the purposes of this report, much land in the Grand Teton National park was purchased and then donated by John D. Rockefeller, Jr., to the National Park Service. A bargain sale is a kind of partial donation in that the owner sells the land for less than its market value. Landowners in this case can take a tax deduction for the difference between the sale price and appraised value.

Purchase and leaseback and/or resale with restrictions. This method of acquisition envisions, in the case of leaseback, the purchase of land by the NPS, and then leasing the land back (to a farmer or other owner) for his continued use, under restrictions that would comport with park management objectives. In the case of



PRINCIPAL APPROACHES DESCRIBED  
IN THE STUDY REPORTS

Appalachian Trail	Chattahoochee	Biscayne	Jean Lafitte	Chaco Culture	Grand Teton National Park	Channel Islands	Kaloko/Honokohau
Fee acquisition via appropriation	●	●	●	●	●	●	●
Fee acquisition via land exchange	●	⊗		●	●	●	●
Fee acquisition via donation or bargain sale	○	●		●	●	○	○
Purchase and leaseback/resale with restrictions	●	●	●	●	●	●	⊗
Acquisition of negative easements	⊗	●	●	●	●	●	
Acquisition of positive easements	○	●	●	●	●	●	⊗
Local land use controls	●	●	○		●	⊗	⊗
Clustering, planned unit development		●	○		●	○	
Agricultural use zoning					●	○	
Development performance standards	○	●			●		⊗
Transfer of development rights	○	●				○	⊗
State-level land regulation	●	●	●	●		●	⊗
Federal resource and environmental regulation	●	●	○	○	●	●	○
Informal partnership agreements	○		●	●	●	⊗	
Cooperative public/private planning and management	●	●	●	●	●	●	
Intergovernmental regulation	●	●					
Tax incentives, general	○	●	○	●	●	●	●

Legend

● Approach recommended for general application

○ Approach evaluated, no recommendation

⊗ Approach recommended for limited or conditional application

⊗ Approach not recommended, or short comings described

blank: approach not mentioned

resale, the land would be purchased, then placed back on the market with covenants in the deed prohibiting the new buyer from undertaking certain adverse uses of the land, such as large-scale subdivision, clear-cutting, or a sand and gravel extraction operation, to name three examples.

Acquisition of negative easements. A negative easement conveys the right to restrict certain uses of land. Property ownership involves a "bundle of rights." These may include the right to mine, cut trees, build houses, or graze cattle. Negative or conservation easements can be acquired to prohibit or restrict some of these rights while leaving the rest in private ownership.

Acquisition of positive easements. In most cases for the study parks the positive easements would be to provide a public right-of-way across private land for access to a remote publicly-owned parcel, or for recreational use as such -- a trail, or fishing rights along a stream, for example.

Local land use controls. Local governments have authority to regulate the use of land to protect public health, safety, and welfare. Zoning and subdivision regulations, and building and sanitation codes may control the density, size, or type of development. Zoning ordinances may include conservation zones, historic districts, agricultural zones, and large lot requirements in addition to defining where commercial, residential, and industrial uses are allowed.

Clustering/planned unit development. Clustering is a zoning method whereby builders may develop at greater densities than may be allowed by law -- say on half-acre lots in a one-acre zoned residential area -- if they in turn dedicate the remaining land as protected open space. Planned unit development is a kind of giant version of cluster development which allows for a wide range of land uses and densities on a large site in return for the dedication of natural, scenic, historic, or recreational areas to the public.

Agricultural use zoning. In recent years, as the export markets have burgeoned for U.S. agricultural products, many states and localities have taken steps to zone land for exclusive or near-exclusive agricultural use. Some of this zoning is absolute, in the case of Oregon's "Exclusive Farm Use" zoning law; elsewhere non-agricultural land uses are discouraged by extremely high limits to minimum lot sizes. Forty-acre minimums are not uncommon and there are examples of 180-acre minimum (or even higher) zoning. In those parks where agricultural land is a significant portion, such zoning could be crucial to carrying out park planning objectives.

