

JOHN DAY FOSSIL BEDS NATIONAL MONUMENT, OREGON

LAND PROTECTION PLAN

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2/21/84  
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JOHN DAY FOSSIL BEDS NATIONAL MONUMENT, OREGON

Land Protection Plan Summary

1. Current ownership	Acres
Federal	10,739.28
State and County	172.28
Private	3,099.56
Total	<u>14,011.12</u>
2. Number of tracts remaining to be protected:	15
3. Methods of protection proposed	Acres
Fee acquisition by National Park Service	1,029.25
Less-than-fee acquisition (scenic easements and deed restrictions)	2,109.50
Areas suitable for sellback or leaseback	-----
Zoning	-----
Cooperative Agreement	-----
Regulation	-----
Adequately protected	0.81
4. Statutory acreage ceiling:	None
5. Funding status as of July 1, 1983	
Authorized acquisition ceiling:	\$3,900,000
Appropriated to date:	\$ 845,997
Obligated to date:	\$ 687,622(R)
Unobligated balance:	\$ 158,375(R)
6. Top priorities	Acres
Protect significant fossil beds, provide for public access and public use areas in Sheep Rock and Clarno units	2,197.65
Protect visual qualities of existing landscape in Sheep Rock and Clarno units	891.10
Complete Federal ownership in Painted Hills unit through public/private donation	50.00

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LAND PROTECTION PLAN

John Day Fossil Beds National Monument, Oregon

I. INTRODUCTION

In April, 1982, the Department of the Interior issued a policy statement for use of the Federal portion of the Land and Water Conservation Fund which requires that, in carrying out its responsibility for land protection in federally administered areas, each agency using the fund will:

- Identify what land or interests in land need to be in Federal ownership to achieve management unit purposes consistent with public objectives in the unit.
- Use to the maximum extent practical cost-effective alternatives to direct Federal purchase of private lands and, when acquisition is necessary, acquire or retain only the minimum interests necessary to meet management objectives.
- Cooperate with landowners, other Federal agencies, State, and local governments, and the private sector to manage land for public use or protect it for resource conservation.
- Formulate, or revise as necessary, plans for land acquisition and resource use or protection to assure that sociocultural impacts are considered and that the most outstanding areas are adequately managed.

In response to this policy; the National Park Service requires that a land protection plan be prepared for each unit in the National Park System which contains private or other non-Federal land or interest in land within its authorized boundary.

The guiding principle of each land protection plan is to ensure the protection of that unit of the National Park System consistent with the stated purposes for which it was created and administered. Land protection plans are prepared to:

1. Determine what land or interest in land need to be in public ownership and what means of protection other than fee acquisition are available to achieve unit purpose as established by Congress.
2. Inform landowners about National Park Service intentions for buying or protecting land through other means within the unit.

- 3. Help managers identify priorities for making budget requests and allocating available funds to protect land and unit resources.
- 4. Find opportunities to help protect the unit by cooperating with State or local governments, landowners, and the private sector.

The major issues to be addressed by this plan include (1) the identification of private lands within the monument's boundaries that need to be protected; (2) the minimum interest in those lands that the Park Service must acquire; and (3) the recommended means of acquiring the land or interest in land.

This plan does not constitute an offer to purchase land or interest in land; neither does it diminish the rights of non-Federal landowners. The plan is intended to guide subsequent land-protection activities subject to the availability of funds and other constraints.

Because the plan proposes no Federal action at this time, and because the human environment will not be changed or altered by the plan, no compliance is required with the National Environmental Policy Act.

II. PURPOSE OF THE MONUMENT AND RESOURCES TO BE PROTECTED

A. Significance and Purpose of Monument

The national significance of the monument lies in the geological and paleontological resources of the John Day Basin. Its sedimentary strata, representing four major geological formations of the Columbia River Plateau, span the last 70 million years and five consecutive geologic epochs. These strata contain one of North America's longest continuous records of plant and animal fossils, which traces the evolution of life forms from the subtropical climate of the Eocene Epoch through the subarctic climate of the Ice Age.

Dr. J. D. Merriam, who studied the area intensively as early as 1899, stated, "Although there are other geological sections, particularly in the Western United States, which furnish as remarkable history...there are probably none in which the relations of the various chapters to each other are more evident than they are in the record inscribed on the walls of the John Day canyon."

Another noted paleontologist, R. W. Chaney, has stated, "No region in the world shows more complete sequence of tertiary land populations, both plant and animal, than the John Day Basin."

Contributing to the significance of the monument are scenic, natural, and cultural resources.

In 1967, the Advisory Board on national parks, historic sites, buildings, and monuments, in its report on the National Park Service study of John Day Fossil Beds, determined that "...it is eminently suitable for geological and paleontological exhibit and interpretive purposes as a John Day Fossil Beds National Monument."

The Department of the Interior report to the Congress dated December 10, 1973, stated that "...establishment of the monument is intended to preserve, protect, and interpret the extensive Tertiary fossils found in the geologic formations of these areas."

John Day Fossil Beds National Monument was authorized October 26, 1974, and established October 8, 1975, under the authority of Public Law 93-486, 88 Stat. 1461. (See Appendix for copy of authorizing legislation.)

Based on these cited provisions and the more general provisions of the National Park Service's 1916 Organic Act, the purpose of the monument is:

To identify, interpret, and protect the geologic, paleontological, natural, and cultural resources along the central and upper John Day River and to provide facilities that will promote and assist visitor recreational enjoyment and understanding of the same.

The most important paleontological feature of the John Day area is the presence of great numbers of fossils. Fossil deposits are found in much of eastern Oregon but are usually under an overburden of at least 30 feet. In the area of John Day Fossil Beds National Monument, the overburden has been eroded away. The fossil bearing formation is also highly erodible--after each storm, additional fossils are exposed. The Clarno and John Day beds in this basin are world famous and have international significance, having yielded thousands of petrified bones, fossil leaf imprints, and occasional pieces of petrified wood that were buried and preserved by the volcanic ash. During the approximately 100 years of fossil collecting and research in this area, more than 120 fossil mammals have been identified. They range in size from very small mice to huge rhinoceros and oreodonts.

#### B. Resource Description

John Day Fossil Beds National Monument contains three units totaling 14,011 acres (Sheep Rock, 8,913 acres; Painted Hills, 3,129 acres; and Clarno, 1,969 acres) and is located in central Oregon's Grant and Wheeler Counties. Portions of each of these units were formerly Oregon state parks. Access is via U. S. Highway 26 from points east and west of the monument, U. S. Highway 395, and State Highway 19 from the north and south. (See map 1.) The three units are widely separated. The Sheep Rock unit, the largest and receiving the most visitor use, is 35 miles from the monument's headquarters, which is located in John Day. The Painted Hills and Clarno units are located 80 miles and 125 miles, respectively, from

John Day. Existing development within the monument is for day use. There are parking areas with spaces for 15-20 vehicles, picnic tables, and pit toilets at Clarno, Painted Hills, and at the Blue Basin and Foree sites within the Sheep Rock unit. There are also short trails at the Blue Basin, Painted Hills and Clarno sites. The Cant Ranch, which is located within the Sheep Rock unit, was acquired by the National Park Service in 1975 and is used as an interpretive facility. An overlook with a parking area and interpretive signs is also located near the Cant Ranch. Monument headquarters is located in the town of John Day. It is the only year-round visitor service facility. The facility provides administrative offices, a reception/information area, interpretive exhibits, storage facilities, and rest rooms.

The John Day River is essentially a free-flowing stream, with the only obstructions present being small diversion dams constructed and operated by local ranchers for irrigation of pasture and limited but highly important feed crops. A portion of the river from the Clarno unit downstream to Tumwater Falls has been designated a scenic waterway through the State Scenic Waterways Act. The John Day River exhibits flow characteristics typical of rivers in semiarid regions. Extreme differences in both seasonal flows and annual yields occur. Flows are usually highest in April and May and then drop rapidly. Severe summer cloudbursts may, however, cause flashflooding.

Cool, relatively damp winters and warm, dry summers with large daily temperature variation characterize the climate.

The soils found within the monument are characteristic of this semiarid region of Oregon. Typically, the soils are well drained, with a high shrink-swell potential.

Steppe and shrub-steppe plant communities are common in Oregon and are the dominant native plant communities found within the monument.

