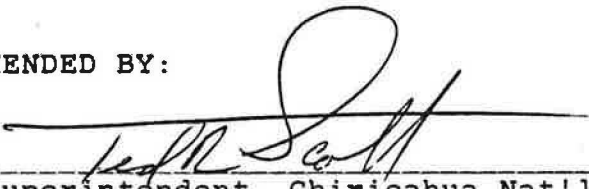


LAND PROTECTION PLAN
FOR
CHIRICAHUA NATIONAL MONUMENT

RECOMMENDED BY:



Superintendent, Chiricahua Nat'l. Monument

11/25/85
Date



General Superintendent, Southern Arizona Group

12/3/85
Date

APPROVED BY:



Regional Director, Western Region

12/20/85
Date

CHIRICAHUA NATIONAL MONUMENT

LAND PROTECTION PLAN SUMMARY

Current Land Ownership Within Boundary:

	<u>Acres</u>
National Park Service	11,982.38 *
Private	2.42

Tracts Remaining To Be Protected: 1

Proposed Protection Method: N/A

Funding Status:

Authorized Acquisition Ceiling	\$ 294,000
Appropriated To Date	277,627
Obligated To Date	277,627

Planning Team:

Ted R. Scott, Superintendent, Chiricahua National Monument
Robert Cousins, Realty Specialist, Western Regional Office
Dan Olson, Park Planner, Western Regional Office

Status of Environmental Compliance:

Categorically excluded.

Status of Jurisdiction:

Proprietary

* Includes approximately 850 acres added by P.L. 98-406.

LAND PROTECTION PLAN
FOR
CHIRICAHUA NATIONAL MONUMENT

Chiricahua National Monument is located in Cochise County, Arizona, about 90 miles east of Tucson. The total acreage within the unit is about 11,985 acres.

Area Purpose

Chiricahua National Monument was established by Presidential Proclamation on April 18, 1924 for the protection of "certain natural formations, known as 'the Pinnacles,' " which were of such scientific value that their protection was required by the public interest. The National Park Service Organic Act provides for the additional purpose of public use and enjoyment to the extent consistent with preservation of the area's resources.

In 1933, jurisdiction over the area was transferred from the Forest Service to the National Park Service, and in 1938 a Presidential Proclamation expanded the unit by 6407 acres. A wilderness area of 9440 acres within the Monument was designated in 1976. In 1978, legislation expanded the unit by 440 acres.

A provision of the National Recreation and Parks Act of 1978 required the completion of a study of an expanded boundary for the Monument to include such "highly significant features as Cochise Head." This study was completed in October, 1979, and recommended the addition of 6600 acres to the Monument for the purpose of protecting scenic features such as Cochise Head and those surrounding lands that are highly visible to Monument visitors. Although no legislative action has been taken to incorporate this large area in the Monument, recent legislation (P.L. 98-406, the Arizona Wilderness Act of 1984) has provided for the addition of approximately 850 acres to the Monument's northern boundary to encompass and provide protection for portions of an important watershed that drains into the Monument.

At the same time the Act added the area to the Monument, it also designated the addition as wilderness, increasing the total designated wilderness to approximately 10,290 acres.

Land Protection Problems and Issues

There is one private tract in the Monument and one known unpatented mining claim. The unpatented claim is located in the 850 acre area recently added to the Monument. Its validity under the mining laws will be determined over the next few months.

The private tract (2.42 acres) is located in the northeast corner

of the Monument. It has not been developed. It is a portion of one of several contiguous mining claims, all owned by the same individual, which in the aggregate total slightly over 100 acres. These patented claims are completely surrounded by Federal lands, with the Monument to the south and Coronado National Forest to the north. Mining efforts, directed toward lead and silver, have generally been sporadic and primarily exploratory for the past several years, and surface disturbance has been limited. However, there has been recent interest in more intensive mining activity on the tract, including consideration of the use of cyanide leaching processes for the extraction of precious metals.

The 2.42 acre tract within the Monument boundary does not in itself represent a threat to Monument resources, and a program directed toward its protection alone would not address the real issue. The 100+ acre group of contiguous patented mining claims does, however, represent a potential threat to the quality and safety of the Monument visitor experience, and to the natural environment. If major mineral discoveries should occur, and large scale mining activity commence, the impacts could be substantial. There are three areas of concern.

First, much of the area in the claim is visible from several points on the main park road and from various visitor attractions in the park. Moreover, the mining claim lies directly between areas of visitor use and Cochise Head, a prominent landscape feature that attracts a considerable amount of visitor attention. If this forested area were intensively developed, the resultant landscape scarring would be immediately apparent and would serve to reduce the quality of the visitor experience. The extent of scarring that might occur depends on the nature of the deposits and the means of recovery; it is difficult to project the impacts at this stage.

It is noted that the scenic significance of the mountains north and east of the Monument is not recognized specifically in the Proclamation establishing the unit; rather, that document focuses on the unusual pinnacle formations located within the Monument. However, the scenic values of the undeveloped forest lands to the north and east, including the Whitetail drainage, Maverick Peak, and, in particular, the Cochise Head formation, are important visitor attractions in the Monument, and the significance of the area is recognized in the boundary study mandated by P.L. 95-625.

Second, access to the claim is provided via the main park road and a low-grade limited access road extending about .75 mile from the main park road to the claims. There is no other access to the claim and the Monument is obligated to permit reasonable access. At present, mine-related traffic is limited in volume and rarely involves the use of large trucks. If significant mining activity were to develop on the site, it would be expected both that the volume of mine related traffic would increase and that there would be much greater use of heavy trucks. The impact of this traffic on the narrow park road, on the visitor use facilities located in close proximity to the road, and on the northeast

corner of the park generally, would be significantly adverse, representing not only an esthetic detriment but also likely conflicting with visitor use. The park does have the authority to regulate such use to mitigate adverse impacts on resources and visitors. However, some adverse impacts would be unavoidable.