Development performance standards. These refer to local regulations which, instead of providing exact restrictions on the use of land, require the developer to meet certain goals or "standards" the best way he can -- leaving room for individual solutions. This can be a significant technique for, say, permitting subdivisions in scenic or ecologically fragile areas where the developer would be required to maintain the landscape aesthetic, or to maintain essential ecological functions -- such as in marshlands, steep slopes, etc.

Transfer of development rights. The idea here is to transfer, rather than purchase or extinguish, the right to develop at a certain intensity or density.

It is a complicated procedure, but the basic idea is to provide "lot credits" to those who own land in a protection area, who can then sell them to a developer who could build at a greater than normal density (to the extent of the credits purchased) in a "receiving zone" wherein such densities would be more appropriate. The technique has yet to be proven as universally effective, and is more written about than actually used. The most recent and possibly best "TDR" program is now in Montgomery County, Maryland.

State-level land regulation. In recent years a number of states have preempted or recaptured formally delegated local land use authority through the direct application of state land use controls. For the most part these controls have been focused on the protection of critical resource systems such as stream belts and wetlands. In some situations states have controlled land use directly within areas of great importance such as scenic river corridors or park reserves. These regulations have required area-specific legislation.

Federal resource and environmental regulation. This approach proposes that park managers coordinate with other federal authorities to protect land, if such authorities produce the desired level of protection. In fact, well over 100 federal environmental and resource protection statutes (the Clean Air Act and the Federal Water Pollution Control Act Amendments, among many others) can frequently protect park resources from adverse impacts of development.

Informal partnership agreements. Among the so-called "partnership" approaches, there has emerged a kind of hierarchy in which informal agreements are the least permanent and effective and intergovernmental regulation (q.v. below) is the most permanent and effective. Informal agreements may be used for short-term purposes to limit the impacts of adverse private land uses within or on the periphery of parks.

Cooperative public/private planning and management. This is the next step up in the hierarchy, and would involve means to induce public or private authorities to adopt policies benefitting a park unit, such as special zoning or use provisions.

Intergovernmental regulation. Here the effect of an agreement is permanent and enforceable by the parties. The best example (and strongest) is found in the Pinelands National Reserve, wherein a state-federal partnership is established by both federal and state statute. Such intergovernmental partnerships can produce direct regulation of land within a park boundary.

Tax incentives, general. The range of tax incentives applying to land is wide indeed, too wide to break down into component parts. The most significant incentive for the purposes of the resource studies is the income tax deduction available to those who donate land or interests in land to the federal government. Moreover, there is a property-tax incentive involved in giving away land in fee or easement, and inheritance tax deductions also apply. With respect to agricultural and other open space use almost all states allow some sort of differential assessment, having the effect of reducing taxes. While there is great interest in the effects of taxation on the behavior of land owners, it is not really a land-protecting method, so much as an inducement to make choices about the disposition of one's estate that might benefit a park.

#### IV. EVALUATION OF TECHNIQUES

##### Full Fee Acquisition

Most of the study teams consider full fee acquisition to be the most effective protection method. The Kaloko study, for example, finally recommends full fee purchase for all privately-owned land within the park's authorized boundary. Similarly, the Appalachian Trail study team found full fee to be the best overall protection technique considering legislative intent, landowner desires and manageability, although the study emphasizes the usefulness of being able to acquire less-than-fee interests from landowners.

For the more intensive visitor use and "wilderness" options at Channel Islands, full fee is also considered the minimum estate needed.

In the case of Jean Lafitte and Chaco Culture National Historical Parks, the preferred options appear to be acquisition of all rights, with purchase of less-than-full-fee interests where full fee isn't possible.

The Chattahoochee study team, having looked into less-than-fee and regulatory techniques for land protection, concluded that these are generally less effective than full fee from the point of view of resource protection, visitor use and acceptability to (mostly speculative) landowners.