According to current information obtained from the U.S. Fish and Wildlife Service's Endangered Species Program, there are no listed or proposed threatened or endangered species within the monument. However, two "candidate" species of plants have been identified. These include Castilleja xanthotricha (yellow hairy paintbrush) and Chaenactis nevii (John Day chaenactis). The State list of rare, threatened, and endangered plants includes four species found within the monument. These are: Astragalus diaphanus Dougl. (transparent milk vetch), Allium pleianthum wats. (many-flowered onion), Penstemon eriantherus Pursh var. argillosus M. E. Jones (John Day penstemon), and Pediocactus simpsonii (Engelm.) Britt. & Rose var. robustior Coult. (hedgenog cactus). The monument contains no animal species of concern identified in the State list.

Topography of the John Day River Basin is comprised of steep mountains and narrow valleys. The Sheep Rock unit exhibits the greatest amount of relief in that the elevation gain from the John Day River to the tops of the mountains on either side of the river is between 1,000 and 1,700 feet. Terrain in the Clarno and Painted Hills units has been weathered

extensively, resulting in the rounding of most hilltops. The exception here is the Palisades in the Clarno unit, which is a small area that is steeply sloped.

The most prominent wildlife species within the monument is mule deer. There is the usual rodent population and associated predators, such as coyotes, in this semiarid grassland. Bird life is abundant in the region around the monument.

The specific resources to be protected on private lands include the highly significant fossil-bearing formations and the existing scenic landscapes.

### C. Legislative Constraints

Constraints written into the Act of October 26, 1974 (P.L. 93-486, 88 Stat. 146), which authorized John Day Fossil Beds National Monument, and the act of November 10, 1978 (P.L. 95-625, 92 Stat. 3467), that amended portions of the enabling legislation are as follows:

Lands: Public Law 95-625 revised the boundaries by adding 1,411 acres to the monument and deleting 1,620 acres from the monument as established by Public Law 93-486. Some \$3,500,000 is authorized for acquisition of the new acreage. NOTE: Reversionary provisions in deeds transmitting state-owned lands within the boundaries of the monument to the United States stipulate that if any of those lands should cease to be used for park purposes, ownership would then revert to the state of Oregon.

Exclusion of Camp Hancock: Map No. 177-30,000-B, referenced in the enabling act, identifies a 10-acre lease that the Oregon Museum of Science and Industry holds from the Bureau of Land Management. This leased land is an exclusion from the Clarno unit of the monument and is utilized primarily as an overnight outdoor classroom and research center for students of all ages. As such, the presence of this installation and the personnel using it have some influences upon adjacent resources and visitors. In 1985, title was transferred to the Oregon Museum of Science and Industry.

See the Appendix for copies of the monument's authorizing legislation and boundary revision legislation.

### D. Resource Management and Visitor Use Objectives

Although the General Management Plan (approved July, 1979) defines several management zones/subzones for the monument, the following are the ones that contain private lands and hence are the focus of this plan.



### Outstanding Natural Feature Subzone of the Natural Zone

This subzone consists of lands with natural features whose intrinsic value or uniqueness is preserved for public appreciation and interpretation. Included on private lands within this subzone are some of the most significant paleontological and scenic geologic resources of the monument. These resources include the mammal quarry, fossil trees, and nut beds of the Clarno unit and the Mascall formation of the Sheep Rock unit.

### Management Objectives Within the Natural Zone

Lands in this zone are managed for the conservation of natural resources and the continuation of natural processes. Other uses are allowed only if they do not adversely affect these resources and processes.

Paleontological features and the formations in which they occur will be managed so as to prevent unauthorized disturbance. Scientific research conducted by qualified persons will be encouraged to expose representative fossils. The establishment of collections should be properly housed in locations where they will be available to paleontologists for scientific study. All research will be based upon a research proposal approved by the National Park Service. An Antiquities Act permit must accompany all non-National Park Service sponsored paleontological collecting. Methods of interpreting fossil remains and paleontological techniques at excavation sites and in display areas will also be developed. Access to paleontological sites should be provided only in areas that can be reached without adversely affecting buried or exposed fossils and that can be sufficiently controlled to prevent unauthorized access.

### Park Development Zone

The park development zone includes lands used for the provision and maintenance of park developments which serve the needs of park visitors and management. The zone includes areas where park development and/or intensive use may substantially alter the natural environment. Every effort shall be made to prevent compromising historically significant resources. Developed areas include the Cant Ranch complex, existing and proposed roads, trails, waysides, picnic areas, and overlooks.

### Management Objectives Within the Park Development Zone

The scene should be a pleasing mixture of natural and pastoral landscapes. Highways and roads should be the minimum needed to provide thoroughfare and limited access to destinations with natural and scenic values. Alteration of existing roads should be undertaken only to enhance the scene and provide legitimate accessibility. Trails should provide for specific, complementary purposes or be obliterated. Off-road vehicle use should not be permitted except on lands cultivated for agricultural purposes. Restrictive measures for preventing unauthorized off-road use should not detract from the scene.

Visitor Use Objectives

Visitor use objectives are dependent on preserving the paleontological resources and scenic qualities of the monument as well as providing for visitor safety and adequate interpretation of the natural and cultural scene.

These objectives would be carried out within the above-mentioned management zones.

III. LAND OWNERSHIP AND USES

A. Description

Nearly a quarter of the land within the monument is in non-Federal ownership (see Appendix Table 1). Of that land, 95 percent is privately owned. The remainder is comprised of State land in the Painted Hills unit and highway rights-of-way that are entirely within the Sheep Rock unit. That unit also contains about 68 percent of the private lands; the Clarno unit has nearly 32 percent; the balance of less than one percent is in the Painted Hills unit. Cattle and sheep grazing and crop production are the predominant uses of private lands. Three residences are on private lands within the monument.

B. Compatibility of Land Uses

In general, all existing land uses are compatible with management objectives of the monument. The only exceptions to this are when the presence of (1) cattle in an area needed for public access represents a potential threat to visitor safety and (2) unsightly structures detract from the scenic qualities of the landscape.

Aside from these two exceptions, the current agricultural uses of grazing and crop production do not constitute threats to the paleontological and scenic resources of the monument. Rather, these uses enhance the visitors' appreciation of the rural landscape and their understanding of ranching as a secondary theme of the monument.

Any land use which would adversely affect the fossil resources or detract from the existing natural/agricultural landscape would be incompatible. Examples could include mining or other large-scale earthmoving projects, the placement of pipelines or high voltage transmission lines, and commercial, industrial, and residential development.

C. External Conditions Affecting Land Protection

The National Park Service cannot acquire interests in lands outside the monument, yet the use of lands adjacent to it and along its highway approaches can contribute to or detract from a visitor's appreciation of the monument's landscape. The maintenance of the existing landscape in these areas is desirable.

The "first line of defense" in perpetuating the present landscape should be the counties' land use plans, since local governments have authority to provide protection for these lands. It is important, therefore, for the monument staff to work with the local planning commissions to secure whatever protection they can supply.

In addition, monument staff should attempt to identify donors and recipients of sufficient interests in visually important lands outside the monument to prevent incompatible developments there. One such area includes the lands east of the Bridge Creek county road as it approaches the Painted Hills unit.

#### D. Past Acquisition Activities and Current Protection Program

Number of acres acquired: 5,759.51

Number of improvements acquired: Two (O'Rourke and Cant Estate)

Number and types of interest retained by sellers: 1-7 year rights for ranching purposes, expired December 31, 1982.

Number of acres and tracts of land and interest acquired by Federal purchase, donation, or exchange: See Appendix Table 3.

Present acquisition ceiling, including dates and amount of previous ceilings:

\$ 400,000	(October 26, 1974)
3,500,000	(November 10, 1978)
<u>\$3,900,000</u>	(present ceiling)

Amount of money in the authorized ceiling expended as of July 1, 1983: \$687,622.

Amount of money appropriated and available for expenditure as of July 1, 1983: \$158,375.

Total appropriations as of July 1, 1983: \$845,997.

Number of properties acquired through condemnation, declaration of taking, and number of properties presently in condemnation: None.

#### E. Sociocultural Characteristics

There are 13 tracts of private land in the monument. (See Map 2 and Appendix Table 2.) Nine tracts are in the Sheep Rock unit, three in Clarno, and one in Painted Hills.

The 13 tracts are under a total of nine ownerships. Six of these owners operate large ranches; their real property within the monument represents a small portion of their total land holdings, and they reside outside the monument. Of these six owners, two are agri-business corporations, and the remaining four are individuals who own large ranches that have been worked as family enterprises for many decades. Of the remaining three owners, two own and reside on relatively small holdings that are entirely within the monument. The major use of these lands is agricultural production. The remaining private owner purchased a tract for investment purposes; this contains a rental homestead and lands rented for grazing and crop production.