Third, the recent steps taken toward the installation of a cyanide leaching facility on the claim represent a potentially significant threat to the Monument's natural resources. Within the last few months, the mine's current lessee had constructed a leach pond and transported chemicals to the site for use in the process. This project has now, fortunately, been abandoned, at least for the immediate future. Spillage of mine wastes into Bonita Creek, which subsequently flows for a considerable distance through the Monument, could have a devastating impact on Monument wildlife resources.

Although it seems clear that a potential threat to Monument resources does exist, the imminence and magnitude of the threat, both as to the probability of a major economically recoverable mineral discovery, and the actual impacts of the mining operation, are difficult to assess. The record shows a number of mining ventures in the general area directed toward gold, silver, zinc, and marble. Many have been failures, but there have also been some highly successful operations. Although small-scale mining on the subject tracts has been ongoing for several years, suggesting the presence of at least some potential, there is no indication that the operation is going to soon burgeon forth into a major enterprise. However, that possibility does exist. In the long run, particularly, economic demand coupled with more advanced mining technology may well make large-scale mining feasible.

Although the patented claim has particular significance to the Monument, representing the only parcel of private land in the Bonita Creek watershed above the Monument boundary, it is important to recognize that mining potential is not confined to this tract. The surrounding National Forest land, which constitutes the northern and eastern viewshed for the Monument visitor, is subject to mineral location and development under the public land mining laws. The Mining Law of 1872 gives individuals the right to enter the vacant, unappropriated public domain to search for, disclose, appropriate, produce, and process minerals. It also grants the right to use surface resources necessary to those operations, and allows reasonable access to the mineral resource. The grant is limited only in that unreasonable or unnecessary activities are not authorized. In the event a major discovery were to be made on the subject tract, it seems likely that additional activity would occur in other portions of the forest in areas highly visible from the Monument. Although operators of mines on the public lands are required to submit plans of operation to the Forest Service to ensure that no environmental damage occurs beyond that which is necessary and reasonable, and to assure post-operation reclamation, some resulting scenic degradation would be inevitable.

Alternatives, Analysis, and Recommendations

Action is already being taken to assess the validity of the unpatented mining claim located in the recently added area of the Monument. If this claim is found to be valid, it will need to be acquired since its location within designated wilderness would bring any mining operation, regardless of how closely it might be regulated, into conflict with wilderness management objectives.

As indicated above, the remaining small private tract within the boundary is a relatively minor portion of the 100+ acre mining claim, which does present some serious problems for the Monument, the most significant of which is the potential for stream contamination from leaching operations. The Superintendent has investigated at length the possibilities for regulation of the mining operation to minimize the danger of adverse impacts on the Monument. Both state and federal authorities and programs have been investigated.

The only regulatory program found to be applicable to the problems posed by the mining operation is the Arizona Water Pollution Control System. Established by recent legislation, the program requires persons whose activities may result in contamination of groundwater to obtain a permit from the State's Department of Health Services. This program appears to provide fairly close controls over new mining operations but relatively modest controls over existing operations such as that adjacent to the Monument. Based on the Superintendent's extensive discussions with state officials responsible for administration of the program, it does not appear adequate to protect the Monument's natural resources. Only in the event a serious spill affecting water quality were to occur would the state undertake close regulation of the mine operation. Hence, if reliance is placed on this regulatory program for protection of the Monument's natural resources, there is the potential for serious damage.

It is important to recognize also that this program relates only to water quality protection. It does not provide any protection for the important scenic values in the area.

Based on the above, it is concluded that regulation provides insufficient protection for Monument resources. Inasmuch as most of the tract is outside the Monument's authorized boundary, the Park Service does not have authority either to acquire the tract or to regulate mining activity under the Mining in the Parks Act. The tract is within the boundary of the Coronado National Forest, and hence could theoretically be acquired by the Forest Service. However, the tract has minimal relevance to that agency's programs and would be rather low in priority as an acquisition. It is noted also that the Forest Service does not regulate mining use on private lands located within Forest boundaries.

In view of the potential threats to the Monument, consideration should be given through the legislative review process to a boundary revision to encompass the patented claim. Such a

revision would provide the Monument with authority to regulate mining on the tract or, if necessary, acquire the tract. Control over this tract, either through regulation or acquisition, would essentially complete the Monument's control over the Bonita Creek watershed.

In addition to dealing with the particularly urgent problems associated with the patented claim, it is also important to address the problem of protection of the visual resource in the area north of the Monument around Cochise Head. In this regard, it is recommended that the Park Service work with the Forest Service to ensure that the Forest Management Plan for the area provides, to the extent possible, for the protection of Monument visual values. The forest plan would then guide the development of Plans of Operation on mining operations established on the public lands and help to minimize adverse visual impacts.

The effectiveness of this approach would be monitored by the park and the situation reassessed in the biennial update of the Land Protection Plan.

APPENDICES

- 1. Proclamations and Authorizing Legislation**
- 2. Maps**
- 3. Management Objectives**
- 4. Environmental Compliance**
- 5. Acquisition Procedures**
- 6. Policy For Use of the Federal Portion of the Land and Water Conservation Fund**
- 7. Photographs**
- 8. Public Law 94-429 (Mining in the Parks Act)**

CHIRICAHUA NATIONAL MONUMENT

Establishment: Proclamation (No. 1692) of April 18, 1924

Enlarging the area: Proclamation (No. 2288) of June 10, 1938

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

(No. 1692-Apr. 18, 1924-43 Stat. 1946)

WHEREAS, certain natural formations, known as "The Pinnacles", within the Coronado National Forest, in the State of Arizona, are of scientific interest, and it appears that the public interests will be promoted by reserving as much land as may be necessary for the proper protection thereof, as a National Monument.

NOW, THEREFORE, I, Calvin Coolidge, President of the United States of America, by virtue of the power in me vested by section two of the Act of Congress approved June eight, nineteen hundred and six, entitled, "An Act for the preservation of American antiquities", do proclaim that there are hereby reserved from all forms of appropriation under the public land laws, subject to all prior valid adverse claims, and set apart as a National Monument, the following described tracts of land in the State of Arizona.