The Grand Teton study team recommends full or partial fee acquisition of all inholdings, except for the town of Kelly, over a period of years.

The Biscayne study team found that a full fee estate was needed for the 50-55 acres of offshore keys included in the park boundary by the 1980 legislation, but recommends mainly other-than-full-fee alternatives (at least in the short term) for most of the unacquired land within the new boundary (4,500 acres of upland and about 65,000 acres of submerged lands).

What is significantly different about the case studies' treatment of full fee acquisition, compared to past NPS plans for these parks, is their emphasis on different methods of fee acquisition -- exchanges, donations and bargain sales -- and on suggestions for funding sources other than congressional appropriations. At least half the study teams discovered a much greater potential for landowner donations and bargain sales to NPS; indeed, a couple of teams actually identified specific donation opportunities in the course of the study and were able to follow up on them. Several studies recommend training of NPS land acquisition staff in soliciting donations and bargain sales.

In five of the eight studies, land exchanges of various kinds are examined in some detail. As with donations and bargain sales, a few study teams were able to identify specific exchange opportunities and assess the degree of interest of the various parties involved. Three of the studies express reservations about the usefulness of exchanges for small-scale transactions and, in addition, remark on the many obstacles involved in completing even the simplest of exchanges. One team member said that the most expeditious exchange he'd been able to find out about took two years to complete. Studies where exchange was seriously considered stress the need to simplify and expedite exchanges. Study participants who had vigorously pursued exchanges were discouraged by the potential for further

complication as a result of a recent executive order establishing the property review board with emphasis on selling surplus land rather than using it as trading stock for land exchange programs.

### Less-Than-Fee Techniques

Of the gamut of less-than-fee techniques available, the preference for use in completing the eight study areas seems to be negative easements, purchase/sellback or leaseback, life/term estates or other use reservations, positive easements and fractional interests.

Because it is common for NPS to offer life or term estates to park inholders, it is likely that the study teams simply assume such reservations of use to be a viable option, hence, this technique should probably not be seen as an alternative to fee acquisition. NPS acquisition of fractional interests is discussed only in the Channel Islands study.

The most common reservations with regard to negative easements and purchase of development rights are (1) their relative expense and (2) the time it takes to manage them over the long-term. The negative easements purchased along the Appalachian Trail, according to the study team, have averaged 70 percent of full fee value, and positive "right-of-way" easements have averaged 82 percent of full fee value. The Chattahoochee study estimates the purchase of development rights within the river corridor would cost 90 percent of full fee value. Both these studies conclude that donation, not purchase, of easements could justifiably be pursued. It is worth noting that neither study team could estimate the additional time and trouble needed to manage easements versus acquiring land in fee because of the lack of NPS data to make such a comparison. The Appalachian Trail study team feels that an in-depth NPS study on the cost-effectiveness of easements would resolve this long-unanswered question about the true relative costs of full fee and easements.

Purchase/sellback or leaseback is mentioned in six of the eight studies with varying degrees of enthusiasm and for different scales of acquisition. This technique is actually recommended if limited to use on "non-critical" lands -- where neither high resource protection nor visitor access are needed -- by over half the study teams. The reservations expressed about this technique include:

- "involving NPS in the role of a landlord" (Chattahoochee)
- "public might question why land was purchased in the first place" (Appalachian Trail)
- "any rights NPS could sell back would be of little interest to landowners."

Concern about the ability of NPS to manage and enforce less-than-fee interest is also evident in most of the eight studies.

### Regulatory Techniques

The potential of regulations (municipal, county, state and federal) to protect parkland is explored in detail by half the studies, receiving most attention in the Biscayne and Chattahoochee studies. The Biscayne team began work with an

analysis of 100 different legal authorities which appeared to have relevance to the protection of land in the park still in private ownership. About 30 of these authorities were further examined, and several figure largely in the study's final recommendations. The Chattahoochee study team, having systematically evaluated state and local regulations to protect natural, historic and scenic resources within the river corridor, concluded that these regulations would be largely ineffective without better enforcement, and a stronger intergovernmental partnership. The study also locates several major gaps in regulatory coverage.