As mentioned previously, the only other non-Federal land in the monument is State land in the Painted Hills unit and State and County highway rights-of-way in the Sheep Rock unit.

#### IV. PROTECTION ALTERNATIVES

##### A. Existing Land Protection Laws and Authorities

Federal:

The Antiquities Act of 1906 provides legislative reinforcement for the protection of paleontological resources on Federal lands.

P.L. 94-429 regulates mining activity within areas of the National Park System.

Executive Order 11593 (Protection and Enhancement of the Cultural Environment, May 13, 1971) and Section 110, P.L. 96-515 (National Historic Preservation Act, as amended, December 12, 1980). These authorities establish affirmative responsibilities for Federal agencies in the preservation of cultural resources.

Agencies are to identify, consider, preserve, and positively use historic properties under these authorities in order to achieve the basic purposes of the Act, which are:

1. Use measures, including financial and technical assistance, to foster conditions under which our modern society and our prehistoric and historic resources can exist in productive harmony and fulfill the social, economic, and other requirements of present and future generations;
2. Provide leadership in the preservation of the prehistoric and historic resources of the United States and of the international community of nations;
3. Administer federally owned, administered, or controlled prehistoric and historic resources in a spirit of stewardship for the inspiration and benefit of present and future generations;

4. Contribute to the preservation of non-federally owned prehistoric and historic resources and give maximum encouragement to organizations and individuals undertaking preservation by private means;
5. Encourage the public and private preservation and utilization of all usable elements of the Nation's historic built environment; and
6. Assist State and local governments and the National Trust for Historic Preservation in the United States to expand and accelerate their historic preservation programs and activities.

Section 106 of the Historic Preservation Act of 1966. Section 106 requires Federal agencies to take into account the effects of Federal or federally assisted undertakings on National Register eligible or listed properties and to give the Advisory Council on Historic Preservation an opportunity to comment on such undertakings. Documentation is being submitted for listing the Cant Ranch in the National Register in 1984.

Section 2124 of P.L. 94-455, the Tax Reform Act of 1976; Section 701(f) of P.L. 95-600, the Revenue Act, 1978; P.L. 97-34, the Economic Recovery Tax Act, 1981. These laws contain a variety of incentives to encourage capital investment in historic buildings and to spur revitalization of historic neighborhoods. These preservation tax incentives apply only to commercial or income-producing structures. Rehabilitation must be done according to the Secretary of the Interior's historic preservation standards. The tax incentives are available for any project which the Secretary designates as a certified rehabilitation of a certified historic structure.

Archeological and Historic Preservation Act of 1974; Public Law 93-291; 16 U.S.C. 460. This act calls for the preservation of historic and archeological materials and data that otherwise would be lost as a result of Federal construction or federally licensed or aided activities. Data recovery or in situ preservation is available to the Secretary.

Archeological Resources Protection Act of 1979; Public Law 96-95; 16 USC 470aa. This act further protects historic, prehistoric, and archeological properties on Federal and Indian lands by providing criminal and civil penalties against unauthorized use and destruction of those properties.

#### State and Local:

State law requires Oregon cities and counties to develop and implement land use plans that are consistent with statewide goals and guidelines. Grant County has complied with the State Land Conservation and Development Commission (LCDC) enforcement order by submitting its revised plan, but the plan has not been acknowledged by the State. A revision probably will be ready for review by the LCDC in the fall of 1986. The Grant County plan includes the monument within the Significant Resource Land Combining Zone. Most of the land adjacent to the monument is zoned EFU (Exclusive Farm Use)

with minimum parcel sizes varying between 20 and 160 acres. Wheeler County's plan was acknowledged by the State on June 14, 1984.

#### B. Alternative Methods of Land Protection

The following alternatives are ones that, if implemented, would offer some degree of protection to the paleontological/scenic resources located on non-Federal land. Each alternative is analyzed with respect to its application, sociocultural impacts and its potential effectiveness in protecting key land resources. The alternatives considered include:

1. Cooperative agreements.
2. Zoning.
3. Less-than-fee acquisitions (easements).
4. Fee simple acquisition.
5. Combinations of the above.

Alternative 1: Cooperative Agreements. These agreements are legal instruments defining administrative arrangements between two or more parties.

Application: Agreements can provide for exchange of services or other benefits; they are flexible and may include provision for access, facility development and maintenance, and interpretive services. As an example, the National Park Service has agreements with the Forest Service and the Bureau of Land Management to provide fire protection at the monument.

Sociocultural impacts: Specific impacts would be defined by the terms of the agreement. Since all parties would have to agree to its terms, it is unlikely there would be any negative or adverse impacts. Because there would be no transfer of land ownership, private land would remain on local tax rolls.

Effectiveness: Agreements are likely to be most effective for land owned by entities other than individuals. These include State or local governments, private nonprofit organizations, Federal agencies, and corporations. Agreements are more likely to be workable with these groups than with individuals because organizations often have the necessary resources (staff, equipment, money) to (1) make an agreement worth considering in the first place and (2) carry out the terms of the agreement over a long period of time. Agreements can be useful with individuals who have sufficient resources and interest in supporting park objectives in those areas where such agreements are authorized by law. Because most of the monument's private land is owned by individuals, the use of agreements is limited in its usefulness as a land protection alternative.

Alternative 2: Zoning. Zoning is based on the power of State and local governments to protect public health, safety, and welfare by regulating land use.

Application: Within units of the National Park System, local zoning regulations can be used to limit the density, type, location, and the character of private development. Zoning should be considered when:

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

Sociocultural impacts: With the adoption (generally through broad-based public participation) and enforcement of zoning regulations, individual landowners may be prevented from using their land in some manner, but this restriction on individual freedom is imposed for the benefit of the community as a whole. The impact can be regarded as beneficial to the public at large.

Effectiveness: Local zoning has been criticized as a long-term protection tool because of the potential for changes in local governing bodies, political pressures on decisions, and problems in enforcement of regulations. Oregon has perhaps the most progressive and comprehensive planning approach in the country with its legal requirement that local governments produce land use plans consistent with statewide goals. Despite this framework for land use planning, the potential exists for local zoning changes and lack of enforcement. The success of the program depends on the local government that administers it. Zoning, while useful, is inadequate to provide a full level of permanent protection for the scenically/scientifically important lands of the monument.

Alternative 3: Easement Acquisition. Easements may be used to convey a variety of property rights without conveying actual ownership of the property. Easements may be positive, such as giving a right of access, or they may be negative, such as restricting specific activities on the land. See Appendix Attachment 1 for a sample easement.

Application: Easements are most likely to be useful where:

- some, but not all, existing or potential private uses are compatible with park purposes.

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--current owners desire to continue current uses of use and occupancy of the land under conditions conveyed to the National Park Service.

--scenic values and protection or access by the public or the Park Service is needed only over a portion of the land. Easements should be acquired in various areas of the monument to ensure the preservation of scenic values and to maintain existing land uses. In rare instances, easements might be acquired to provide for public access.

Sociocultural impacts: Individual and collective impacts will vary depending on the rights acquired. Overall, the impacts would be judged beneficial inasmuch as the acquired easements would contribute to the fulfillment of the monument's objectives as defined by Congress. Land would remain on the local tax rolls. The potential exists for a lowered tax base because, in theory, the land encumbered with an easement would not be assessed at full value. However, in the case of most, if not all, of the potential easements identified in this plan, the land is already taxed on the basis of agricultural use. Since a scenic easement would probably not change the existing use of the land, the acquisition of a scenic easement on agricultural land would have little, if any, effect on the tax base.

Effectiveness: Easements are extremely flexible and can be drafted to fit the specific characteristics of the land as well as the concerns of the owner. They are very effective in controlling key elements of scenic landscapes or meeting specific access needs while still allowing for the continuation of traditional uses. Easements applied to private lands within the monument boundaries will depend upon the degree of protection or access desired, and upon the willingness of the landowner to negotiate for the conveyance of such interests.

Alternative 4: Fee Acquisition. When all of the interests in land are acquired, it is owned in fee simple.

