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Resources, Community, and
Economic Development Division

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September 29, 1997

The Honorable Ralph Regula
Chairman, Subcommittee on Interior
Committee on Appropriations
House of Representatives

The Honorable Jack Kingston
House of Representatives

Subject: National Park Service: Land Acquisition at the Cumberland Island National Seashore, Georgia

Following your July 30, 1997, request, we agreed to perform a limited review of your concerns about the acquisition of the Greyfield tract by the National Park Service (NPS). The 1,148-acre private tract within the boundaries of the Cumberland Island National Seashore is the largest remaining parcel of land to be acquired for the seashore. You asked the following questions:

- How was the price determined for the Greyfield tract?
- Are normal procedures being used to acquire the Greyfield tract?
- Does federal legislation establishing the seashore or its wilderness area prevent development of this private property if not purchased by NPS?
- Will there be additional costs for security at the Navy's Kings Bay Submarine Base if this property is developed?

On September 24, 1997, we briefed you on the results of our review and agreed to provide you with this report summarizing our findings. In brief, the following are our answers to the specific questions you raised:

- An appraisal was used to determine the price for the Greyfield tract, as required.
- There was nothing unusual about the acquisition procedures used.

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- The legislation concerning Cumberland Island does not preclude the development of the Greyfield tract.

- The need for additional security at the Navy base will depend on the increase in boat traffic.

On the basis of our work, we are concerned about the second appraisal of the Greyfield tract, which split the single tract into five tracts and resulted in an increased appraised value (from $15.4 million to $19.9 million). A major factor influencing the appraisal of the five tracts was an option by a private party to buy another parcel on the island with a proposed price of $4 million. We have a concern as to whether an unexercised option to purchase the other parcel, rather than closed sales data, should have been the major reason for the increased value of the Greyfield tract. Section A-4 of the Uniform Appraisal Standards for Federal Land Acquisitions (1992, p.14) states that "mere offers and unexercised options ... are inadmissible as evidence of value and should not be used in appraising fair market value."

If the five-tract appraisal ($19.9 million) had not relied on an unexercised option, it is possible that the price would have been lower. It should be noted, however, that condemnation could result if the present option agreement is not exercised fully. If the Greyfield tract were sold to a developer, NPS would probably condemn the property, depending on available funding. If this were to occur, condemnation could result in a higher price because there is a strong possibility that the price set in court would substantially exceed the current contract price. The current price of $17.9 million for the remaining four tracts may, in practical terms, be the lowest price at which the government could purchase the property.

We conducted a limited review of the issues raised by your questions from August 13 to September 5, 1997, in accordance with generally accepted government auditing standards. We reviewed the legislation, the legislative history and the court cases related to the seashore. We did not review the impact of other federal statutes, such as Section 404 of the Clean Water Act or the Endangered Species Act, or state or local laws that may affect development of the Greyfield tract. We also reviewed the appraisal process but did not appraise the land. We visited NPS headquarters and Southeast Region's land resources offices for interviews and a review of land acquisition files. We also interviewed attorneys at the Department of the Interior; the contract appraiser; and interested parties, including the sellers' attorney, The Nature Conservancy and its attorneys, a representative from the Kings Bay Submarine Base, the

National Parks and Conservation Association, and appraisal experts outside of NPS.

We obtained agency comments on the results of our work from NPS headquarters and regional officials, including the Chief of the Land Resources Division. The officials concurred with the factual content and made a comment on our concern about the second appraisal. They said that since there were no recent sales on the island, the option agreement was considered the next best evidence. NPS officials said that the appraised value of the five tracts was justified because of the phased nature of the acquisition and the time value of money. Enclosure I provides the results of our review.

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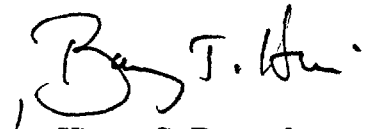
As agreed with your offices, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from the date of this letter. At that time, we will make copies of this report available to others upon request.

If you have any questions or need additional information, please contact me on (202) 512-3841. Major contributors to this report were Cliff Fowler, Richard Kasdan, and John Scott.



Victor S. Rezendes
Director, Energy, Resources,
and Science Issues

Enclosure

ENCLOSURE I

GAO Briefing for Congressional Requesters

Land Acquisition at the Cumberland Island National Seashore, Georgia

ENCLOSURE I

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Background

- P. L. 92-536, approved Oct. 23, 1972, established the Cumberland Island National Seashore.
- P. L. 97-250, approved Sept. 8, 1982, designated land within the seashore boundary as wilderness and potential wilderness.

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GAO Background (con't)

- Of the 36,415 acres of land within the seashore, only 25 tracts, or 1,784 acres, remain to be acquired.
- The 1,148-acre Greyfield tract is the largest remaining tract and is mostly within the wilderness boundary.
- The National Park Service (NPS) list of land acquisition priorities for FY 1998 puts the Greyfield tract at Cumberland Island at the top.