The Kaloko study team examined the major regulations at the state and county level pertaining to the park and concluded that, while enforcement of these would mitigate damage to the park's resources, no combination of these regulations would protect resources at the level mandated by the park's authorizing legislation. The Channel Islands study found county-level regulations too lenient on residential and energy development on and around the islands. Although the study team found that the regulatory standards of the California Coastal Commission have been crucial in protecting the Islands in the past, the study concludes that the regulatory protection afforded by the Commission is, at best, short-term in view of recent efforts by the state legislature to weaken the Commission's authority. Federal and state legislation concerning protection of submerged lands and marine resources were also found to be inadequate for park purposes, and the study recommends strengthening these.

The Grand Teton study team found that local (county) zoning and other development controls could be helpful in regulating development in Kelly and in certain areas adjacent to the park. The possibility of promulgating federal land use and building standards for the town of Kelly is also mentioned.

The Jean Lafitte study emphasizes the need for better local and state regulations, in particular regulations to maintain water quality in the park protection zone, but does not discuss regulations in detail. It is interesting that this team found strength in the ability of Section 404 permits to protect the already disturbed ecosystem of Jean Lafitte, while the Biscayne study team found the same authority too weak to protect a relatively pristine wetland system from incremental destruction.

Worth noting also is a discovery made by the Biscayne study team of the potential for protection of large portions of the park through modifications to an existing county regulatory program. By researching the Dade County severable use rights program, the team found it could be used to gain interim protection for the park's 4,500 acres of mainland shoreline and, eventually, to obtain some donations of shoreline property to NPS. The team suggested that the program, now being applied to East Everglades, could be extended to cover the entire park, thereby affording compensation to landowners who choose not to develop their property but instead sell their development rights on the open market. Although the Biscayne team generally found regulations to fall short of providing the long-term, high level of resource protection mandated by the park's legislation, the time spent on examining regulation paid off in this particular instance.

#### Tax Incentives

One striking area of agreement in the eight studies is the potential of tax incentives to increase donations and bargain sales of property to NPS. A couple of the studies (Jean Lafitte and Chattahoochee) recommended working within the

structure of existing tax laws. However, the other six studies recommended creation of additional tax incentives -- tax credits, carry-overs, credits against estate taxes, and capital gains exclusions -- in order to motivate private landowners to donate property. The Appalachian Trail study (in addition to recommending enactment of H.R. 861 which would assure trail landowners that their donations of property interests would be accepted for tax deductions by the IRS), mentions the need for more and different incentives to expand the range of people who can benefit from donating land for conservation purposes because most landowners along the Trail, and in many other park situations, are not in high enough tax brackets to benefit from existing laws. As a result of the study, the Appalachian Trail Project Office is developing new policies and a training program for its land acquisition staff to give them enough knowledge of potential tax benefits to interest landowners in donations. The Trail's land acquisition staff could then refer interested landowners to tax experts in local land trusts along the Trail.

### Financing

While most of the studies imply, if not declare that the need for direct and substantial appropriations from the Land and Water Conservation Fund has not disappeared, the studies examine several other sources and methods of funding acquisitions. The Biscayne study mentions that state and local bond issues could be used to acquire parkland which then would be donated to NPS. Six studies (Biscayne, Chaco, Channel Island, Kaloko, Chattahoochee and Grand Teton) discuss the use of federal property, property leases, rights in property and proceeds from sale of property to come up with cash value for parkland. The property involved is depending on the study, owned by NPS, BLM or was property "surplussed" by other federal agencies through GSA. Three studies mention earmarking for park acquisition a percentage of the revenue now paid to BLM from on and offshore mining royalties (Chaco, Channel Island, and Grand Teton). The Chaco study also mentions the possibility of the Navajo tribes instituting an energy severance tax to be earmarked for parkland acquisitions.