Application: Fee acquisition may be recommended when other methods of protection have been found to be inadequate, inefficient, or ineffective to meet management needs. Fee acquisition is most often appropriate where the land:

- is needed for development of park facilities or heavy public use.
- must be maintained in pristine natural condition which precludes reasonable private use.
- is owned by individuals who do not wish to sell less-than-fee interests.
- cannot be protected in accord with park purposes by other methods, or alternatives would not be cost effective.

Fee acquisition is appropriate in the monument to preserve those extremely significant fossil resources now in private ownership and to provide areas to be developed for the public's appreciation and understanding of the natural history of the John Day Fossil Beds.



**Sociocultural impacts:** This alternative has great potential for significant change in the life of an individual or community. Unless tenancy is granted, residential relocations could occur. Unless sellback is involved, land is removed from local tax rolls. Unless sellback and leaseback provisions are used, former land uses may be prohibited; certainly some restrictions in land use will occur.

From a positive standpoint, fee simple acquisition is often justified for the greater public good. Fair compensation is paid to landowners, and payment in lieu of taxes may be made for a short term to local governments. Park visitor demands for local services adjacent to the park could help offset the income lost from once-private lands now in public ownership. Nationally significant natural/cultural resources are in the public trust preserved for all citizens in perpetuity.

**Effectiveness:** Fee-simple acquisition is the most effective and secure land protection alternative. Generally, it is also the most expensive form of land protection.

Alternative 5: Combination of the previously discussed alternatives. The monument contains an array of natural and cultural resources with varying degrees of significance. Some of the resources are so important to the fossil beds story that they must be owned in fee by the Federal government. Much of the private land constitutes valuable scenic resources within which traditional ranching activities occur. The landscape and its present use should be preserved, but that may be accomplished by means other than fee acquisition. The attitudes, wishes, and objectives of private landowners within the monument also vary regarding National Park Service management of the monument. Given this mix of physical, cultural, and socioeconomic resources and values, it is understandable that no single land protection device is best for all non-Federal land in the monument. Land protection will require a combination of some of the alternatives discussed previously.

**Application:** The major consideration in selecting appropriate land protection methods is the need to comply with the intent of Congress in establishing the monument "to preserve, protect, and interpret" the fossils of the area. Are significant fossils located on the tract under consideration? Do these resources need public protection? Is public access needed for interpretation? Affirmative answers to these questions probably indicate a need for fee acquisition. Secondary, but very important, concerns are related to preserving the scenic qualities of the monument and the adjacent landscapes as seen from the monument and highway approaches to it. Less-than-fee acquisition, support of suitable zoning requirements, and efforts to match donors and recipients of land interests for visually critical lands outside the monument would be appropriate choices to maintain the beauty of the area. In all cases, the recommended land protection approach will represent the minimum public control needed to implement the authorizing legislation and to provide an attractive setting for the enjoyment of park visitors.

Sociocultural impacts: If the actions recommended in the following section are successfully carried out, it is expected that there will be minimal impacts on the private landowners. The goal of the land protection program at John Day Fossil Beds is to protect essential paleontological resources and provide for public access and understanding of those resources while maintaining most of the private uses of the land.

Effectiveness: The recommended plan, if implemented, will be effective in complying with congressional intent for the preservation of the fossil resource, improving and preserving the scenic qualities of the landscape, and minimizing the degree of public acquisition of private real property rights.

## V. RECOMMENDATIONS

The recommended land protection approaches for each tract of private land are listed below in descending order of priority for each unit of the monument. Acreages to be protected, minimum interest needed for protection, justification, and proposed method of acquisition are also shown.

Fee and less-than-fee acquisition are recommended due to the significance of the fossil resource, the need to provide for public access, and the need to preserve the scenic qualities of the landscape. Additional cooperative agreements are not deemed suitable or practicable for the level of protection needed. While local zoning can be of considerable assistance, complete reliance on it as a land protection device is not recommended, because it cannot ensure in perpetuity the degree of protection needed within an established area of national significance. National Park Service staff should, however, continue to support zoning measures that are compatible with NPS management objectives for lands within, and adjacent to, the monument. Should State and County land use regulations fail to provide sufficient protection to non-Federal monument lands, appropriate regulations will be proposed by the National Park Service.

The rationale for fee acquisition is dependent on the outstanding value of the fossil resource and the need to provide for public access. The acquisition proposals related to fossil values reflect presently known conditions. If later paleontological surveys reveal additional fossil resources of major importance within the monument, this plan may have to be revised to provide for the acquisition of sufficient interests to ensure their protection. Less-than-fee acquisition is justified to preserve the scenic integrity of the landscape; it will serve to prevent visual intrusions and to maintain existing land uses.

While the actual means of acquisition of land or interest in land will not be known until negotiations are initiated, land exchange is the recommended means because that approach keeps land available for production and on the tax rolls. Past alterations of the monument's

boundaries to exclude non-essential public lands have resulted in the availability of 720 acres of Federal land that can be used as "trading stock" for land exchanges. In addition, the National Park Service is working with the Bureau of Land Management to make selected public domain lands in the area available to exchange for private interests within the monument. A donation of land in the Painted Hills unit is anticipated; a donation also will be sought to acquire a small tract in the Sheep Rock unit. Should these recommended approaches fail, others will be considered. Purchase with appropriated or donated funds, bargain sales, and leaseback/sellback are other possibilities. Condemnation is not recommended, although it could be used in emergencies to prevent land uses that would seriously compromise the integrity of the monument. At this time, no adverse land uses are anticipated.

## SHEEP ROCK UNIT

<u>Prior-ity</u>	<u>Tract*</u>	<u>Acres</u>	<u>Minimum Interest Needed</u>	<u>Justification</u>	<u>Recommended Method of Acquisition</u>
1	Mascall 101-37	10.0	Fee	Public access and develop. of overlook.	Exchange
2	Mascall. 101-36 & 38 101-06 101-34 & 35	225.81) 234.49) 757.76)	Fossil rights, scenic easement	(Provide for protec- (tion and scientific (study of fossil (resources; preserve (scenic landscape.	Exchange Exchange Exchange
3	Immenschuch 101-07	159.0	Scenic easement	Preserve sce- nic landscape.	Exchange
4	Humphreys 101-19	293.24	Scenic easement	Preserve sce- nic landscape.	Exchange
5	Southworth 101-33	412.14	Scenic easement	Preserve sce- nic landscape.	Exchange
-	McGraw 101-18	0.81	None	No interest is needed because the small size of the tract precludes intensive development and present use is acceptable.	None

\*Revised tract maps in large format are on file in the National Park Service's Washington, D.C. office and Pacific Northwest Regional Office; page-size revised maps not available.

Tract 101-11 is now State land and part of the highway rights-of-way.

Revised 8/8/86

## CLARNO UNIT

<u>Prior- ity</u>	<u>Tract*</u>	<u>Acres</u>	<u>Minimum Interest Needed</u>	<u>Justification</u>	<u>Recommended Method of Acquisition</u>
1	Maurer 104-04	960.0	Fee	The fossil resources found here (the nut beds and mammal quarry) are among the most significant of the monument. In their present unprotected state, they are endangered from unauthorized collecting. Fee interest is needed to carry out the congressional mandate of preserving, protecting, and interpreting these outstanding fossil deposits. Public access will be developed here to enhance the visitors' appreciation and understanding of these highly important fossil deposits.	Exchange
2	Bowerman 104-07	20.0	Scenic Easement**	Acquisition of development rights on this tract will improve and maintain the scenic quality of an area seen by many visitors at the eastern approach to the Clarno unit. This will eliminate visual intrusions and prevent future incompatible developments.	Exchange

\*See Map 2 for tract location.

\*\*Although an easement is the minimum interest needed to improve and maintain the scenic quality of this tract, fee interest may be acquired if it is more cost-effective to do so.

<u>Priority</u>	<u>Tract*</u>	<u>Acres</u>	<u>Minimum Interest Needed</u>	<u>Justification</u>	<u>Recommended Method of Acquisition</u>
3	Agri-Empire 104-01	9.25	Fee	This tract separates the park from an adjacent highway in an area that offers the easiest access to the western portion of the Clarno unit. Improved public access is desirable because it increases the visitors' opportunities for experiencing the monument's scenic diversity. Acquisition in fee would allow for unimpeded public access to the unit's western park lands and also would prevent any incompatible developments that might be proposed for this area in the future.	Exchange

\*See Map 2 for tract location.