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Objectives

- How was the price determined for the Greyfield tract?
- Are normal procedures being used to acquire the Greyfield tract?
- Does federal legislation establishing the seashore or its wilderness area prevent development of this private property if not purchased by NPS?

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Objectives (con't)

- Will there be additional costs for security at the Navy's Kings Bay Submarine Base if this property is developed?

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Results in Brief

- An appraisal was used to determine the price for the Greyfield tract as required.
- There was nothing unusual about the acquisition procedures used.
- Legislation concerning Cumberland Island does not preclude the development of the Greyfield tract.
- Need for additional Navy base security depends on the increase in boat traffic.

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Scope and Methodology

- During the 3 weeks of our review, we
  --visited NPS headquarters and Southeast Region's land resources offices for interviews and review of files;
  --interviewed Dept. of the Interior attorneys and the contract appraiser;
  --interviewed interested parties: seller's attorney, The Nature Conservancy (TNC) and its attorneys, Kings Bay submarine base representative, and

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GAO Scope and Methodology (con't)

(con't) the National Parks and Conservation Association;

--interviewed appraisal experts outside of the NPS;

--reviewed the process of appraisal and acquisition but did not do an appraisal of the land;

--reviewed the legislation pertaining to the seashore, the legislative history, and court cases.

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GAO Scope and Methodology (con't)

- We did not review the impact of other federal statutes, such as Sec. 404 of the Clean Water Act or the Endangered Species Act, or state or local laws that may affect development of the Greyfield tract.

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How was the price determined?

- The Greyfield tract has long been on the priority list for acquisition by NPS.
- NPS' land protection plan for Cumberland Island states that the purchase is needed to manage the wilderness area and to curtail current and potential uses of the property.

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How was the price determined? (con't)

- Negotiations with sellers' attorney have been ongoing since early 1995 by NPS and TNC, which became involved at NPS' request.

- First appraisal done by sellers' appraiser was about $23 million, but the appraisal did not meet NPS' standards; sellers offered to sell for $20 million.

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GAO How was the price determined? (con't)

- Kirkland and Company, the NPS-contracted appraiser, found that the market value of the 1,148 acres on 8/17/96 was $15.4 million ($18,000 per upland acre).
- Since a purchase of a single tract for $15.4 million was not budgetarily feasible, TNC, with input from NPS, negotiated the purchase of the land divided into 5 tracts.

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How was the price determined? (con't)

- Another appraisal of the 5 individual tracts was done by Kirkland, as of 10/4/96, and found that five tracts had a total market value of $19.9 million ($25,000 per upland acre).
- A major factor influencing the 5-tract appraisal was an option by a private party to buy another parcel on the island, the 82-acre Rose tract, with a proposed price of $4 million ($49,218

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GAO How was the price determined? (con't)

- (con't) per upland acre). As of 9/8/97, this option had not been exercised.
- The appraised price for 5 tracts was agreed to by the sellers and TNC in an option agreement--a total of $19.9 million. NPS agreed to buy the tracts from TNC if funding was available.
- The option agreement allows the prices on the final two purchases to increase based on NPS-approved appraisals.

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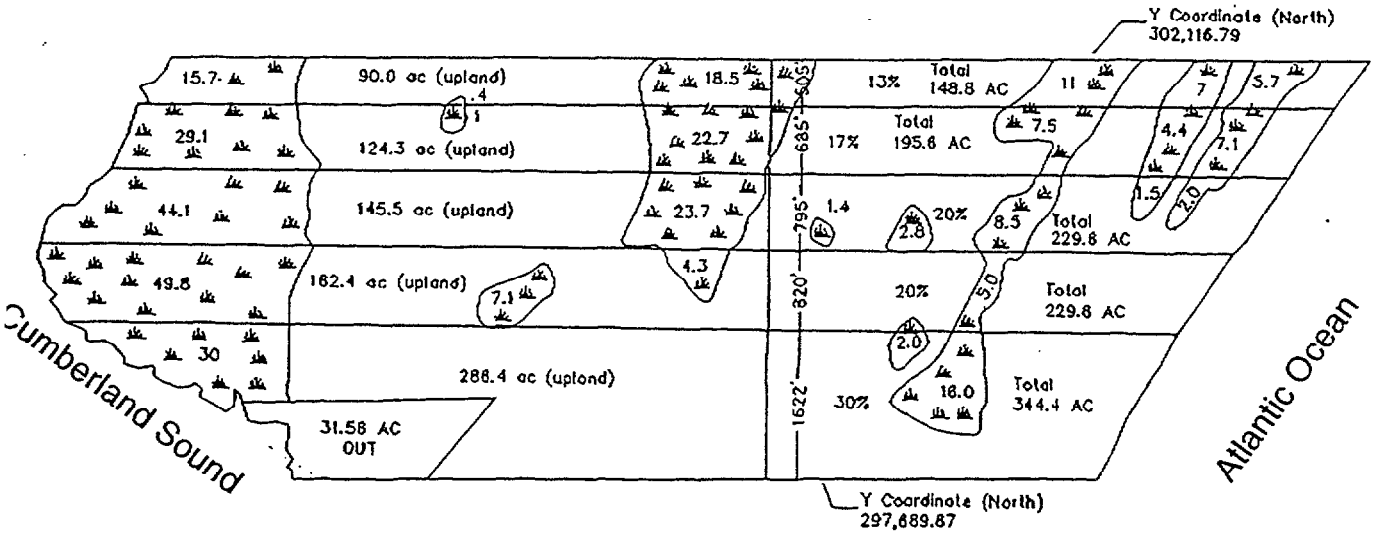
GAO How was the price determined? (con't)