Several private sources of funding, mostly traditional, were mentioned in the eight studies. The Chaco study proposes the greatest number of private funding sources, including the formation by a consortium of mining companies of a tax-exempt organization to manage a revolving fund for protection of the Chacoan outliers. Perhaps most interesting are alternatives involving private corporations in exchanges. The Grand Teton study, for example, suggests that mining companies could purchase parkland, donate this to NPS and, in return receive BLM lands equal in value to the parkland originally purchased.

### Partnerships

Although all the studies use the word "partnership" to describe the relationship desired between NPS, landowners, public agencies and private for-profit and non-profit entities, the actual forms of partnership suggested in the studies cover a wide range, from the relatively informal cooperative agreement to highly organized public/private structures such as the one outlined in the Chattahoochee study.

Six of the studies discuss cooperative agreements to provide for a variety of things including visitor access (Jean Lafitte, Channel Islands), interim resource protection through assurance of compatible uses (Appalachian Trail, Jean Lafitte,

Grant Teton) and provision of resource management services to landowners by NPS (Chaco). While some of the studies are silent on the long-term effectiveness of cooperative agreements, others emphasize their fragility (they can be terminated by either party with 30-days notice) and consider them as a supplementary protective device only.

Six studies recommend new or continued efforts in cooperative planning and management. Jean Lafitte, Biscayne and the Appalachian Trail studies recommend further NPS work with state and local agencies in improving environmental regulations affecting lands adjacent to parkland, or, in the case of Jean Lafitte, affecting the park protection zone. The Chaco, Grand Teton and Channel Islands studies recommend interagency, intergovernmental efforts to coordinate planning and resource management. The Chaco study, for example, assumes the continuation of the "Interagency Management Group" (IMG), chaired by NPS and representing the Navajo tribes, the state of New Mexico, BLM and Bureau of Indian Affairs -- all major landowners in the park and outliers. The Grand Teton study recommends similar groups be established to coordinate land management practices and future land exchange efforts.

The Biscayne and Chattahoochee studies came closest to describing the intergovernmental, public/private partnership which would plan for and regulate privately-owned land within and around parks. Such a partnership is very briefly described in the Biscayne study as a new agency with intergovernmental membership to enforce bay-wide standards and regulations and provide incentives for compatible economic development for the bay and shoreline. The Chattahoochee study describes a similar authority in the context of the "modified proposal" under which Congress would designate land within 4000 feet of the river as an "Area of National Concern" and authorize funds for planning assistance in return for state establishment of a planning entity (say a Commission) to develop a comprehensive management plan. The Commission, with federal, state, county and city representation, would exercise some (unspecified) regulatory authority over the ANC. If the Commission's plan for resource protection in the ANC were not carried out, the Commission would have to reimburse the Secretary of Interior all planning funds and, at that point, the Secretary would probably exercise the option of scaling down and eventually delegating all NPS management authority in the Chattahoochee NRA to state and local governments.

Directly related to the perceived need for some kind of partnership arrangement, is the need for a buffer zone between the park and actively developing areas or sources of pollution. The need for a buffer zone is recognized, implicitly, in four of the eight studies. The adjacent "areas of concern" described in the Grand Teton-Jackson Hole study constitute a buffer zone. Both the Chattahoochee and Biscayne studies suggested the creation of park buffer zones. In Biscayne, this zone would extend from the mainland boundary west to the "salinity barrier" (a dam separating salt from fresh water), while in Chattahoochee the zone is two-tiered -- consisting of the 4000 foot corridor along the river designated as an "ANC" and the "local protection area" surrounding the ANC.

The Jean Lafitte study deals with its "park protection zone" (within the park boundary) in a very different way. The study questions the utility of this zone given the inadequacy of local and state regulation and the ambiguity of NPS authority over this area (NPS is authorized to acquire lands and interests in land within the PPZ, but only as a last resort).