W $\frac{1}{2}$ Sections 19, 30 and 31, Township 16 South, Range 30 East, G. & S. R. M.; Sections 24, 25 and 36, Township 16 South, Range 29 $\frac{1}{2}$ East, G. & S. R. M.; S $\frac{1}{2}$ Section 24, unsurveyed; Section 35 unsurveyed;

Section 36, unsurveyed; Township 16 South, Range 29 East,
G. & S. R. M.

The reservation made by this proclamation is not intended to prevent the use of the lands for National Forest purposes under the proclamation establishing the Coronado National Forest, and the two reservations shall both be effective on the land withdrawn but the National Monument hereby established shall be the dominant reservation and any use of the land which interferes with its preservation or protection as a National Monument is hereby forbidden.

Warning is hereby given to all unauthorized persons not to appropriate, injure, deface, remove or destroy any feature of this National Monument, or to locate or settle on any of the lands reserved by this proclamation.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this 18 day of April, in
the year of our Lord one thousand nine hundred and
[SEAL] twenty-four, and of the Independence of the United
States of America the one hundred and forty-eighth.

CALVIN COOLIDGE

By the President:

CHARLES E. HUGHES

Secretary of State

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

(No. 2288-June 10, 1938-52 Stat. 1551)

WHEREAS it appears that the hereinafter-described lands comprising a part of the Coronado National Forest, in the State of Arizona, are adjacent to the Chiricahua National Monument, established by proclamation dated April 18, 1924, and are required for the proper care and management of the objects of historic and scientific interest being protected by the said monument:

NOW, THEREFORE, I, Franklin D. Roosevelt, President of the United States of America, under and by virtue of the authority vested in me by section 1 of the act of June 4, 1897, 30 Stat. 11, 34, 36 (U. S. C., title 16, sec. 473), and section 2 of the act of June 8, 1906, ch. 3060, 34 Stat. 225 (U. S. C., title 16, sec. 431), do proclaim that, subject to all valid existing rights, the following-described lands in the State of Arizona are hereby excluded from the said Coronado National Forest and are hereby added to and made a part of the said Chiricahua National Monument:

GILA AND SALT RIVER MERIDIAN-ARIZONA

T. 16 S., R. 29 E., sec. 22, all,
sec. 23, all, partly unsurveyed,
sec. 24, N $\frac{1}{2}$, unsurveyed,
sec. 25, all, unsurveyed,

sec. 26, all,

sec. 27, $N\frac{1}{2}$;

T. 17 S., R. 29 E., sec. 1, $N\frac{1}{2}$, $N\frac{1}{2} SE\frac{1}{4}$, $NE\frac{1}{4} SW\frac{1}{4}$,

sec. 2, $N\frac{1}{2}$;

T. 16 S., R. $29\frac{1}{2}$ E., sec. 13, $S\frac{1}{2}$;

T. 17 S., R. $29\frac{1}{2}$ E., sec. 1, $N\frac{1}{2}$, unsurveyed;

T. 16 S., R. 30 E., sec. 18, $S\frac{1}{2}$,

sec. 19, $E\frac{1}{2}$,

sec. 30, $E\frac{1}{2}$,

sec. 31, $E\frac{1}{2}$,

sec. 32, $W\frac{1}{2} W\frac{1}{2}$;

T. 17 S., R. 30 E., sec. 5, $W\frac{1}{2} NW\frac{1}{4}$, unsurveyed,

sec. 6, $N\frac{1}{2}$, unsurveyed;

containing approximately 6,407 acres.

Warning is hereby expressly given to all unauthorized persons not to appropriate, injure, destroy, or remove any feature of this monument and not to locate or settle upon any of the lands thereof.

The Director of the National Park Service, under the direction of the Secretary of the Interior, shall have the supervision, management, and control of the monument as provided in the act of Congress entitled "An act to establish a National Park Service, and for other purposes," approved August 25, 1916, 39 Stat. 535

(U. S. C., title 16, secs. 1 and 2), and acts supplementary thereto or amendatory thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this tenth day of June in the year of our Lord nineteen hundred and thirty-
[SEAL] eight, and of the Independence of the United States of America the one hundred and sixty-second.

Franklin D. Roosevelt

By the President:

CORDELL HULL

Secretary of State

current status of completion or revision of general management plans for each unit of the National Park System. General management plans for each unit shall include, but not be limited to:

- "(1) measures for the preservation of the area's resources;
 - "(2) indications of types and general intensities of development (including visitor circulation and transportation patterns, systems and modes) associated with public enjoyment and use of the area, including general locations, timing of implementation, and anticipated costs;
 - "(3) identification of and implementation commitments for visitor carrying capacities for all areas of the unit; and
 - "(4) indications of potential modifications to the external boundaries of the unit, and the reasons therefor."
- (4) In section 12(c) delete "or exceeding five years" and insert "or of five years or more".

16 USC 1a-7.

OAK CREEK CANYON AND CHIRICAHUA NATIONAL MONUMENT STUDIES

SEC. 605. (a) In recognition of the need for and desirability of protecting the Oak Creek Canyon, Yavapai, and Soldiers Wash-Mormon Canyon areas in Arizona as a unit or units of the National Park System, the Secretary, in cooperation with the Secretary of Agriculture where national forest lands are involved, shall conduct a study to determine a suitable boundary for such unit or units of the System, including the areas referred to herein together with such lands as may be appropriate to provide for their protection and administration as a national monument or other unit of the National Park System. Such study shall be conducted in consultation with appropriate units of local government concerned and the Sedona-Oak Creek Canyon Interagency Task Force. Such study shall take into account existing patterns of use and activities in the area and the possible adverse impacts a National Monument designation in the area would have on multiple use activities important to the local economy.

Boundary determinations.
16 USC 1a-5 note.

(b) The Secretary, in cooperation with the Secretary of Agriculture where national forest lands are involved, shall conduct a study of the boundary of Chiricahua National Monument, Arizona, to determine the appropriate location of a boundary line for additions to the monument which includes such highly scenic features as Cochise Head and which is located to the extent practicable on natural topographic features.

Consultation.

(c) A report of each study conducted pursuant to subsections (a) and (b) of this section shall be submitted by the Secretary to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate not later than one year following the date on which funds are appropriated for the purpose of the study. Each report shall include a map or other description of the boundary determined as a result of the study, a description of the natural, scenic, and cultural features within the boundary, and the recommendation of the Secretary with respect to such further legislation as may be appropriate.