## PAINTED HILLS UNIT

<u>Prior- ity</u>	<u>Tract*</u>	<u>Acres</u>	<u>Minimum Interest Needed</u>	<u>Justification</u>	<u>Recommended Method of Acquisition</u>
1	Brooks Re- sources Corp				
	103-09	10.0	Fee	Proposed donation by owner will help consolidate the unit's lands completely under National Park Service management.	Donation
2	State				
	103-02	40.0	Fee	Proposed donation will help consolidate the unit's lands completely under National Park Service management. This tract was apparently omitted inadvertently from the original State donation.	Donation

\*See Map 2 for tract location.

## JOHN DAY FOSSIL BEDS NATIONAL MONUMENT

Tract Acquisition Priorities

## PRIORITY ONE

<u>Tract</u>	<u>Owners</u>	<u>Acres</u>
101-36, 37, & 38	Mascall	235.81
101-06	Mascall	234.49
101-07	Immenschuch	159.00
101-34, 35	Mascall	757.76
104-04	Maurer	960.00

## PRIORITY TWO

101-19	Humphreys	293.24
101-33	Southworth	412.14
104-01	Agri-Empire	9.25
104-07	Bowerman	20.00
103-09	Brooks Resources Corp.	10.00

## PRIORITY THREE

101-18	McGraw	0.81
103-02	State	40.00

Added 8/8/86



APPENDIX



An Act

To provide for the establishment of the Clara Barton National Historic Site, Maryland; John Day Fossil Beds National Monument, Oregon; Knife River Indian Villages National Historic Site, North Dakota; Springfield Armory National Historic Site, Massachusetts; Tuskegee Institute National Historic Site, Alabama; Martin Van Buren National Historic Site, New York; and Sewall-Beimont House National Historic Site, Washington, District of Columbia; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Historic sites  
and national  
monument.  
Establishment.

TITLE I

SEC. 101. (a) Unless otherwise provided hereafter, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire by purchase with donated or appropriated funds, donation, exchange, or by transfer from another Federal agency such lands and interests in lands as hereafter provided for establishment as units of the national park system, as follows:

Land acquisition.

(1) for establishment as the Clara Barton National Historic Site, Maryland, those lands depicted on the map entitled "Boundary Map, Clara Barton National Historic Site, Maryland", numbered NHS-CLBA 90,001 and dated February 1974, which shall include the land and improvements occupied by Clara Barton, founder of the American Red Cross located at 5801 Oxford Road, Glen Echo, Maryland: *Provided*, That the above-mentioned land and improvements may be acquired only by donation: *And provided further*, That the donation of any privately owned lands within the historic site may not be accepted unless and until the property is vacant;

Clara Barton  
National His-  
toric Site,  
Md.  
16 USC 461  
note.

(2) for establishment as the John Day Fossil Beds National Monument, Oregon, those lands depicted on the map entitled "Boundary Map, John Day Fossil Beds National Monument", numbered NM-JDFB-20,014-A and dated June 1971: *Provided*, That the national monument shall not be established unless and until the State of Oregon donates or agrees to donate the Thomas Condon-John Day Fossil Beds, Clarno, and Painted Hills State Parks: *Provided further*, That the Secretary shall not acquire a fee title interest to more than one thousand acres of privately owned lands except by donation or exchange: *Provided further*, That the Secretary shall designate the principal visitor center as the "Thomas Condon Visitor Center";

John Day Fossil  
Beds National  
Monument, Oreg.  
16 USC 431  
note.

(3) for establishment as the Knife River Indian Villages National Historic Site, North Dakota, those lands depicted on the map entitled "Boundary Map, Knife River Indian Villages National Historic Site, North Dakota", numbered 468-20,012 and dated July 1970;

Thomas Condon  
Visitor Center,  
designation.  
Knife River  
Indian Villages  
National His-  
toric Site,  
N. Dak.  
16 USC 461  
note.

(4) for establishment as the Springfield Armory National Historic Site, Massachusetts, those lands depicted on the map entitled "Boundary Map, Springfield Armory National Historic Site, Massachusetts", numbered NHS-SPAR-91,003 and dated January 1974, the oldest manufacturing arsenal in the United States: *Provided*, That the historic site shall not be established unless an agreement is executed which will assure the historical integrity of the site and until such lands as are needed for the historic site are donated for this purpose;

Springfield  
Armory Nation-  
al Historic  
Site, Mass.  
16 USC 461  
note.

88 STAT. 1462

Tuskegee Institute National Historic Site, Ala.  
16 USC 461  
note.

(5) for establishment as the Tuskegee Institute National Historic Site, Alabama, those lands depicted on the map entitled "Boundary Map, Tuskegee Institute National Historic Site, Alabama", numbered NHS-TI 20,000-C and dated September 1973, which shall include the home of Booker T. Washington, the Carver Museum, and an antebellum property adjacent to the campus of Tuskegee Institute, known as Grey Columns; and

Martin Van Buren National Historic Site, N. Y.  
16 USC 461  
note.

(6) for establishment as the Martin Van Buren National Historic Site, New York, those lands depicted on the map entitled "Boundary Map, Martin Van Buren National Historic Site, New York", numbered NHS-MAVA-91,001 and dated January 1974, which shall include the home of Martin Van Buren, eighth President of the United States.

Personal property acquisition.

(b) The Secretary may also acquire personal property associated with the areas referred to in subsection (a) of this section. Lands and interests therein owned by a State or any political subdivision thereof which are acquired for the purposes of subsection (a) of this section may be acquired only by donation.

Notice to congressional committees.

Sec. 102. (a) When the Secretary determines that an adequate interest in lands has been acquired to constitute an administrable unit for each of the areas described in section 1 of this Act, he may, after notifying the Committees on Interior and Insular Affairs of the United States Congress of his intention to do so at least fourteen days in advance, declare the establishment of such unit by publication of a notice to that effect in the Federal Register. Such notice shall contain a map or other description of the boundaries of the unit, together with an explanation of the interests acquired and the costs incident thereto. The Secretary may refrain from acquiring property for establishment of any unit authorized by this Act where, in his judgment, satisfactory agreements or donations with respect to properties which are needed for the protection and administration of a particular unit have not been consummated with the owners of such properties.

Publication in Federal Register.

Administration.

(b) Pending the establishment of each unit and, thereafter, the Secretary shall administer the property acquired pursuant to this Act in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented, and, to the extent applicable, the provisions of the Act of August 21, 1935 (49 Stat. 666), as amended.

16 USC 1.  
16 USC 461.

Tuskegee Institute National Historic Site, road construction.

Sec. 103. Notwithstanding any other provision of law, the Secretary is authorized to construct roads on real property in non-Federal ownership within the boundaries of the Tuskegee Institute National Historic Site. Any roads so constructed shall be controlled and maintained by the owners of the real property.

Appropriation.

Sec. 104. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, not to exceed, however, the following:

(a) Clara Barton National Historic Site, \$812,000 for acquisition of lands and interests in lands and for development;

(b) John Day Fossil Beds National Monument, \$400,000 for the acquisition of lands and interests in lands and \$4,435,200 for development;

(c) Knife River Indian Villages National Historic Site, \$800,000 for the acquisition of lands and interests in lands and \$2,253,000 for development;

(d) Springfield Armory National Historic Site, \$5,300,000 for development;

October 26, 1974

- 3 -

Pub. Law 93-486

88 STAT. 1463

(e) Tuskegee Institute National Historic Site, \$185,000 for the acquisition of lands and interests in lands and \$2,722,000 for development; and

(f) Martin Van Buren National Historic Site, \$213,000 for acquisition of lands and interests in lands and \$2,737,000 for development.

## TITLE II

SEC. 201. In order to preserve for the benefit and inspiration of the people of the United States as a national historic site, the Sewall-Belmont House within the District of Columbia, the Secretary of the Interior is authorized to enter into a cooperative agreement to assist in the preservation and interpretation of such house.

Sewall-Belmont  
House National  
Historic Site,  
D. C.

SEC. 202. The property subject to cooperative agreement pursuant to section 101 of this Act is hereby designated as the "Sewall-Belmont House National Historic Site".

16 USC 461  
note.

SEC. 203. The cooperative agreement shall contain, but shall not be limited to, provisions that the Secretary, through the National Park Service, shall have right of access at all reasonable times to all public portions of the property covered by such agreement for the purpose of conducting visitors through such property and interpreting it to the public, that no changes or alterations shall be made in such property except by mutual agreement between the Secretary and the other parties to such agreement. The agreement may contain specific provisions which outline in detail the extent of the participation by the Secretary in the restoration, preservation, and maintenance of the historic site.

Cooperative  
agreement.