## V. The Lessons

### General Observations

There is wide agreement among the study teams that less-than-fee and regulatory means of land protection can be useful in meeting park management objectives. However, the studies also pointed out many shortcomings of these approaches as a permanent solution to the problem of how to provide for visitor use and long term protection for fragile resources. Uncertainty about future changes in ownership, laws, regulations, enforcement capability, and monitoring problems were noted.

The studies generally agreed that NPS should acquire full fee interests on most tracts to carry out congressional mandates and management objectives for these particular parks. Full fee was seen as offering the most secure protection. However, the studies did not focus on the uncertainty about getting the funds appropriated to buy every parcel in fee. The studies were cautiously optimistic about finding new ways to pay for parkland by exchange, and tax incentives for donation.

The studies do not offer any final answer to the question "do alternatives work?" They were not intended to. Instead they confirm what has been said in the State of the Parks report and elsewhere: by itself, full fee acquisition within authorized boundaries is no longer enough to protect National Parks, added protection outside park boundaries is a necessity, protection must be afforded by agencies other than NPS at the federal, state and local level and that this protection will take forms other than that of full fee acquisition.

### Next Steps: Implementing the Study Recommendations

The major concern of those who worked on the eight studies is that the studies -- and their recommendations -- will languish for lack of follow-through. As one person said, "The inherent danger in the studies is that results will not be realized for 10-15 years." Another said, "The verdict is still out on the effectiveness of these studies; it's up to the Department now to precipitate action." Potential site-specific solutions to certain park problems are at stake, along with the broader possibilities of land exchanges and tax incentives. The Congress, Administration, Interior Department and NPS should be especially mindful of these action recommendations, drawn from the team members themselves:

1. The Interior Department and Congress should draft and implement measures to simplify and expedite land exchanges and seek administrative funds to pursue and complete exchanges. Implicit in this recommendation, made by half the study teams, is the need to seek exceptions to the recent procedures that emphasize selling surplus property to raise cash.

2. The Department and Congress should pursue the development and implementation of tax legislation to encourage landowners to donate property or rights in property to NPS and that staff continue to be assigned to the development of such legislation. This recommendation from the teams was unanimous.

3. That money should be available to take advantage of good offers to sell to NPS on the part of inholders. This year, less than \$1,000,000 was budgeted for this purpose.

4. More funds for planning oriented to solving park problems should be made available. The slowing of land acquisition provides an opportune time to take stock of park problems and propose ways of solving them.

5. Boundary adjustments proposed in the studies should be quickly reviewed and acted on by the Congress.

6. Procedures should be established to ensure that no park concept or boundary becomes fixed in legislation before a thorough study of park management and use alternatives is done by NPS.

7. The Department and NPS should recognize the need for staff trained in the use of alternative protection methods at the regional and park level, fund positions for such staff, fund development of training materials and provide both academic and field training opportunities. Parallel with this in-house training effort, NPS should develop materials for landowners which explain the benefits of donations, and the effects of less-than-fee interests held by NPS on land uses and values.

8. The Department and the Washington office of NPS should continue to provide legal and technical support to regional offices and park superintendents on the use of alternatives to fee and that more consistent political backup for use of these methods be provided.

9. Past and current NPS use of alternative methods should be evaluated and that the same evaluation format be used henceforth to record all use of alternative methods, with their costs and benefits relative to full fee acquisition.

10. The questions and analyses tested through the eight studies should be refined, simplified and incorporated into revisions of NPS land acquisition plans and interdisciplinary teams (consisting of a park manager, planner, land acquisition and "alternatives" specialists) should be assigned to carry out these reviews.

11. NPS should develop a list of parks with outstanding land protection problems and subject these parks to such a review as soon as possible.

