

LAND ACQUISITION PLAN
Buffalo National River

I Purpose

The purpose of this document is to establish an effective land acquisition plan to implement the provisions of Public Law 92-237; to inform the park staff, land acquisition personnel, the affected landowners, and the general public of the pertinent aspects of the National Park Service Land Acquisition Program as it affects the development of the Buffalo National River. The document is intended to provide a comprehensive plan for implementation of Public Laws, Part 114-50, Interior Property Management Regulations (IPMR's), National Park Service Land Acquisition Policy, and other directives which affect the implementation of Public Law 92-237.

II Background

Public Law 92-237, which was passed by Congress on March 1, 1972, hereinafter referred to as the Act, established the Buffalo National River as a free-flowing stream. The legislation established the boundaries of the national river and authorized the Secretary of the Interior (represented by the National Park Service) to acquire lands and waters or interests therein by donation, purchase, or exchange, except that lands owned by the State of Arkansas or a political subdivision thereof may be acquired only by donation.

When an individual tract of land is only partly within the boundaries of the national river, the Service may acquire all of the tract by any of the above methods in order to avoid the payment of severance costs.

Land so acquired outside of the boundaries of the national river may be exchanged by the Service for non-Federal lands within the national river boundaries, and any portion of the land not utilized for such exchanges may be disposed of in accordance with applicable Federal laws.

With the concurrence of the agency having custody thereof, any Federal property within the boundaries of the national river may be transferred without consideration to the administrative jurisdiction of the Service for administration as part of the national river.

The Act provides that except in certain areas an owner, as a condition of the acquisition, may retain a life estate or a right of use and occupancy for a term of years (not to exceed 25 years) in lands used for agricultural purposes, or improved property used for noncommercial residential purposes, at the time of acquisition. Improved property means a detached year-round one-family dwelling which serves as the owner's permanent place of abode at the time of acquisition, and construction of which was begun before September 3, 1969. The life estate or retained use are to be subject to such terms and conditions as the Secretary of the Interior deems appropriate. (See Appendix A, B, and C for the terms and conditions of the retained use as envisioned by the Act.)

Chapter IX, titled "Land Acquisition," of the National Park Service's Management Policies Manual describes how the land acquisition program will be executed. Part 114-50, Interior Property Management Regulations (IPMR's) provide detailed instructions on relocation assistance. The Revised Land Acquisition Policy published in the Federal Register, Volume 44, Number 82, pages 24790-24798, Thursday, April 26, 1979, requires that each area such as the Buffalo National River have a

LAND ACQUISITION PLAN which conforms to Departmental and Park Service policies and all applicable laws. Since the national river was authorized subsequent to July 1959, it is in the category of Newly Authorized Areas as opposed to Inholding Areas or Areas Where Acquisition is Limited to Donation or Exchange, as defined in the referenced portion of the Federal Register.

This plan is subject to the approval of the Regional Director, Southwest Region, National Park Service. The plan should be approved not later than April 26, 1980, and will be implemented upon approval of the Regional Director. The acquisition of real estate interests within the boundaries of the national river will not be delayed pending approval of the plan.

III Current Status

The Act authorizes the acquisition of a real estate interest of a total acreage not to exceed 95,730 acres. As of September 30, 1979, the status of the area's land acquisition program was as follows:

- A. Total tracts within boundaries - 1,205 (excluding mineral and similar tracts).
- B. Tracts acquired to date - 1,023.
- C. Tracts in complaint, pending court action - 70 (49 landowners).
- D. Tracts pending transfer or donation - 26.
- E. Tracts to be acquired by exchange - 5 (University of Mississippi).
- F. Tracts to be acquired by negotiations - 73. These include 71 tracts owned by private landowners, plus 1 which is the property of the Boy Scouts of America and 1 owned by Southwestern

Bell Telephone Company. Of the 71 tracts identified above, 22 are located in private use zones. Since some landowners own more than 1 tract, there are 62 private landowners with whom negotiations have not been concluded.

- G. All the privately owned lands except 5 ownerships have been appraised.
- H. Third-party mineral ownerships to be acquired - 34.
- I. Tracts not to be acquired - 8. These consist of cemetery or church properties.

IV Implementation of Policy

The Buffalo National River Final Master Plan, approved in October 1975, identifies three types of zones: Public Use and Development Zones, Conservation Zones, and Private Use Zones.