Report to congressional committees.

Legislative recommendations.

LAND AND WATER CONSERVATION FUND ACCOMPLISHMENTS REPORTING DATE

SEC. 606. (a) The first sentence of section 6(f)(7) of the Land and Water Conservation Fund Act (78 Stat. 897) is amended by inserting "so as to be received by the Secretary no later than December 31," after the word "transmit".

16 USC 4601-8.

TITLE II—ACQUISITION CEILING INCREASES

ACQUISITION CEILINGS

SEC. 201. The limitations on appropriations for the acquisition of lands and interests therein within certain units of the National Park System are amended as follows:

- | | |
|---|---|
| (1) Big Cypress National Preserve, Florida: Section 8 of the Act of October 11, 1974 (88 Stat. 1258), is amended by changing "\$116,000,000" to "\$156,700,000". | Appropriation authorizations.
16 USC 698m. |
| (2) Buffalo National River, Arkansas: Section 7 of the Act of March 1, 1972 (86 Stat. 44), is amended by changing "\$30,071,500" to "\$39,948,000". | 16 USC 460m-14. |
| (3) Cumberland Island National Seashore, Georgia: Section 10 of the Act of October 23, 1972 (86 Stat. 1066), is amended by changing "\$10,500,000" to "\$28,500,000". | 16 USC 459i-9. |

SAWTOOTH NATIONAL RECREATION AREA

SEC. 202. Section 13 of the Act of August 22, 1972 (86 Stat. 612), is amended by changing "\$19,802,000" to "\$47,802,000".

16 USC 460aa-12.

TITLE III—BOUNDARY CHANGES

REVISION OF BOUNDARIES

SEC. 301. The boundaries of the following units of the National Park System are revised as follows, and there are authorized to be appropriated such sums as may be necessary, but not exceed the amounts specified in the following paragraphs for acquisitions of lands and interests in lands within areas added by reason of such revisions:

- | | |
|--|-------------------------------|
| (1) Bent's Old Fort National Historic Site, Colorado: To add approximately six hundred and twenty-two acres as generally depicted on the map entitled "Boundary Map, Bent's Old Fort National Historic Site, Colorado", numbered 417-80.007-A, and dated June 1976: \$842,000. | Appropriation authorizations. |
| (2) Cape Cod National Seashore, Massachusetts: To add approximately thirteen acres and to delete approximately sixteen acres as generally depicted on the map entitled "Cape Cod National Seashore Boundary Map", numbered 609-60.015 and dated February 1978. | |
| (3) Chiricahua National Monument, Arizona: To add approximately four hundred and forty acres as generally depicted on the map entitled "Boundary Map, Chiricahua National Monument, Arizona", numbered 145-80.002, and dated August 1977: \$294,000. | |
| (4) Coronado National Memorial, Arizona: To add approximately three thousand and forty acres and delete approximately twelve hundred acres as generally depicted on the map entitled "Land Status Map 01, Coronado National Memorial, Cochise County, Arizona", numbered 8630/80.001, and dated October 1977: \$1,410,000. | |
| (5) Eisenhower National Historic Site, Pennsylvania: To add approximately one hundred ninety-five and eighty-three one-hundredths acres as generally depicted on the map entitled "Boundary Map, Eisenhower National Historic Site, Adams | |

(d) The provisions of this section shall also apply to national forest system roadless lands in the State of Arizona which are less than five thousand acres in size.

SEC. 104. Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274) is amended by inserting the following after paragraph (50):

"(51) VERDE, ARIZONA.—The segment from the boundary between national forest and private land in sections 26 and 27, township 13 north, range 5 east, Gila Salt River meridian, downstream to the confluence with Red Creek, as generally depicted on a map entitled 'Verde River—Wild and Scenic River', dated March 1984, which is on file and available for public inspection in the Office of the Chief, Forest Service, United States Department of Agriculture; to be administered by the Secretary of Agriculture. This designation shall not prevent water users receiving Central Arizona Project water allocations from diverting that water through an exchange agreement with downstream water users in accordance with Arizona water law. After consultation with State and local governments and the interested public and within two years after the date of enactment of this paragraph, the Secretary shall take such action as is required under subsection (b) of this section."

Water.

SEC. 105. There are added to the Chiricahua National Monument, in the State of Arizona, established by Proclamation Numbered 1692 of April 18, 1924 (43 Stat. 1946) certain lands in the Coronado National Forest which comprise approximately eight hundred and fifty acres as generally depicted on the map entitled "Bonita Creek Watershed", dated May 1984, retained by the United States Park Service, Washington, D.C. The area added by this paragraph shall be administered by the National Park Service as wilderness.

TITLE II

SEC. 201. The Congress finds that—

(1) the Aravaipa Canyon, situated in the Galiuro Mountains in the Sonoran desert region of southern Arizona, is a primitive place of great natural beauty that, due to the rare presence of a perennial stream, supports an extraordinary abundance and diversity of native plant, fish, and wildlife, making it a resource of national significance; and