#### Policy Implications and the Future of the Parks

Were the foregoing team-member recommendations at least partially put into place -- especially those relating to "institutionalizing" the study process (see 7-11) -- the implications of these eight resource protection studies for the long range future of the national parks would be great indeed.

This is because, for the first time, both the necessity and the practicality of using a range of approaches to carry out the NPS mission could, potentially at least, engage the interest not only of Washington policy people, but of those who are actually charged with the day-to-day responsibility of "running" the parks. The National Park Service is a classic decentralized government activity, where the real responsibility and power is at the operating level. Like a diverse corporation, whose operating divisions supply the profits, top management may wish to try this

new approach or that, but if the operating people believe that a new approach might hurt their bottom line, they will have nothing to do with it. This is why the NPS may seem a bit conservative to the idea-man in Washington. It is also why NPS is among the handful of federal-level services that the American people are proud of, revere, and find truly valuable.

So, it would be a meaningful event in the history of the parks to get the field managers themselves on board in an effort dramatically to expand the range of approaches for establishing, operating, and protecting the parks -- an effort which subtly changes the role of the manager as guardian and interpreter, by adding to it the role of entrepreneur. Were such a change to come about, it would mean that three things could happen. First, the NPS could solve its immediate, and dire, problem of what to do about the "incomplete" parks. Second, in the longer term the NPS could greatly improve and protect its present overall estate. Third, the NPS could even look toward some expansion of the system, despite a period of fiscal restraint and high land prices that may last indefinitely.

To take up these possibilities in turn, the most urgent of NPS problems centers on what to do about the "incomplete" parks. The number of these parks is estimated at over 100, when all parks are counted, which require some kind of additional land protection to "complete" them. But this large number includes parks where only a few inholdings remain to be acquired, or a boundary change has taken place. The number of parks with a quite serious protection problem -- such as Channel Islands -- is probably a good deal less. Depending on one's definition, the actual number might be put at 75 parks. It is here that the lessons from the resource protection studies can be applied to significant effect. As it now stands, some have so despaired that the seriously under-acquired parks could ever be completed, that the concept of de-authorization has surfaced as a serious alternative. Possibly, however, the application of the range of approaches uncovered in the resource studies could obviate the need for wholesale de-authorization, although a certain amount of "devolution" -- letting some parks, or parts of parks, devolve to other government entities -- might well be contemplated.

The point is, without applying the lessons of the resource studies, de-authorization or devolution notwithstanding, the incomplete-parks problem is probably not solvable in the foreseeable future and can be a debilitating political and operational burden for the Park Service. By contrast, as some of the study-teams have recommended (in recommendation number 8, above), the problem can be dealt with given training and policy support from headquarters. Indeed, one park executive has observed that if the Park Service could get the key 75 superintendents plus about 15 experts in the use of alternative approaches together for a total immersion session lasting for two or three weeks, "you've virtually solved the problem of dealing with the incomplete parks and have better understood the 'power base' which has often kept alternative approaches from being taken up by park managers."

Another aspect of the use of alternative approaches to complete the parks is that many of the regulatory techniques can be implemented in order to "buy time" -- to provide some protection for an interim period while the park acquisition program incrementally catches up. Such a temporary holding pattern for certain land in a project area gives park managers the ability to focus available funds on the highest priority tracts.

A second potential benefit in applying the lessons of the study parks concerns improving the management of the park system as a whole. If land prices are high and money scarce -- the present and future reality now facing the Park Service -- then the NPS is obliged to husband its resources skillfully. This new husbandry is especially needed in managing the peripheries of the parks, since increasing rural population growth and economic activity, by crowding in on park borders can vitiate the park's most significant natural and aesthetic values. The lessons from the case studies are helpful in dealing with the problem, not by the traditional means of boundary expansion -- i.e. buying more land to push intrusive uses further away from the park's center -- but by entering into various partnership arrangements with the governments, quasi-public organizations, and landowners controlling the peripheral lands. At this point, since purchasing land for buffering, is a good deal less likely than in times past, the park manager will have to enter into a kind of political activity, working with other entities to moderate the impact of intrusive neighboring uses.