In the Public Use and Development Zones, a fee simple interest will be acquired, and the owners otherwise eligible will not be offered an opportunity to retain rights of use and occupancy for residential or agricultural purposes, as described in Section II, above. Nevertheless, in these zones, consideration will be given to authorizing permanent residents to retain use of a small parcel of land for a limited period of time. The time limit will be ascertained on a case-by-case basis, by the Superintendent, and will be based on the proposed construction schedule. A charge will be made for retained use, if applicable, which must be paid in advance (usually withheld from the proceeds of the sale at the closing). The amount of consideration will be determined under procedures promulgated by the National Park Service which are in effect at the time negotiations are concluded.

In the Conservation Zones, a fee simple interest will be acquired; however, all eligible owners will be offered an opportunity to retain use and occupancy rights for residential or agricultural purposes.

In the Private Use Zones, a scenic easement will be acquired unless they convey a fee simple interest, he or she may reserve use and occupancy rights as described in Section II, above. Also, such an owner who elects to sell in fee simple may reserve an access right-of-way across the lands so conveyed to adjacent lands outside the boundary in the same ownership, if such access is necessary or desirable to reduce severance damages. See Appendix D for the terms and conditions of the scenic easement deed.

The Boy Scouts of America property and the property owned by Southwestern Bell Telephone Company will be given a low priority for acquisition, along with mineral ownerships. However, negotiations to acquire these tracts will be conducted simultaneously with the negotiations for the 71 remaining privately-owned tracts described above, as time permits. Some of the cemeteries are in public ownership, others are in private ownership. In addition, in each case the family members of the persons buried there have acquired a prescriptive interest in certain lands comprising portions of the cemetery involved. No real estate interest will be acquired in these public and private cemeteries.

V Condemnation

The Government's negotiators and the private landowners are usually able to reach a satisfactory agreement for acquisition of the real estate interest required to comply with the Act and the Master Plan. However, all acquisitions cannot be satisfactorily concluded through negotiations.

A landowner is not required to accept the Government's appraised value or its highest offer for the property. In anticipation of such circumstances Congress in 1888 established eminent domain procedures, sometimes called a condemnation action, to provide for the acquisition of lands needed for public purposes and to insure that an individual receives just compensation for his property. Initiation of eminent domain procedures involves the filing of a complaint in condemnation. A complaint may be accompanied by a declaration of taking. Condemnation suits will be filed with the Federal Court, Western District of Arkansas, by the United States Attorney, Fort Smith, Arkansas. A Federal Marshall will notify the landowner of the filing shortly thereafter.

Eminent domain procedures will be initiated only as a last resort. When it becomes obvious that a satisfactory agreement cannot be reached or when unwarranted delays are encountered, the owner will be advised accordingly, in writing, and a complaint in condemnation will be filed. In such cases, the court will decide the amount to be paid the landowner as just compensation based on the evidence of value placed before the court by the Government and by the landowner. A declaration of taking will only be filed to halt or preclude resource damage, or to resolve title defects. Threatened damage to the resource will cause the Land Acquisition Officer to initiate action to file a declaration of taking. Threats to remove timber, remove soil, sand or gravel, construct facilities or otherwise damage the resource, or subdivision of unsubdivided lands will be considered adequate cause to accelerate the acquisition process.

VI Salvage

During negotiations landowners will be given an opportunity to salvage buildings and other structures located on property conveyed to the Government, unless the building or structure has historic value. The National Park Service will ascertain during negotiations whether a building or structure which a landowner has identified for salvage possesses any historic value. A charge is usually made for the salvage of a building or structure. The value of the salvage rights will usually be available during negotiation. The monetary consideration for salvage rights will be deducted from the proceeds of the sale, but the landowner must choose what is to be salvaged prior to execution of the agreement to sell. Any salvaged structures must be relocated to a site outside of the national river boundaries.

VII Relocation

Public Law 91-646, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, entitles landowners, tenants and others to certain payments provided they are displaced by a Federal land acquisition program. The types of entitlements are housing differential, moving expenses, and other incidental expenses involved in relocation. Any person lawfully occupying a dwelling shall be given at least ninety days^{US} advance written notice of the date by which he shall be required to relocate.

There are specific limits to the amounts of relocation payments. These payments are in addition to the price paid to the landowner for the land and improvements. Public Law 91-646 describes the entitlements and prerequisites required to establish eligibility. Part 114-50, IPMR's,

provide the detailed instructions for computing entitlements. In order to be eligible for a housing cost differential, a displaced person must purchase and occupy a replacement dwelling no later than one year from the date on which he receives final payment for his property, or from the date he moves from the Government-acquired dwelling, whichever is later. The displaced person has an additional six months in which to file relocation claims with the Land Acquisition Officer, Buffalo National River.