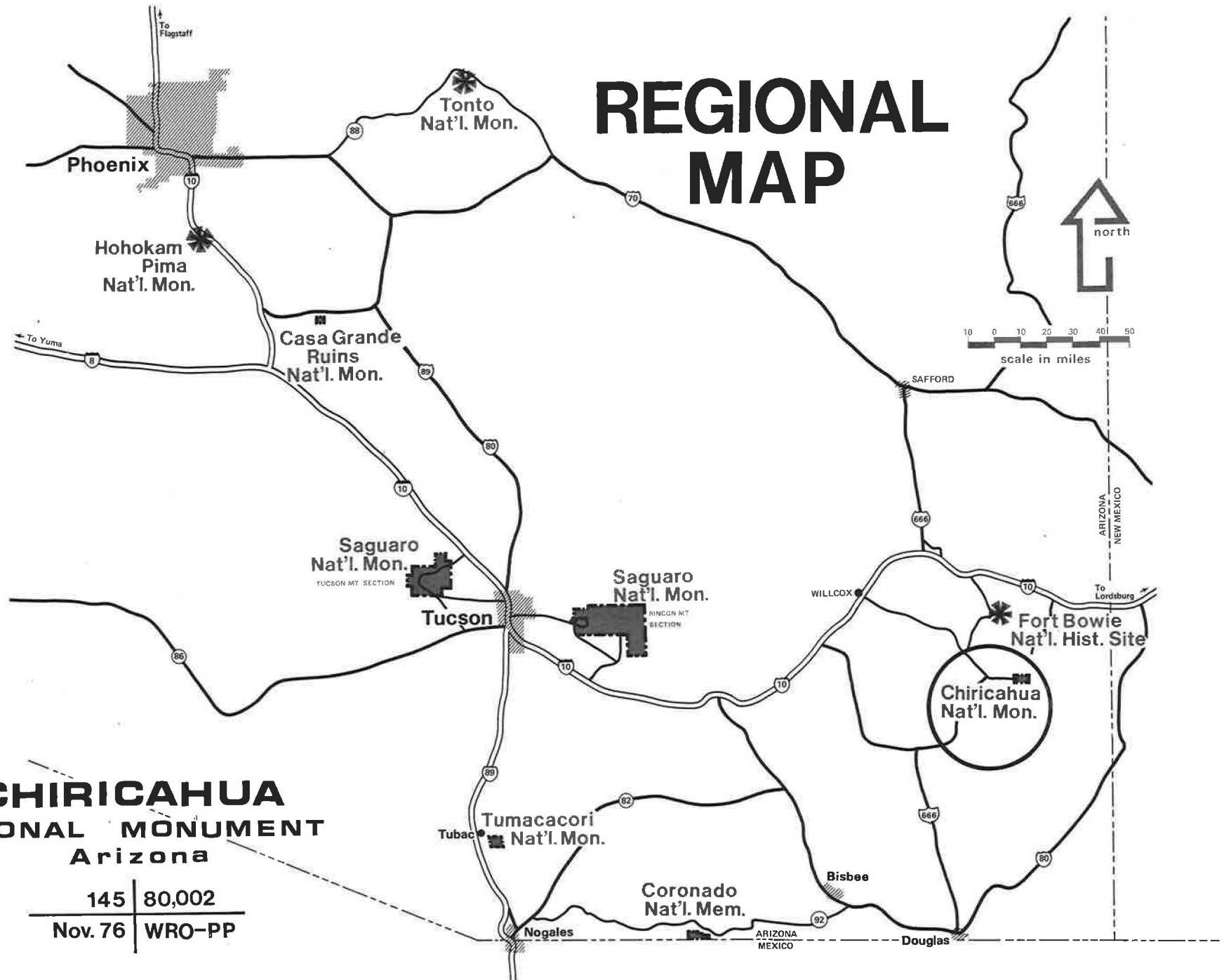
(2) the Aravaipa Canyon should, together with certain adjoining public lands, be incorporated within the National Wilderness Preservation System in order to provide for the preservation and protection of this relatively undisturbed but fragile complex of desert, riparian and aquatic ecosystems, and the native plant, fish, and wildlife communities dependent on it, as well as to protect and preserve the area's great scenic, geologic, and historical values, to a greater degree than would be possible in the absence of wilderness designation.

SEC. 202. In furtherance of the purposes of the Wilderness Act of 1964 (78 Stat. 890, 16 U.S.C. 1131 et seq.) and consistent with the policies and provisions of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743; 43 U.S.C. 1701 et seq.), certain public lands in Graham and Pinal Counties, Arizona, which comprise approximately six thousand six hundred and seventy acres, as generally depicted on a map entitled "Aravaipa Canyon Wilderness—Proposed" and dated May 1980, are hereby designated as the Aravaipa Canyon Wilderness and, therefore, as a component of the National Wilderness Preservation System.

Aravaipa
Canyon
Wilderness

16 USC 1132
note.

REGIONAL MAP



CHIRICAHUA NATIONAL MONUMENT Arizona

145	80,002
Nov. 76	WRO-PP

CHIRICAHUA

National Monument



CORONADO NATIONAL FOREST

Cochise Head

Approximate area added by P.L. 98-406

Mine Access Road

Mining Claim

CHIRICAHUA
NATIONAL
MONUMENT

CORONADO NATIONAL FOREST

145 80,012

May '84 WRO-PP

V. MANAGEMENT OBJECTIVES

Resource Preservation

To identify, protect, and perpetuate Chiricahua's unique geological formations, known as the Pinnacles, and its wilderness, wildlife, and scenic values.

To preserve and manage as wilderness those lands meeting the criteria for inclusion in the National Wilderness Preservation System.

To the greatest degree possible, and in cooperation with the Forest Service, recognize and manage fire as a natural factor determining ecological conditions in the park.

To work with the Forest Service, State Game and Fish Department, adjacent landowners, and other private individuals for the purpose of eliminating the adverse effects on park resources resulting from cattle trespass, hunting, tree harvesting, mining, and other non-park uses.

To restore, to the extent feasible and practical, the park's natural qualities at impacted areas, such as the Bonita Campground, by replanting, reducing overuse, or other means.

Cultural Resources

To identify, preserve, and interpret the monument's cultural resources, including the Stafford Cabin National Register Site and Indian archeological sites, in accordance with legislative and executive requirements, the Service's preservation policies, and the purpose for which the park was established.

Land Base

To secure an adequate land base, through acquisition of the last remaining inholding or other means, to facilitate resource protection and to provide for visitor use.

Acquisition of Information

To secure adequate information on park resources, through research and other means, for the purpose of facilitating resource preservation, interpretation, environmentally compatible development, and effective park management.

To monitor environmental changes due to visitor use and non-park activities.

Interpretation

To foster understanding and appreciation of the natural forces that resulted in Chiricahua's outstanding geological features; of the park's varied animal and plant communities in their

distinct life zones; and of the area's Indian archeology and use for cattle ranching, mining and timber harvesting.

Visitor Use

To encourage visitor use and enjoyment of the park's trails and wilderness environment to the extent compatible with resource protection in designated wilderness areas.