This approach to handling periphery problems can have two benefits, as the case studies strongly imply. First, obviously, is that existing parks can be protected more fully from adverse peripheral land uses. The second is that land acquisition funds can be used elsewhere, to purchase acreage that is absolutely crucial to the success of a park unit, rather than land whose purpose is to protect other land. Moreover, even if funding were not so scarce, in many places acquisition is simply not the most appropriate solution to potential land use conflicts.

The final implication of the case studies has to do with the expansion of the park system. The potential for the use of alternative approaches for park protection does not only pertain to existing parks -- complete or otherwise -- but to the parks of the future. While many analysts assert these days that the time of rapid expansion of the system is over, few believe that there will be no new parks, or that the current very low rate of expansion will not increase at some time in the future when the financial picture is somewhat brighter.

When some expansion is again possible, the lessons from the study parks can be applied with significant effect. The reason for this is that the alternative approaches, in the main, apply especially well to parks whose values are primarily cultural, as opposed to natural or recreational. Flat-out ownership and careful management are required to protect fragile natural areas and the classic scenic wonders that characterize the "crown jewels" of the park system, and is also required of places used for intensive recreation, such as seashores, mountain lakes, riversides, and the like. But park proposals these days are not always concerned with such places, or even predominantly so. In fact, the preponderance of proposals are for large cultural landscapes rather than purely natural or recreational areas. Within such landscapes, there are economic uses that may remain, and in fact are part of the landscape-value of the place: farms, woodlots, private estates, historic settlements. And while some property must be owned and managed for park-specific purposes in any area which is to be part of the National Park System, the basic modes of landscape protection and management must be drawn from those uncovered or created in the course of the resource studies.

These then are the implications of the eight case studies that may be commended to the attention of policymakers concerned with the future of the national parks. To recapitulate, what the studies suggest is a way out of the current dilemma of low budgets and high land prices which can be significantly

helpful in solving the problem of the "incomplete" parks, can enhance the management of the present park estate taken as a whole, and can suggest a mode for creating new parks in the future without impoverishing other parts of the system.

These cheerful opportunities for the future depend entirely, however, on the actions taken in the present as a result of the case studies -- if, that is, the central recommendations of the study-team members are seriously taken up, especially the recommendations "7-11" (as listed in the previous section) to institutionalize the study process.

To paraphrase these "7-11" recommendations, they are, immediately, to establish an analytical method based on the work in the eight parks, and assign an interdisciplinary team (the park manager, a planner, and specialists in "alternatives") to carry out reviews of the parks, beginning with those parks with outstanding land protection problems; and second, to establish permanent positions for experts on alternatives to work at the regional office and park unit level, to create in-house and public information training materials on alternatives, and for the Washington office of the National Park Service and the Department of Interior to support, technically, legally, and "politically" the entire enterprise of developing and applying alternative approaches.

In the past several years, a number of efforts have been made to introduce top-down changes into National Park System policy to promote alternative protection approaches. These have been proposed by Congress, by environmental policy organizations, by park user groups, and successive administrations. Perhaps the most rewarding and immediate potential effect of the case study project is to obviate the need for such top-down policy making. The case studies have revealed a means of finding new ways to deal with low budgets and high land costs that can be developed organically, directly out of the experience and commitment of the park managers themselves and their associates. This is the way policy ought to be created, and perhaps now, for the National Park Service, it can be. No federal agency, with the possible exception of the IRS has more kibbitzers, back-seat drivers, and proferers of advice on changing policies, than the National Park Service. In recent years, the service has, at times, lost control of its own future for this reason. It may be, and it is devoutly to be hoped that it will be, that the impulse behind the case studies was wiser than even its originators knew, for if this impulse can now be carried forward with the same vigor as the studies themselves, the future of the National Park System is very much less in doubt.