SEC. 204. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act, but not to exceed \$500,000.

Appropriation.

Approved October 26, 1974.

### LEGISLATIVE HISTORY:

HOUSE REPORT No. 93-1285 (Comm. on Interior and Insular Affairs)  
SENATE REPORT No. 93-1233 (Comm. on Interior and Insular Affairs)  
CONGRESSIONAL RECORD, Vol. 120 (1974):

Aug. 19, considered and passed House.

Oct. 8, considered and passed Senate, amended.

Oct. 16, House concurred in Senate amendments.

County, Pennsylvania", numbered 448-40,001B, and dated April 1978: \$166,000.

(6) Fort Caroline National Memorial, Florida: To add approximately ten acres as generally depicted on the map entitled "Boundary Map, Fort Caroline National Memorial, Florida", numbered 5310/80,000-A, and dated April 1978: \$170,000.

(7) George Washington Birthplace National Monument, Virginia: To add approximately eighty-two and twenty-five one-hundredths acres as generally depicted on the map entitled "Boundary Map, George Washington Birthplace National Memorial, Virginia", numbered 332-30,000-B and dated September 1978: \$450,000.

(8) Great Sand Dunes National Monument, Colorado: To add approximately one thousand one hundred and nine acres as generally depicted on the map entitled "Boundary Map, Great Sand Dunes National Monument, Colorado", numbered 140-80,001-A, and dated November 1974: \$166,000.

(9) Gulf Islands National Seashore, Mississippi-Florida: To add approximately six hundred acres as generally depicted on the map entitled "Boundary Map, Gulf Islands National Seashore, Mississippi-Florida", numbered 20,006, and dated April 1978: \$300,000.

(10) Hawaii Volcanoes National Park, Hawaii: To add approximately two hundred sixty-nine acres as generally depicted on the map entitled "Boundary Map, Hawaii Volcanoes National Park, Hawaii", numbered 80,000, and dated August 1975: \$562,000.

(11) John Day Fossil Beds National Monument, Oregon: To add approximately one thousand four hundred and eleven acres, and to delete approximately one thousand six hundred and twenty acres as generally depicted on the map entitled "Boundary Map, John Day Fossil Beds National Monument, Oregon", numbered 177-30,000-B, and dated May 1978: \$3,500,000. The Act of October 26, 1974 (88 Stat. 1461), which designates the John Day Fossil Beds National Monument is amended by deleting the second proviso of section 101(a)(2). Furthermore, not withstanding any other provision of law to the contrary, the Secretary may, if he determines that to do so will not have a substantial adverse effect on the preservation of the fossil and other resources within the remainder of the monument, convey approximately sixty acres acquired by the United States for purposes of the monument in exchange for non-Federal lands within the boundaries of the monument, and, effective upon such conveyance, the boundaries of the monument are hereby revised to exclude the lands conveyed.

(12) Monocacy National Battlefield, Maryland: To add approximately five hundred and eighty-seven acres as generally depicted on the map entitled, "Boundary Map, Monocacy National Battlefield", numbered 894-40,001, and dated May 1978: \$3,500,000.

(13) Montezuma Castle National Monument, Arizona: To add approximately thirteen acres, and to delete approximately five acres as generally depicted on the map entitled "Montezuma Castle National Monument, Arizona", numbered 20,006, and dated April 1978.

(14) Oregon Caves National Monument, Oregon: To add approximately eight acres as generally depicted on the map entitled "Oregon Cave, Oregon", numbered 20,000, and dated April 1978: \$107,000.

Land conveyance.

Appendix  
Table 1

JOHN DAY FOSSIL BEDS NATIONAL MONUMENT, OREGON

Current Acreage by Unit, Ownership (as of July 1, 1983)

<u>Unit</u>	<u>-----Federal-----</u>			<u>-----Non-Federal-----</u>			<u>Grand Total</u>
	<u>Fee</u>	<u>Less- Than- Fee</u>	<u>Total</u>	<u>State &amp; County</u>	<u>Private</u>	<u>Total</u>	
Sheep Rock	6,640.28	40.00	6,680.28	139.00	2,093.59	2,232.59	8,912.87
Clarno	980.00	---	980.00	----	989.25	989.25	1,969.25
Painted Hills	<u>2,878.80</u>	<u>200.20</u>	<u>3,079.00</u>	<u>40.00</u>	<u>10.00</u>	<u>50.00</u>	<u>3,129.00</u>
TOTAL	10,499.08	240.20	10,739.28	179.00	3,092.84	3,271.84	14,011.12

Appendix  
Table 2

## JOHN DAY FOSSIL BEDS NATIONAL MONUMENT

Current Non-Federal Land Ownership (as of July 1, 1983)

<u>Unit</u>	<u>Tract</u>	<u>Owner</u>	<u>Acres</u>
Sheep Rock	101-36, 37, & 38	Mascall	235.81
	101-05	County	2.49*
	101-06	Mascall	234.49
	101-07	Immenschuch	159.00
	101-34 & 35	Mascall	757.76
	101-11	State	0.34*
	101-18	McGraw	0.81
	101-19	Humphreys	293.24
	101-26	State	119.17*
	101-28	State	14.38*
	101-33	Southworth	412.14
	102-04	State	0.91*
	102-05	State	2.05*

\*Highway rights-of-way (no acquisition)

Clarno	104-01	Agri-Empire	9.25
	104-04	Maurer	960.00
	104-07	Bowerman	20.00

Painted Hills	103-02	State	40.00
	103-09	Brooks Resources Corp.	10.00

JOHN DAY FOSSIL BEDS NATIONAL MONUMENT, OREGON

Federal Land Acquisition, by Method, Tract, Size, Estate  
(As of July 1, 1983)

<u>(a)</u> <u>Purchase</u>			<u>(b)</u> <u>Donation</u>			<u>(c)</u> <u>Exchange</u>		
<u>Tr. No.</u>	<u>Acres</u>	<u>Estate</u>	<u>Tr. No.</u>	<u>Acres</u>	<u>Estate</u>	<u>Tr. No.</u>	<u>Acres.</u>	<u>Estate</u>
101-32	54.94	Fee	101-04	1.70	Fee	103-04	40.93	Fee
101-29	0.00	Easement	101-10	623.20	Fee	103-05	19.67	Fee
101-30	0.00	Easement	101-15	3.14	Fee	103-06	23.00	Fee
101-14	849.44	Fee	101-20	85.95	Fee	<u>103-07</u>	<u>200.20</u>	Easement
<u>102-03</u>	<u>673.77</u>	Fee	101-21	40.00	Fee	4	283.80	
5	1,578.15		101-23	1.58	Fee			
			101-24	20.00	Fee			
			101-27	159.86	Fee			
			102-02	66.93	Fee			
			103-01	2,833.20	Fee			
			104-05	60.00	Fee			
			<u>101-12</u>	<u>40.00</u>	Easement			
			12	3,935.56				

(d)  
Disposal/Exchange

103-08 38.00 Fee  
(Taken from 103-01)

Total acreage acquired

(a + b + c - d): 5,759.51



SCENIC EASEMENT DEED

KNOW ALL MEN BY THESE PRESENTS:

THAT

GRANTOR for and in consideration of exchange of lands with the UNITED STATES OF AMERICA, GRANTEE, does hereby grant, bargain, sell and convey unto the said GRANTEE and unto its assigns forever, an estate, interest, and scenic easement, the following lands lying in \_\_\_\_\_ County, Oregon, to wit:

The restrictions and covenants imposed upon the land described herein, and the acts which the Grantor and its successors and assigns covenant to do and refrain from doing on the land described herein are as follows:

1) The land may be used only for farming and grazing purposes in conformance with the provisions hereof. No structures or improvements of any kind or nature except fences, irrigation and livestock watering-related improvements may be constructed on said land. The fence and color of fencing materials shall be the same as that used within the Park unless otherwise mutually agreed to. The land shall not be used for any other industrial or commercial activities including, but not limited to, mining, quarrying, or sand or gravel or soil removal operations except field leveling.

2) Farming or grazing use shall not include feeder pig operations, hog finishing operations, cattle feed lot operations, the raising of poultry in confined spaces, or other similar operations whereby livestock, poultry, or other animals are raised in a confined or controlled environment.

# SAMPLE

x

3) Mobile homes, travel trailers, tent trailers, tents, self-propelled recreational vehicles, and like structures or vehicles shall not be located or used on the land for residential, camping, storage, or other purposes.