Access

To assure safe and adequate access to and circulation within the park.

To upgrade the monument road to acceptable standards.

Safety

To promote awareness of hazards associated with wilderness recreation, and to assure safe working conditions within the park.

Coordination

To cooperate with the Cochise Visitor Center and Southwest Parks and Monuments Association in order to provide the public with information on the park's resources and programs.

ENVIRONMENTAL COMPLIANCE

The recommended plan proposes neither land acquisition outside the authorized boundary nor any significant change to existing land or visitor use. Under Department of the Interior procedures, 516 DM 1-6, Appendix 7, sections 7.4 B.(11) and C.(2), these actions are categorically excluded from the procedural provisions of the National Environmental Policy Act.

ACQUISITION PROCEDURES

The Division of Land Resources assigned to the Western Regional Office is responsible for carrying out the land acquisition program. It will be guided by the unit's Land Protection Plan, which must be approved by the Regional Director.

The Service will obtain, at its expense, a preliminary policy of title insurance for each property which will identify the owner or owners of record and all encumbrances, such as mortgages, liens, judgments, right-of-way or other easements, affecting the property's title.

Each property will be appraised by an independent contract appraiser. The landowner and/or his/her representative will be offered an opportunity to accompany the appraiser on the inspection of the property in order to afford the owner an opportunity to point out significant features of the property.

To assure the quality of appraisals, a staff appraiser will review all reports for compliance with proper appraisal procedures and check such elements as the thoroughness of the research performed and whether or not the appraiser has afforded the landowner the opportunity to accompany the appraiser.

Appraisers will be required to furnish an objective estimate of the "Fair Market Value" of the lands being appraised. The Uniform Appraisal Standards for Federal Land Acquisitions defines Fair Market Value as "The amount in cash, or on terms reasonably equivalent to cash, for which in all probability the property would be sold by a knowledgeable owner willing but not obligated to sell to a knowledgeable purchaser who desired but is not obligated to buy."

As soon as possible after the appraisal of a property has been received, reviewed, and approved, the Service will submit to the owner, subject to the availability of funds, a written offer which will not be less than the Service's approved appraisal of the fair market value of the property. The owner will be provided with a copy of the Service's appraisal upon request. Assuming that a mutually acceptable purchase price is agreed upon, closing will normally be completed by a local title company acting as escrow and closing agent within 6 to 8 weeks of signature by the owner and the Service of an Offer to Sell.

It is the responsibility of the seller to convey clear title to the property being acquired. Under Public Law 91-646, the Service may reimburse sellers for expenses incurred such as:

1. Recording fees, transfer taxes, similar expenses incidental to conveying the real property.
2. Penalty cost for prepayment of any pre-existing recorded mortgage entered into in good faith encumbering the real property.
3. The pro rata portion of real property taxes the owner paid to cover the period after title was vested in the United States.

The Service may pay other similar expenses to the extent they are fair and reasonable, but the Service will not pay for costs necessary to clear defects in title to the property.

The Service will make every effort to seek negotiated settlement wherever possible; however, if this is not possible, eminent domain proceedings may be initiated.

Eminent domain proceedings are usually initiated by the filing of a complaint in condemnation in Federal Court. In this type of action title to the land does not pass to the government until the court or jury has determined the amount of just compensation and this amount has been paid to the owner. Eminent domain proceedings may be employed to determine title issues or when negotiations are unsuccessful and Fair Market Value is to be determined by the court.

In addition to the complaint in condemnation, declarations of taking are used where title to the land must be vested in the United States immediately in order to prevent resource damage.

A declaration of taking vests title to property in the United States immediately upon filing papers in the court and the deposit of an estimate of just compensation. A portion of this deposit may be withdrawn by the owner as approved by the court.

Acquisition of Less-than-Fee Interests (Easement)

The procedure for acquiring less-than-fee interests is the same as that described above for acquisition of fee interests except for the fact that the owner does not relinquish title and possession of the property.

DEPARTMENT OF THE INTERIOR

Policy for Use of the Federal Portion of the Land and Water Conservation Fund

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of final policy statement.

SUMMARY: The Assistant Secretary for Fish and Wildlife and Parks has adopted a policy statement concerning use of the Federal portion of the Land and Water Conservation Fund (LWCF). This policy statement provides broad guidance to four Federal agencies in use of the LWCF to achieve natural, cultural, wildlife, and recreation management objectives in accordance with Congressional mandates and statutory authorities.

The policy applies to the National Park Service, Fish and Wildlife Service, and the Bureau of Land Management, in the Department of the Interior and the Forest Service in the Department of Agriculture. The statement was developed by the LWCF Policy Group which is composed of the Directors of these three Interior agencies, Chief of the Forest Service, and a chairman who is designated by the Assistant Secretary for Fish and Wildlife and Parks. The LWCF Policy Group (LPG) was originally established in 1974 to review, comment on and coordinate proposals that may affect the Federal portion of the Land and Water Conservation Fund.

EFFECTIVE DATE: May 15, 1982.

FOR FURTHER INFORMATION CONTACT:
Ric Davidge, Chairman, LWCF Policy

Group, Room 3153, Department of the Interior, Washington, D.C. 20240.

SUPPLEMENTARY INFORMATION: The public was invited to comment on the proposed policy statement which appeared in the Federal Register March 18, 1982, (Vol. 47, No. 53, pages 11777-3).

There were several comments received via phone expressing support for the policy statement and an interest in the rapid implementation of the policy. Seventy-five written comments were received. Seventy fully supported the policy and its immediate implementation by all of the Federal agencies using the Land and Water Conservation Fund. Five comments expressed concerns that the new policy was too general to be evaluated, eliminated the use of full fee title acquisition, was contrary to the 1930 policy for potential additions to the Federal estate, and that a fair analysis could not be made without analysis of the case studies that are not as yet available.