- The first option for 148.8 acres (90 acres upland) was exercised for $2 million by TNC on 3/3/97, and NPS in turn purchased it from TNC for the same price on 3/20/97.
- TNC has options to purchase the remaining 4 tracts for a total of $17.9 million that must be exercised by 11/1/97, 4/1/98, 4/1/99, and 4/1/00.

GAO The Greyfield Tract



Source: National Park Service

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Were normal procedures used?

- Based on our limited review, there was nothing unusual about the acquisition procedures used.
- Use of a third party, such as TNC, to facilitate the acquisition is common in federal land management agencies.

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Does the seashore legislation prevent development of private property?

- No, NPS has consistently interpreted this and similar legislation as restricting only NPS property within national parks.
- A 1978 federal court condemnation case on property on Cumberland Island did not interpret the legislation as limiting development.
- Analysis of 1972 Cumberland Island legislation shows that its restrictions only apply to NPS property.

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Does the seashore legislation prevent development of private property?(con't)

- Earlier statutes--the Cape Hatteras (1937) with an identical provision and Cape Cod with similar provision (1961)--support this interpretation.
- No cases reported that treat these statutes as a development restriction for which "just compensation" was due.
- Property deeds and title insurance on the first tract do not identify a development restriction in the legislation.

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Does the wilderness area legislation affect private property?

- No, under the 1982 law establishing the Cumberland Island wilderness, private property within the statutorily designated area is only a potential wilderness. It will become part of the wilderness area and subject to federal legislation only when the federal government acquires the property.

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Cost of additional security at the Navy's Kings Bay Submarine Base?

- More recreational traffic on and across the intracoastal waterway in Cumberland Sound could be a safety and security concern for the base.
- Currently 500 boats a month at the peak and 75 to 100 during winter months use the intracoastal waterway, and the base has one security boat on patrol for perimeter security and water safety.

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Cost of additional security at the Navy's Kings Bay Submarine Base?

- The amount of traffic increase with more development on Cumberland Island is unknown. The point at which more security would be required is unknown, but would be based on the judgment of base officials.
- Kings Bay estimates that the addition of another security boat and operator would cost $150,000 per year.

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Observations

- Appraisals are not an exact science. On the basis of what we have learned from documents, officials involved, and outside experts, we have a concern about the final appraisal of the 5 tracts for $19.9 million.

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GAO Observations (con't)

- Our concern is whether a still unexercised option for the Rose tract rather than closed sales should have been the major reason for the increased value of the Greyfield tract ($15.4 for 1 tract to $19.9 million for 5 tracts).

ENCLOSURE I

GAO Observations (con't)

- Sec. A-4 of the Uniform Appraisal Standards for Federal Land Acquisitions (1992, p. 14) states "Mere offers and unexercised options ... are inadmissible as evidence of value and should not be used in appraising fair market value."
- If the 5-tract appraisal ($19.9 million) had not relied on an option, it is possible that the price would have been lower.

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GAO Observations (con't)

- It should be noted, however, that condemnation could result if the present option agreement is not exercised fully.
  --The sellers' attorney states that they have developers interested who will buy the property.
  --If the Greyfield parcels are sold to a developer, the Park Service will probably condemn the property if they have funding available.

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Observations (con't)

- Condemnation could result in a higher price because there is a strong possibility that the price set in court would substantially exceed contract price.
- The current price of $17.9 million for the remaining 4 tracts may, in practical terms, be the lowest price the government could purchase the property for.

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Observations (con't)

- TNC informed us that it would not exercise the next option on Nov. 1 if funds are not appropriated to NPS, effectively ending the current agreement.

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GAO Agency Comments

- NPS officials concurred with the factual content of our report but commented on our concern about the second appraisal.
- They said that since there were no recent sales on the island, the option was considered the next best evidence.
- NPS officials said the appraised value of the 5 tracts was justified because of the phased nature of the acquisition and the time value of money.

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