4) The display of advertising signs and/or billboards on the land is prohibited.

5) The dumping of trash or other unsightly materials on the land or the keeping thereon of junked or wrecked vehicles, junked farm equipment, or similar items is prohibited.

6) Controlled burning for agricultural purposes is permitted if done under proper safeguards in conformance with state laws and notification is first given to the superintendent at the headquarters of the John Day National Monument. No other burning on the land is permitted. Grantor shall at all times exercise reasonable care to prevent the spread of fire to other lands within the boundaries of the Monument.

7) The surface of the land shall be maintained in its present configuration, except for field leveling for irrigation purposes and for acts of God.

8) The land shall be maintained in its present acreage and not be subdivided into any smaller parcels.

9) The National Park Service, its agents, employees, and assigns, shall have the right to enter upon and cross the land for the purpose of enforcing the provisions of this deed, and together with such right may cause to be removed from such land any unauthorized signs or other devices or structures, accumulations of trash or debris or dead, dying or diseased vegetation or animals. Existing field roads or other normally traveled routes shall be utilized for such ingress and egress where practical and shall be done at reasonable hours and after prior arrangement with the owner wherever possible.

10) This easement shall not be construed to grant the public any right to enter or use the land for any purpose.

The above-listed provisions are intended to and should be construed to perpetuate the pastoral scene that existed on these lands on the date of enactment of Public Laws 95-625 and 93-486, it being the objective of the National Park Service to maintain and preserve the existing pastoral, cultural concept in the general area.

SUBJECT, HOWEVER, to existing easements for public roads and highways, public utilities, and pipelines; reserving, however, to the Grantor, and its assigns, all such rights and privileges as may be used without interfering with or abridging the rights and easement hereby acquired.

For the consideration recited above, the Grantor agrees to abide by the herein covenant which shall run with the land: That the payment by the Government of the consideration recited above shall constitute full fair value and full compensation to the Grantor for the easement and rights granted herein, whether such easement and rights shall be exercised by the Government or by any of its Grantees, and the Grantor expressly releases and relinquishes any and all claims against any of the aforementioned for further or future payment of consideration for the aforesaid easement and rights granted herein.

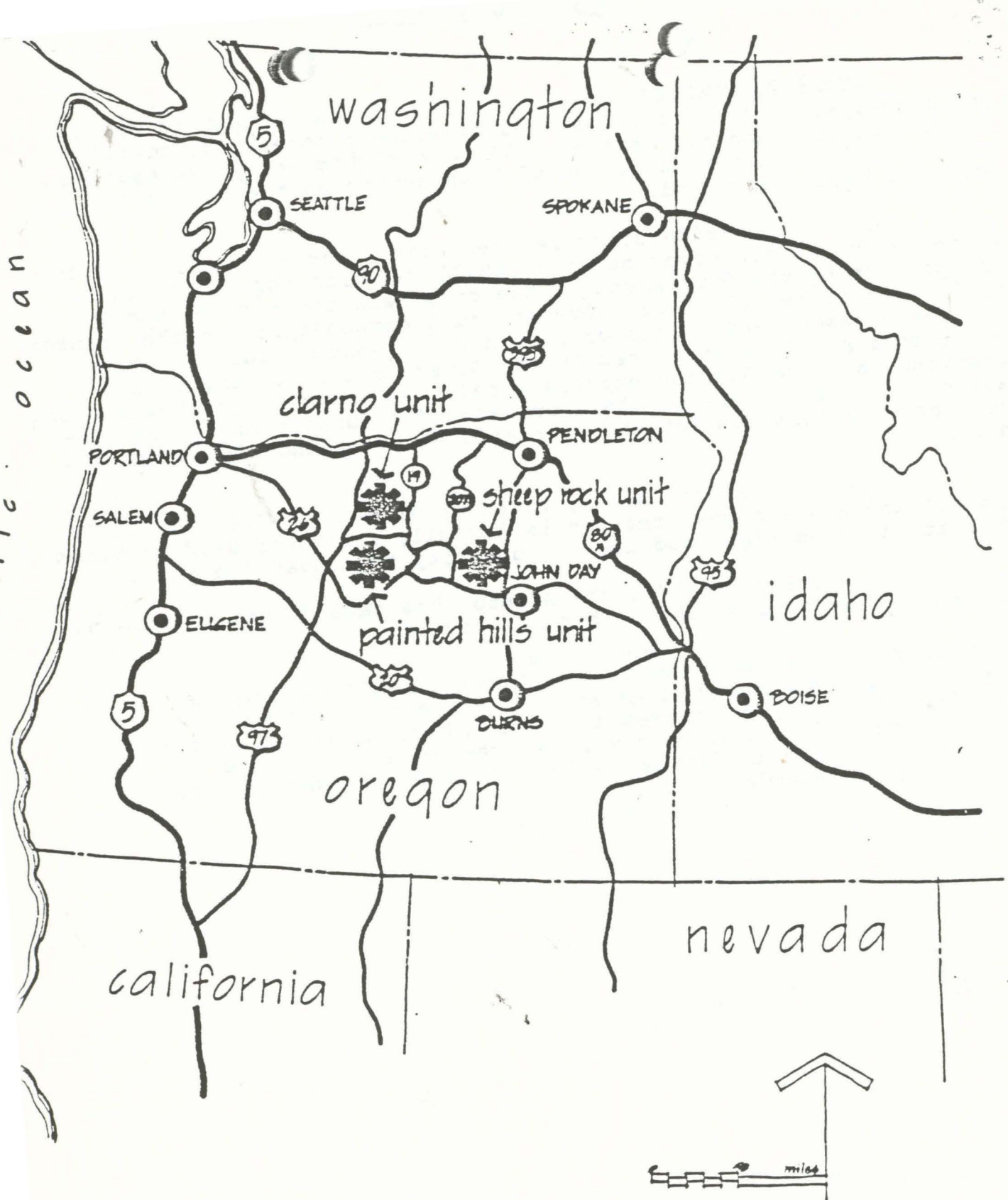
The Grantor does hereby covenant with the UNITED STATES OF AMERICA and its assigns, that it is lawfully seized of said premises; that it has good right and lawful authority to convey the same.

IN WITNESS WHEREOF, the Grantor has caused this instrument to be executed on its behalf this        day of

\*\*\*\*\*

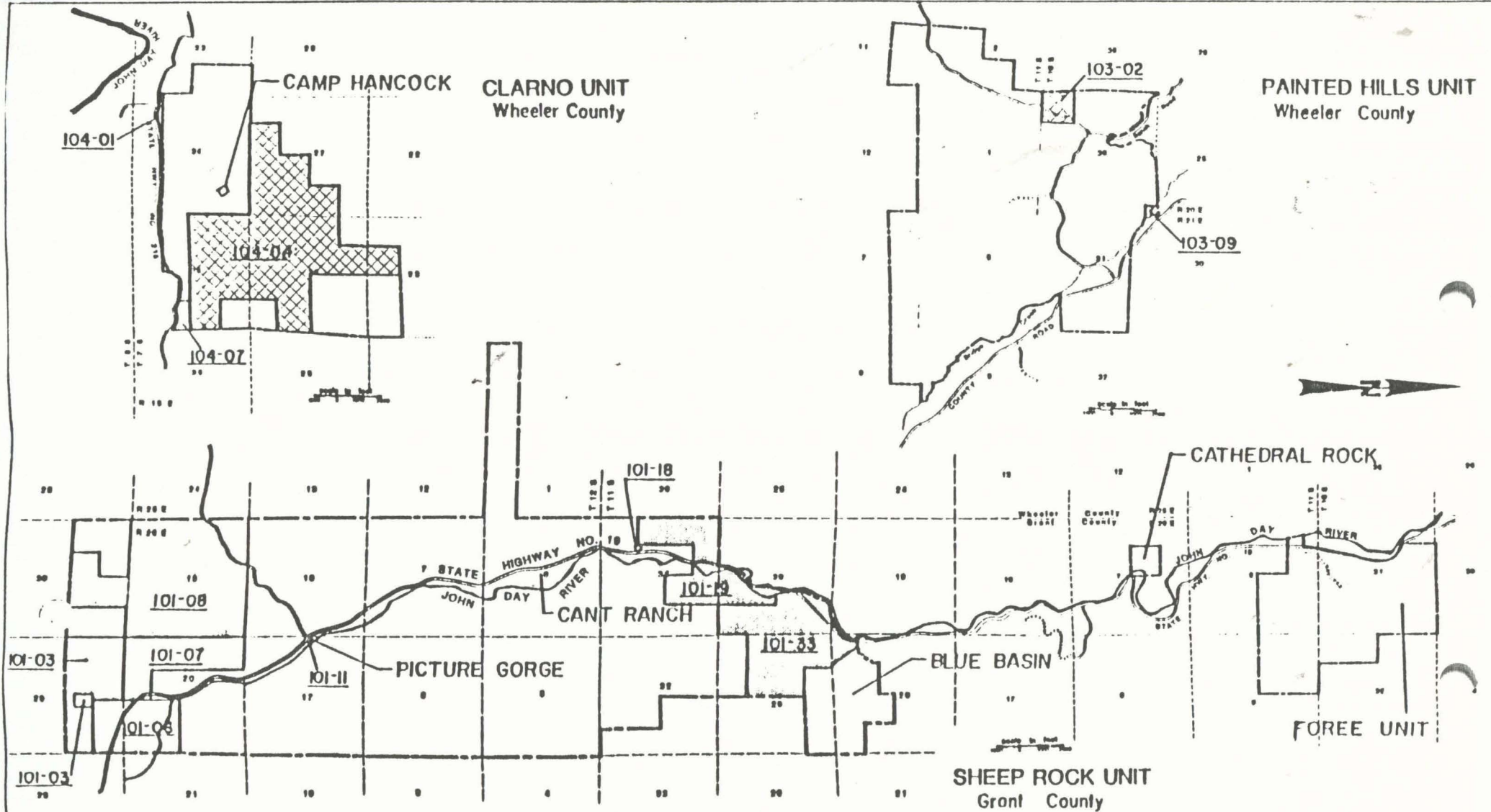
IMPORTANT NOTE: This sample scenic easement deed is provided as only one example of how such a deed might appear. Each easement is individually molded to fit the specific requirements of the Park Service and the concerns of the landowner. In actual instances, the number of restrictions and covenants imposed upon the land may be fewer or greater in number than those described in this example.