The new policy is by design general. Its purpose is to encourage the use of cost effective tools to protect the essential resource values in authorized areas. Full fee title acquisition is anticipated in areas where this method of acquisition is required by the land protection plan. Each individual area land protection plan must comply with all environmental protection requirements and it is at this specific point where the application of the policy should be evaluated. This policy is an extension of the 1930 policy for potential

additions to the Federal estate in that it encourages the same alternative protection and acquisition methods but for authorized rather than proposed areas. Review and comment on the subject policy should not have been dependent upon a review of the case studies that were to be made available by the National Park Service after April 12, 1982, as reported in the March 19, 1982, Federal Register. These case studies were undertaken to provide the National Park Service with an initial sample of how land protection plans could be recrafted and were not a test of the policy per se. It is anticipated that these case studies will be available on or about June 22, 1982.

The policy was developed in response to the decreasing availability of Land and Water Conservation Fund monies annually appropriated by Congress, concerns voiced by a number of sources including hearings by the Senate Subcommittee on Public Lands and Reserved Waters on July 9 and 10 of 1981; and reports by the General Accounting Office concerning Federal land acquisition practices. The recently adopted policy generally refines and expands the basic concepts included in the policy statement which appeared in the Federal Register of May 7, 1960 (45 FR 30305). The previous policy statement only addressed studies and recommendations for new areas to be funded under the Land and Water Conservation Fund program. The recent drop in the level of the annual Land and Water Conservation Fund appropriation created a need to apply the various

alternatives to fee title land acquisition to all currently authorized areas in an effort to stretch available LWCF monies. The recently adopted policy supplements the 1930 statement to include existing units of the National Park, Wildlife Refuge, Forest, and recreation or conservation area systems where acquisition of private land is planned using LWCF monies.

The policy provides general guidance and does not replace the more detailed policies and procedures governing the land acquisition and management programs of each agency. However, each agency affected by the Policy is expected to make revisions in its policies and procedures as necessary and appropriate to reflect the direction of the general policy. This direction includes emphasis on responsiveness to Congressional mandates; cost effective alternatives to Federal fee simple purchase of private lands; improved cooperation with landowners, other Federal agencies, and State and local governments, and the private sector; and development of plans considering socio-cultural impacts.

ADOPTED POLICY: The following statement has been adopted after consideration of public comments: Policy for Use of the Federal Portion of the Land and Water Conservation Fund.

The Federal portion of the Land and Water Conservation Fund will be used to acquire lands, waters, and interests therein necessary to achieve the natural, cultural, wildlife, and recreation management objectives of the National Park Service, Fish and Wildlife Service, Bureau of Land Management, and Forest Service. The fund will be used in accord with management objectives for each currently authorized area based on agency missions and Congressional mandates. The agencies using the Federal portion of the Land and Water Conservation Fund will, to the extent consistent with statutory authorities:

- 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 the socio-cultural impacts are considered and that the most outstanding areas are adequately managed.

Dated: April 20, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-12373 Filed 5-6-82; 8:45 AM]

BILLING CODE 4310-10-W

PHOTOGRAPHS



View of road leading from the main park road to the mining claim.



Looking northeast from Lookout Mountain toward the formation known as Cochise Head.



Public Law 94-429
94th Congress, S. 2371
September 28, 1976

An Act

To provide for the regulation of mining activity within, and to repeal the application of mining laws to, areas of the National Park System, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds and declares that—

(a) the level of technology of mineral exploration and development has changed radically in recent years and continued application of the mining laws of the United States to those areas of the National Park System to which it applies, conflicts with the purposes for which they were established; and

(b) all mining operations in areas of the National Park System should be conducted so as to prevent or minimize damage to the environment and other resource values, and, in certain areas of the National Park System, surface disturbance from mineral development should be temporarily halted while Congress determines whether or not to acquire any valid mineral rights which may exist in such areas.

SEC. 2. In order to preserve for the benefit of present and future generations the pristine beauty of areas of the National Park System, and to further the purposes of the Act of August 25, 1916, as amended (16 U.S.C. 1) and the individual organic Acts for the various areas of the National Park System, all activities resulting from the exercise of valid existing mineral rights on patented or unpatented mining claims within any area of the National Park System shall be subject to such regulations prescribed by the Secretary of the Interior as he deems necessary or desirable for the preservation and management of those areas.

SEC. 3. Subject to valid existing rights, the following Acts are amended or repealed as indicated in order to close these areas to entry and location under the Mining Law of 1872:

(a) the first proviso of section 3 of the Act of May 22, 1902 (32 Stat. 203; 16 U.S.C. 123), relating to Crater Lake National Park, is amended by deleting the words "and to the location of mining claims and the working of same";

(b) section 4 of the Act of February 26, 1917 (39 Stat. 938; 16 U.S.C. 350), relating to Mount McKinley National Park, is hereby repealed;

(c) section 2 of the Act of January 26, 1931 (46 Stat. 1043; 16 U.S.C. 350a), relating to Mount McKinley National Park, is hereby repealed;

(d) the Act of June 13, 1933 (48 Stat. 139; 16 U.S.C. 447), relating to Death Valley National Monument, is hereby repealed;

(e) the Act of June 22, 1936 (49 Stat. 1817), relating to Glacier Bay National Monument, is hereby repealed;

(f) section 3 of the Act of August 18, 1941 (55 Stat. 631; 16 U.S.C. 450y-2), relating to Coronado National Memorial is amended by replacing the semicolon in subsection (a) with a period and deleting the prefix "(a)", the word "and" immediately preceding subsection (b), and by repealing subsection (b); and

National
Park System.
Mining activity,
regulation.
16 USC 1901.

16 USC 1902.

Repeals.

Repeal.

(g) The Act of October 27, 1941 (55 Stat. 745; 16 U.S.C. 450z), relating to Organ Pipe Cactus National Monument, is hereby repealed.

Certain mining operations, temporary cessation.
16 USC 1903.

SEC. 4. For a period of four years after the date of enactment of this Act, holders of valid mineral rights located within the boundaries of Death Valley National Monument, Mount McKinley National Park, and Organ Pipe Cactus National Monument shall not disturb for purposes of mineral exploration or development the surface of any lands which had not been significantly disturbed for purposes of mineral extraction prior to February 29, 1976: *Provided*, That if the Secretary finds that enlargement of the existing excavation of an individual mining operation is necessary in order to make feasible continued production therefrom at an annual rate not to exceed the average annual production level of said operation for the three calendar years 1973, 1974, and 1975, the surface of lands contiguous to the existing excavation may be disturbed to the minimum extent necessary to effect such enlargement, subject to such regulations as may be issued by the Secretary under section 2 of this Act. For purposes of this section, each separate mining excavation shall be treated as an individual mining operation.

16 USC 1904.

SEC. 5. The requirements for annual expenditures on mining claims imposed by Revised Statute 2324 (30 U.S.C. 28) shall not apply to any claim subject to section 4 of this Act during the time such claim is subject to such section.

Certain unpatented mining claims, recommendations for acquisition.
16 USC 1905.

SEC. 6. Within two years after the date of enactment of this Act, the Secretary of the Interior shall determine the validity of any unpatented mining claims within Glacier Bay National Monument, Death Valley and Organ Pipe Cactus National Monuments and Mount McKinley National Park and submit to the Congress recommendations as to whether any valid or patented claims should be acquired by the United States, including the estimated acquisition costs of such claims, and a discussion of the environmental consequences of the extraction of minerals from these lands. The Secretary shall also study and within two years submit to Congress his recommendations for modifications or adjustments to the existing boundaries of the Death Valley National Monument and the Glacier Bay National Monument to exclude significant mineral deposits and to decrease possible acquisition costs.

Study. Recommendations, submission to Congress.

Recommendations, submission to Congress.
16 USC 1906.

SEC. 7. Within four years after the date of enactment of this Act, the Secretary of the Interior shall determine the validity of any unpatented mining claims within Crater Lake National Park, Coronado National Memorial, and Glacier Bay National Monument, and submit to the Congress recommendations as to whether any valid or patented claims should be acquired by the United States.

Mining claims, recordation.
16 USC 1907.

SEC. 8. All mining claims under the Mining Law of 1872, as amended and supplemented (30 U.S.C. chapters 2, 12A, and 16 and sections 161 and 162) which lie within the boundaries of units of the National Park System shall be recorded with the Secretary of the Interior within one year after the effective date of this Act. Any mining claim not so recorded shall be conclusively presumed to be abandoned and shall be void. Such recordation will not render valid any claim which was not valid on the effective date of this Act, or which becomes invalid thereafter. Within thirty days following the date of enactment of this Act, the Secretary shall publish notice of the requirement for such recordation in the Federal Register. He shall also publish similar notices in newspapers of general circulation in the areas adjacent to those units of the National Park System listed in section 3 of this Act.

Notice, publication in Federal Register.

Landmarks.
16 USC 1908.

SEC. 9. (a) Whenever the Secretary of the Interior finds on his own motion or upon being notified in writing by an appropriate scientific,

historical, or archeological authority, that a district, site, building, structure, or object which has been found to be nationally significant in illustrating natural history or the history of the United States and which has been designated as a natural or historical landmark may be irreparably lost or destroyed in whole or in part by any surface mining activity, including exploration for or removal or production of minerals or materials, he shall notify the person conducting such activity and submit a report thereon, including the basis for his finding that such activity may cause irreparable loss or destruction of a national landmark, to the Advisory Council on Historic Preservation, with a request for advice of the Council as to alternative measures that may be taken by the United States to mitigate or abate such activity.

Report to
Advisory
Council on
Historic
Preservation.

(b) The Council shall within two years from the effective date of this section submit to the Congress a report on the actual or potential effects of surface mining activities on natural and historical landmarks and shall include with its report its recommendations for such legislation as may be necessary and appropriate to protect natural and historical landmarks from activities, including surface mining activities, which may have an adverse impact on such landmarks.

Report to
Congress.

Legislative
recommendations.

SEC. 10. If any provision of this Act is declared to be invalid, such declaration shall not affect the validity of any other provision hereof.

Severability.
16 USC 1909.
Civil actions.
16 USC 1910.

SEC. 11. The holder of any patented or unpatented mining claim subject to this Act who believes he has suffered a loss by operation of this Act, or by orders or regulations issued pursuant thereto, may bring an action in a United States district court to recover just compensation, which shall be awarded if the court finds that such loss constitutes a taking of property compensable under the Constitution. The court shall expedite its consideration of any claim brought pursuant to this section.

SEC. 12. Nothing in this Act shall be construed to limit the authority of the Secretary to acquire lands and interests in lands within the boundaries of any unit of the National Park System. The Secretary is to give prompt and careful consideration to any offer made by the owner of any valid right or other property within the areas named in section 6 of this Act to sell such right or other property, if such owner notifies the Secretary that the continued ownership of such right or property is causing, or would result in, undue hardship.

16 USC 1911.

SUNSHINE IN GOVERNMENT

SEC. 13. (a) Each officer or employee of the Secretary of the Interior who—

Interior
Department
employees,
financial
disclosure.
16 USC 1912.

(1) performs any function or duty under this Act, or any Acts amended by this Act concerning the regulation of mining within the National Park System; and

(2) has any known financial interest (A) in any person subject to such Acts, or (B) in any person who holds a mining claim within the boundaries of units of the National Park System; shall, beginning on February 1, 1977, annually file with the Secretary a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

(b) The Secretary shall—

(1) act within ninety days after the date of enactment of this Act—

(A) to define the term "known financial interest" for purposes of subsection (a) of this section; and

	(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and
Report to Congress.	(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.
Possible exemptions.	(c) In the rules prescribed in subsection (b) of this section, the Secretary may identify specific positions within such agency which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.
Violation, penalty.	(d) Any officer or employee who is subject to, and knowingly violates, this section or any regulation issued thereunder, shall be fined not more than \$2,500 or imprisoned not more than one year, or both.

Approved September 28, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1428 (Comm. on Interior and Insular Affairs).
 SENATE REPORT No. 94-567 (Comm. on Interior and Insular Affairs).
 CONGRESSIONAL RECORD, Vol. 122 (1976):
 Feb. 3, 4, considered and passed Senate.
 Sept. 14, considered and passed House, amended.
 Sept. 17, Senate concurred in House amendments.