\*\*\*\*\*



JOHN DAY FOSSIL BEDS NATIONAL MONUMENT  
 OREGON

# RECOMMENDED LAND PROTECTION MEASURES

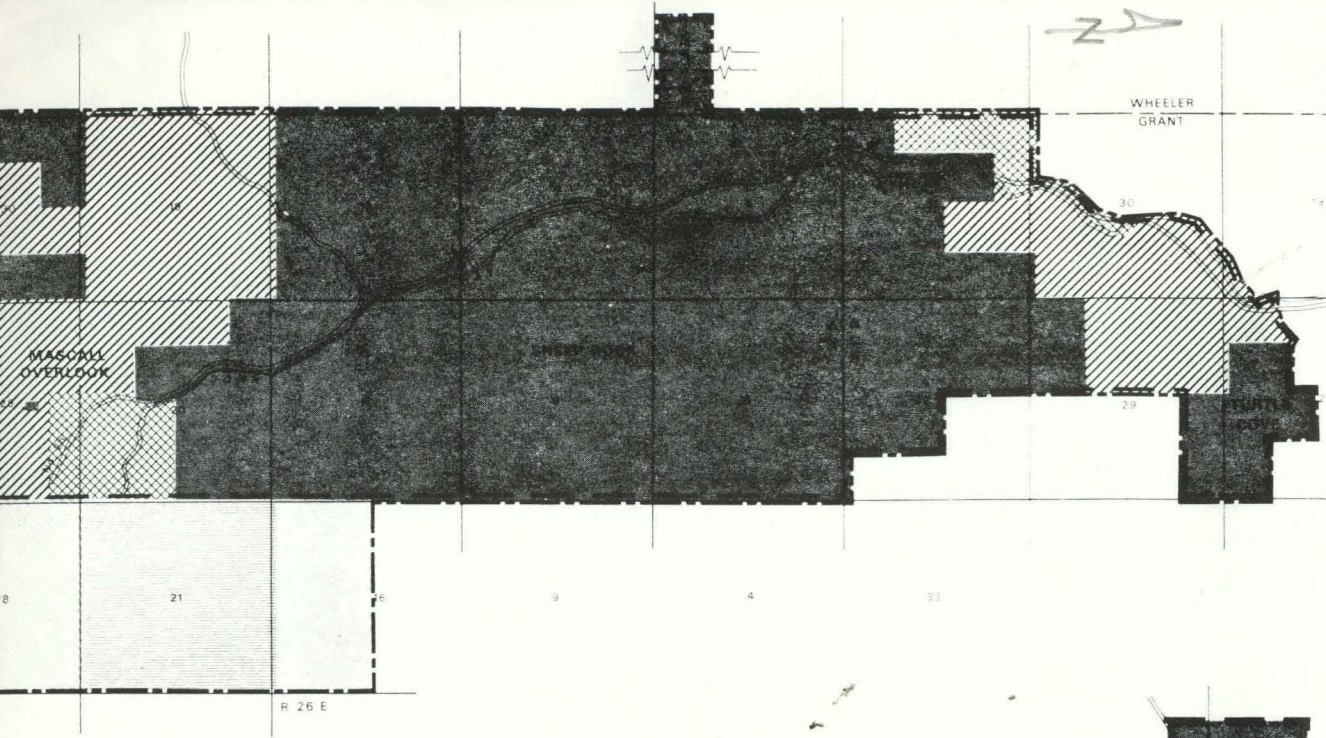


## JOHN DAY FOSSIL BEDS NATIONAL MONUMENT OREGON

-  FEE
-  SCENIC EASEMENT











See p. 17 for revised tract numbers in Sheep Rock Unit.

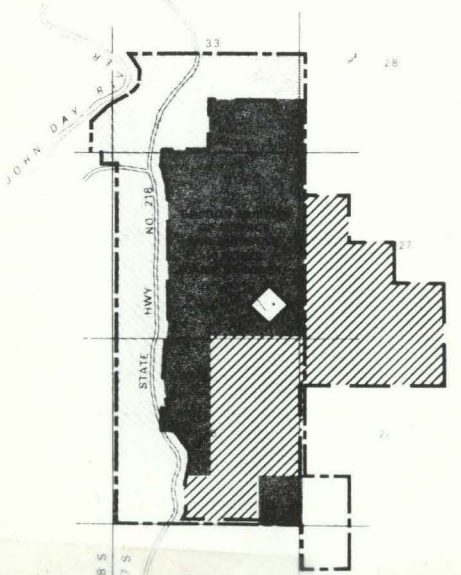
Revised 8/8/86



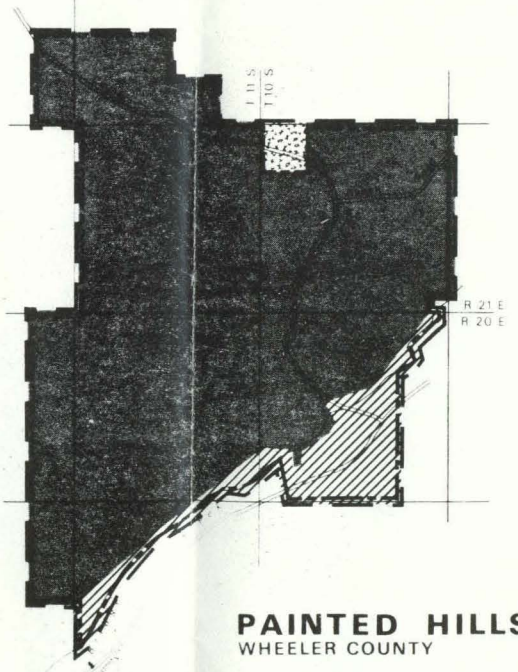
**SHEEP ROCK UNIT**  
GRANT COUNTY

**LEGEND**

-  NATIONAL PARK SERVICE LANDS
-  TO BE RETAINED BY STATE
-  TO REMAIN IN PRIVATE OWNERSHIP
-  PRIVATE LANDS TO BE ACQUIRED IN FE
-  LANDS FOR EXCHANGE (NPS)
-  PRIVATE LANDS TO BE ACQUIRED IN SCENIC EASEMENT
-  BLM LANDS TO BE TRANSFERRED TO N
-  NON-FEDERAL LANDS TO BE ACQUIRE
-  MONUMENT BOUNDARY (EXISTING)
-  PROPOSED BOUNDARY (REVISION)



**CLARNO UNIT**  
WHEELER COUNTY



**PAINTED HILLS UNIT**  
WHEELER COUNTY

